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DR. IMAN SADEGHI

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES-CENTRAL DISTRICT**

10
11 DR. IMAN SADEGHI, an individual,

12 Plaintiff,

13 v.

14
15 PINSREEN, INC., a Delaware Corporation;
16 DR. HAO LI, an individual; and DOES 1-100,

17 Defendants.
18
19

Case No.: BC709376

[Assigned to the Hon. Judge Lia Martin, Dept. 16]

**PLAINTIFF DR. IMAN SADEGHI'S
OPPOSITION TO MOTION FOR FILING
DOCUMENTS UNDER SEAL PURSUANT
TO A STIPULATED PROTECTIVE
ORDER**

HEARING DATE: September 17, 2021

TIME: 9:00 a.m.

PLACE: Dept. 16., Stanley Mosk Courthouse

Complaint Filed: June 11, 2018

Trial Date: March 14, 2022

1 Plaintiff Dr. Iman Sadeghi (“Sadeghi”) hereby submits the following opposition to the
2 Motion to File Documents Under Seal filed by Defendant Pinscreen, Inc. (“Pinscreen”):

3 **1. INTRODUCTION**

4 This action stems from the retaliatory termination of Sadeghi after he called out Pinscreen’s
5 fraudulent and illegal conduct—all of which has now been confirmed in an investigation by USC’s
6 computer science department and ethics board. In other words, all of Sadeghi’s complaints of fraud
7 and misrepresentation by Pinscreen under Li’s leadership during his employment at Pinscreen have
8 been substantiated.

9 The culminating event took place during Pinscreen’s demo at ACM SIGGRAPH Real-Time
10 Live (“RTL”) at the Los Angeles Convention Center on August 1, 2017. During the demo,
11 Pinscreen led the audience to believe that avatars were being generated—in front of their eyes—in
12 around 5 seconds. In reality, the avatars were pre-built for the demo and required hours of human
13 labor. Every single avatar and hair shape presented by Pinscreen during its RTL demo was
14 fabricated.

15 Following the RTL, on August 7, 2017, Sadeghi met with Li per Sadeghi’s request to again
16 object to Pinscreen’s public deception during the RTL demo and other transgressions. To Sadeghi’s
17 surprise, Pinscreen terminated Sadeghi during the meeting *he requested*. Sadeghi’s termination was
18 the epitome of retaliation for his whistleblowing and objections.

19 After Sadeghi’s lawsuit was filed on June 11, 2018, there was significant public interest in
20 the lawsuit as evidenced by its coverage in the press and online forums. Articles appeared in the Los
21 Angeles Times,¹ The Register,² and USC Annenberg Media.³ Li denied Pinscreen’s
22 misrepresentations in the LA Times article claiming that “All the allegations are 100% false.” In the
23 USC Annenberg Media article, Li claimed “One thing I can say with 100 percent confidence: there
24 has been absolutely no scientific data fabrication at either Pinscreen or at my research labs”.
25 Sadeghi’s allegations and Li’s denials have also been discussed online on Reddit.com⁴ in its

26 _____
27 ¹ <https://www.latimes.com/business/technology/la-fi-pinscreen-lawsuit-20180620-story.html>

28 ² https://www.theregister.com/2018/07/18/pinscreen_fraud_claims/

³ <https://www.uscannenbergmedia.com/2018/10/30/viterbi-professor-embattled-in-lawsuit-with-his-former-employee/>

⁴ https://www.reddit.com/r/MachineLearning/comments/8zm4kl/d_lawsuit_alleges_fabricated_results_at_pinscreen/

1 Machine Learning channel with 2.1 million members and 97% upvoted. The discussions around
2 Sadeghi's allegations in the lawsuit have been browsed more than half a million times (592,244 as
3 of today's date) on Zhihu.com⁵ with around 1,580 followers.

4 After he was wrongfully terminated, Sadeghi followed through his promise that he would
5 report Pinscreen's fraud to USC and ACM if the issues were not resolved. The Office of Research
6 at USC has been conducting an investigation of Sadeghi's allegations in the lawsuit since 2018.
7 Sadeghi has communicated with USC officials and was interviewed as part of the investigation.

