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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO DIVISION

PROOFPOINT, INC.; CLOUDMARK
LLC,

Plaintiffs,

v.

VADE SECURE, INCORPORATED;
VADE SECURE SASU; OLIVIER
LEMARIÉ,

Defendants.

Case No. 3:19-cv-04238-MMC-RMI

Date Action Filed: July 23, 2019

**DEFENDANTS' RESPONSE TO THE
COURT'S ORDER (ECF NO. 214)
GRANTING IN PART AND DENYING
IN PART DEFENDANTS'
ADMINISTRATIVE MOTION TO
FILE UNDER SEAL**

The Court has reviewed Defendants Vade Secure, Incorporated and Vade Secure SASU's (collectively, "Vade Defendants") administrative motion and supplemental administrative motion to file portions of Exhibit 1 to the Declaration of Bart Rankin in Support of Defendants' Motion for Leave to File Second Amended Answer under seal (ECF No. 201-2). The Court's rulings (ECF No. 214) on the sealing requests are set forth in the table below:

Location of Confidential Information	Ruling
<p>Designating Parties: Plaintiffs</p> <p>Location of Confidential Information: Exhibit 1 to the Declaration of Bart Rankin in Support of Vade Defendants' Motion for Leave to File Second Amended Answer, Affirmative Defenses, and Counterclaims (Proposed Second Amended Answer, Affirmative Defenses, and Counterclaims)</p> <ul style="list-style-type: none"> • ¶ 13, l. 18; • ¶ 16, ll. 15-17, 19; • ¶ 17, ll. 20, 22, 24-26; • ¶¶ 18, 19, 20 (other than the last two lines), 21; • ¶ 22, ll. 26, 28, 4, 6, 7, 9; • ¶¶ 35-37, 42-44, 57, 60-64; • ¶ 65, l. 17; • ¶ 67 <p>Basis for sealing Plaintiffs' information: Plaintiffs have designated the information disclosed in these paragraphs as "Confidential," "Highly Confidential – Source Code," or "Highly Confidential – Attorney's Eyes Only." Further, Plaintiffs have argued that this information should be sealed because it constitutes their "confidential commercial information, including information relating to Plaintiffs' customers (to which Plaintiffs may owe a duty of confidentiality), contract terms, and negotiation process, which could cause serious commercial and competitive harm to Plaintiffs by competitors if publicly disclosed." (Lordgooei Decl. at 3, ECF No. 205.)</p>	GRANTED IN PART, DENIED IN PART
<p>Designating Parties: Vade Defendants</p> <p>Location of Confidential Information: Exhibit 1 to the Declaration of Bart Rankin in Support of Vade Defendants' Motion for Leave to File Second Amended Answer, Affirmative Defenses, and Counterclaims (Proposed Second Amended Answer, Affirmative Defenses, and Counterclaims)</p>	GRANTED IN PART, DENIED IN PART

- ¶ 16, ll. 17–19;
- ¶ 17, ll. 20–22, 23;
- ¶ 18;
- ¶ 19, ll. 17–18;
- ¶ 20, ll. 27–2, 10–11;
- ¶ 21, ll. 13–15, 17–23;
- ¶ 22, ll. 2–3, 10–11;
- ¶ 37;
- ¶ 42, ll. 14–17, 25–26;
- ¶ 43, ll. 28–1, 3–9;
- ¶ 44, ll. 12, 17–18;
- ¶ 61, ll. 3, 10;
- ¶ 62, ll. 16–17;
- ¶ 63, ll. 26–27;
- ¶ 64, ll. 5–6;
- ¶ 67.

Basis for sealing Vade Defendants’ information: The redacted information disclosed in these paragraphs and line numbers constitute the Vade Defendants’ confidential business discussions and confidential contractual arrangements with its existing and potential customers that the Vade Defendants maintain as strictly confidential. In particular, the information to be filed under seal discloses customer names, confidential discussions of products, results of confidential competitive trials, confidential contractual negotiations, and confidential contractual provisions. The designated information, if disclosed publicly, would result in commercial harm to the Vade Defendants. Thus, these portions of Exhibit 1 are protectable under Rule 26(c), this Court’s Protective Order, and should be filed under seal in this matter.

Pursuant to the Court’s instructions and rulings on the sealing requests set forth above (ECF No. 214), Vade Defendants hereby submit the attached Declaration of Bart Rankin and revised redacted versions of Exhibit 1 to the Declaration of Bart Rankin in Support of Defendants’ Motion for Leave to File Second Amended Answer (ECF No. 201-2).

1 Dated: September 4, 2020

BAKER & McKENZIE LLP

2 By: /s/ Bart Rankin

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