8 During discovery in this litigation, Sadeghi issued a subpoena to USC seeking documents
9 concerning USC's investigation of Pinscreen's ACM SIGGRAPH Real-Time Live. As part of
10 efforts to resolve several discovery disputes, including a motion to quash the USC subpoena, on
11 February 3, 2021 the parties agreed and the Court entered the Stipulation to Continue the Trial Date,
12 FSC, and Related Dates. (See Davidson Ex. B.) Pinscreen was to produce to Sadeghi's counsel "all
13 documents produced by USC pursuant to the subpoena in unredacted form other than any redactions
14 made by USC and any redactions in connection with any personnel matters outside the scope of the
15 subpoena..." (See Davidson Ex. B at p. 2:17-27.) The USC documents were to be maintained
16 Attorney's Eyes Only, however the Stipulation had no bearing on the confidentiality of any
17 duplicative documents that Sadeghi already had or obtained outside the USC subpoena. (*Id.*)

18 **2. SUMMARY OF OPPOSITION**

19 In May 2021, Pinscreen filed a motion for summary judgment. In accordance with the
20 February 3, 2021 Stipulation, Sadeghi redacted the portions of his Opposition and Separate
21 Statement that quoted to the USC documents (Ex. 36) and lodged an unredacted copy and the
22 exhibit itself. In response to Sadeghi's opposition to Pinscreen's motion for summary judgment,
23 Pinscreen served objections to the declarations of Sadeghi and his attorney Adam Zaffos, as well as
24 certain additional material facts ("AMF") in Sadeghi's Separate Statement. Pinscreen filed redacted
25 versions of these 17 objections and seeks an order sealing the unredacted objections to the
26 declarations and AMFs.

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⁵ <https://www.zhihu.com/question/285705808>

1 The Sadeghi and Zaffos declarations do not recite any facts or information from the USC
2 Investigation (Ex. 36). Rather, Sadeghi refers only to his own communications with USC,
3 communications that were specifically excepted from the February 3, 2021 stipulation. The Zaffos
4 declaration merely states the means by which the documents were acquired and authenticates it for
5 evidentiary purposes. The declarations themselves are not redacted and Pinscreen has not contended
6 that any portion of the declarations should be removed from the public record and filed under seal.
7 Moreover, objections to the declarations do not contain any confidential information that needs to
8 be sealed. There is absolutely nothing disclosed in the objections to the declarations that warrants
9 sealing them.

10 In addition, the objections to the AMFs do not themselves contain any confidential
11 information. To the extent that the objections quote the language of the AMFs, Sadeghi does not
12 challenge the confidentiality of the substance of the facts gleaned from the USC documents.
13 However, Sadeghi's agreement to confidentiality does not relieve Pinscreen of the obligation to
14 establish a basis for sealing the information. Pinscreen is still obligated to demonstrate an overriding
15 interest that overcomes the right of public access that supports sealing the records that would be
16 prejudiced if the record is not sealed.

17 **3. ARGUMENT**

18 **A. A Record Cannot Be Sealed Solely Based to the Stipulation of the Parties.**

19 Recognizing the public's First Amendment right of access to documents used at trial or as a
20 basis of adjudication and a presumption of openness of substantive court proceedings in ordinary
21 cases, the California Supreme Court in *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999)
22 20 Cal.4th 1178 set forth the findings that both the trial and appellate courts must expressly make to
23 seal a record. *Id.* at pp. 1200, 1208–1209, fn. 25 & 1217. “In response to *NBC Subsidiary*, the
24 Judicial Council promulgated ‘the sealed records rules,’ rules 2.550, 2.551.” *Overstock.Com, Inc. v.*
25 *Goldman Sachs Group, Inc.* (2014) 231 Cal.App.4th 471, 486.

26 The court may order that a record be filed under seal only if it *expressly* finds facts that
27 establish that: (1) there exists an overriding interest that overcomes the right of public access to the
28 record; (2) the overriding interest supports sealing the record; (3) a substantial probability exists that

1 the overriding interest will be prejudiced if the record is not sealed; (4) the proposed sealing is
2 narrowly tailored; and, (5) no less restrictive means exist to achieve the overriding interest. *Rule of*
3 *Court*, rule 2.550(d). A party requesting that a record be filed under seal must file a motion or
4 application for an order sealing the record. The motion or application “must” be accompanied by a
5 memorandum and a declaration containing facts sufficient to justify the sealing.” *Rule of Court*, rule
6 2.551(b)(1). “The rules “apply to records sealed or proposed to be sealed by court order” (rule
7 2.550(a)(1)) and, more specifically, to “discovery materials that are used at trial or submitted as a
8 basis for adjudication of matters other than discovery motions or proceedings.” (Rule 2.550(a)(3).)”
9 *Overstock.Com, Inc.*, 231 Cal.App.4th at p. 486.

10 “[T]he mere agreement of the parties alone is insufficient to constitute an overriding interest
11 to justify sealing the documents.” *McNair v. National Collegiate Athletic Assn.* (2015) 234
12 Cal.App.4th 25, 35 (rejecting argument that a contractual agreement to treat cases as confidential
13 should be recognized as an overriding interest; rather, there must be “a specific showing of serious
14 injury” and “[b]road allegations of harm, bereft of specific examples or articulated reasoning, are
15 insufficient”); *Universal City Studios, Inc. v. Superior Court* (2003) 110 Cal.App.4th 1273, 1281
16 (“more than a mere agreement of the parties to seal documents filed in a public courtroom” is
17 needed).

18 The fact that the Court has entered, based on the stipulation of the parties, a Stipulated
19 Protective Order or the February 3, 2021 Stipulation is not conclusive as to the issue of
20 confidentiality. Pinscreen, as the moving party, must make a constitutionally sufficient showing as
21 set forth in rule 2.550(d) and the Court may order records be filed under seal only if it makes the
22 enumerated findings expressly. *McNair*, 234 Cal.App.4th at p. 32.

23 Pinscreen has failed to make the necessary showing with respect to the objections to the
24 Sadeghi and Zaffos declarations. The substance of the declarations to which the objection responds
25 are already in the public record. There are no grounds for sealing an objection to materials in the
26 public record. As to objections to the AMF, Sadeghi does not challenge the confidentiality of the
27 content of the AMFs. However, Pinscreen is still required to adequately demonstrate an overriding
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1 interest that supports sealing both the objection and quoted fact that would be prejudiced if the
2 record is not sealed.

3 **B. Sadeghi’s Personal Knowledge of the USC Investigation Stems from His Own**
4 **Communications with USC and Not From Documents Designated as Confidential.**

5 Pinscreen seeks to file Objections 24, 26-28 and 47 to Sadeghi’s declaration under seal.
6 These objections relate to ¶10 and ¶26 of Sadeghi’s declaration. Those paragraphs were not
7 redacted from Sadeghi’s declaration and exist in the public record. Pinscreen has not sought an
8 order removing that declaration from the public record or sealing any portion of that declaration.
9 There is “no justification for sealing records that contain only facts already known or available to
10 the public.” *H.B. Fuller Co. v. Doe* (2007) 151 Cal.App.4th 879, 898.

11 Moreover, the information stated in those paragraphs is not confidential. The February 3,
12 2021 Stipulation had no bearing on the confidentiality of Sadeghi’s communications that Sadeghi
13 obtained outside the scope of the subpoena with USC, including his personal email
14 communications. Specifically, the stipulation provides: “the designation of these USC subpoena
15 produced documents will have no bearing on the confidentiality designation or lack thereof of any
16 duplicative documents Plaintiff already had or obtains outside of the USC subpoena;” (See
17 Davidson Decl. Ex. B at p. 2:24-27.)

18 The communications and the statements in ¶¶10 and 26 of Sadeghi’s declaration are
19 premised solely on his personal knowledge from sources other than the USC documents. Indeed,
20 per the Stipulation the USC investigatory documents are marked attorney’s eyes only and Sadeghi
21 is not even permitted to review them. Confirming the lack of confidentiality of these
22 communications, Pinscreen did not object or otherwise seek to seal Exhibit 15, the exhibit
23 containing Sadeghi’s emails exchange with USC.

24 There is no reason to seal an *objection* to non-confidential information stated in the public
25 record. The objection is merely a legal argument, devoid of confidential information. Pinscreen has
26 not demonstrated an overriding interest that warrants sealing Objection 24, 26-28 and 47 to
27 Sadeghi’s declaration.

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1 **C. There is No Basis to Seal Objection 4 to the Zaffos Declaration.**

2 Objection 4 refers to ¶15 of the Zaffos Declaration. That paragraph makes no mention of
3 confidential matters. Mr. Zaffos states that a stipulation was reached on February 3, 2021 and that
4 Pinscreen produced the documents it had received pursuant to Sadeghi’s subpoena. This references
5 the same stipulation that Mr. Davidson attaches as Exhibit B to the declaration he filed in support of
6 the motion to seal. Obviously Pinscreen does not contend the February 3, 2021 stipulation is
7 confidential as it is in the public record and has been cited by Pinscreen as an exhibit to this motion.

8 In addition, the fact that USC produced documents to Pinscreen which were subsequently
9 produced to Sadeghi has been disclosed by Pinscreen itself. The supporting declaration of Mr.
10 Davidson contains far more detail about the content of the USC documents than any statement in
11 ¶15 of Mr. Zaffos’s declaration. (See Davidson Decl. ¶10.) Finally, the objection itself is legal
12 argument, devoid of any reference to the content of the USC documents.

13 Ultimately, Pinscreen seeks to seal an objection to an unredacted paragraph in a declaration
14 that contains no confidential information. The motion should be denied as to Objection 4.

15 **D. Pinscreen Must Meet the Requirements of Rule 2.550(d) as to the Objections to the**
16 **AMFs.**

17 As Pinscreen sets forth in its moving papers, the requirements that a party seeking to seal a
18 record must demonstrate are set forth in *Rule of Court*, rule 2.550(d). The case law cited above
19 confirms that a mere stipulation between the parties is not the final answer on the issue of sealing
20 confidential records. Sadeghi is bound by the terms of the Stipulation and does not challenge the
21 confidentiality of the USC documents, but Sadeghi’s agreement to confidentiality is not
22 determinative for the purposes of this motion.

23 Pinscreen still must make a constitutionally sufficient showing to seal the objections as set
24 forth in rule 2.550(d). Pinscreen must show that there is an overriding interest that overcomes the
25 right of public access that supports sealing the objection and quoted fact that would be prejudiced if
26 the record is not sealed. As mentioned earlier, from the outset of this case, there was media
27 coverage of the litigation and online discussions on various forums. The USC investigation, which
28 USC confirmed in writing to Sadeghi that their analysis of the code was as Sadeghi described,

1 directly refutes Hao Li’s comments in these articles. Pinscreen must demonstrate an alleged privacy
2 interest that overrides the right of public access.

3 Pinscreen makes two assertions concerning interests which override the public’s right to
4 access: that personnel matters are private and that there is a need to maintain the confidentiality of
5 trade secret information. As the Stipulation confirms, Pinscreen had an opportunity to redact “any
6 personnel matters outside the scope of the subpoena” prior to producing the USC documents to
7 Sadeghi’s counsel. (Davidson Decl. Ex. B, p. 2:19-20.) If there is any unrelated personnel matter or
8 trade secrets exposed in the objections, Pinscreen can redact those alleged portions to narrowly
9 tailor the redactions.

10 Furthermore, Pinscreen does not indicate why the objection is confidential. As with the
11 objections discussed above, the objections themselves (aside from the portions quoting the AMFs)
12 are legal argument devoid of confidential information. A proposed sealing must be narrowly
13 tailored and there is no basis for sealing a legal argument that does not contain any confidential
14 information.

15 **4. CONCLUSION**

16 Based on the foregoing objections, Sadeghi respectfully requests that the Court deny
17 Pinscreen’s request to seal Objections 24, 26-28 and 47 to Sadeghi’s declaration and Objection 4 to
18 Mr. Zaffos’s declaration. While Sadeghi does not challenge the confidentiality of the content of the
19 AMFs, as to objections to the AMFs, Pinscreen should narrowly tailor any redactions to only the
20 alleged confidential and trade-secret portions of the objections.

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22 DATED: September 3, 2021

FERNALD LAW GROUP APC
ADAM P. ZAFFOS

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24 By:  _____
Adam P. Zaffos

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26 Attorneys for Plaintiff IMAN SADEGHI