

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA**

Kimera Labs Inc. v. Raj Jayashankar, et al.

Kimera Labs · No. 21-cv-2137-MMA-DDL · Decided May 14, 2025

OPINION

1 2 3 4 5 6 7 8 9 10 UNITED STATES DISTRICT COURT 11 SOUTHERN DISTRICT OF
CALIFORNIA 12 13 KIMERA LABS INC, Case No. 21-cv-2137-MMA-DDL 14 Plaintiff,
ORDER GRANTING EX PARTE 15 v. MOTIONS TO FILE UNDER SEAL AND JOINT
MOTION TO STRIKE 16 RAJ JAYASHANKAR, et al., 17 Defendants. [Doc. Nos. 400, 403,
406, 412, 415, 418, 421] 18 19 20 21 22 On May 9, 2025, Defendants Raj Jayashankar, Exocel
Bio Inc., Alejandro (Alex) 23 Contreras, and Deb Hubers (collectively, “Defendants”) filed
motions, ex parte, to file 24 under seal unredacted versions of two motions and exhibits brought
pursuant to Daubert 25 v. Merrell Dow Pharms., Inc., 509 U.S. 579 (1993), as well as a motion for
summary 26 judgment and exhibits.

Doc. Nos. 400, 403, 406. That same date, Plaintiff Kimera Labs 27 Inc. (“Plaintiff”) filed motions
to seal unredacted versions of three motions and exhibits 28 brought pursuant to Daubert. Doc.
Nos. 412, 415, 418. The Court received no 1 oppositions or communications from the parties
requesting additional time to respond to 2 the requests that do not indicate consent, as required by
the Court’s civil chambers rules.

3 See J. Anello Civ. Chambers R. VIII.1 Thus, the Court considers these motions 4 unopposed. Id.
For the reasons below, the Court GRANTS the motions to seal and the 5 joint motion. 6 On May
12, 2025, the parties filed a joint motion to strike Doc. Nos. 399 and 402 7 and for leave to filed
corrected versions. Doc. No. 421. Upon due consideration, good 8 cause appearing, the Court
GRANTS the joint motion.

9 I. BACKGROUND 10 This action arises over allegations of corporate espionage and trade
secret 11 misappropriation. Doc. No. 51 (“SAC”) ¶ 2. Plaintiff “is an FDA-registered tissue 12
processing laboratory that specializes in scientific research....” Id. ¶ 1. Plaintiff 13 alleges that, by
way of one of Plaintiff’s then-employees, Defendants Jayashankar, 14 Contreras, and Hubers
“misappropriate[ed] and use[d]...

[Plaintiff’s] trade secrets and 15 other confidential information to create Exocel Bio, a competing
business[,] to 16 manufacture and sell the same kind of product as [Plaintiff].” Id. ¶ 2. 17 Plaintiff
filed its initial complaint on December 28, 2021, an amended complaint 18 on May 11, 2022, and
the operative second amended complaint on November 10, 2022. 19 See Doc.

Nos. 1, 31, 51. Plaintiff brings two causes of action under the federal Trade Secrets Act and one count of unjust enrichment under Florida law. SAC ¶¶ 14–68. 21 II. LEGAL STANDARD 22 “Historically, courts have recognized a ‘general right to inspect and copy public 23 records and documents, including judicial records and documents.’” *Kamakana v. City & 24 Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir.

2006) (quoting *Nixon v. Warner 25 Commc’ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)). This is “because court records often 26 27 1 Defendants represent that Plaintiff does not object to its motion to seal concerning the motion for summary judgment. Doc. No. 406 at 4. Plaintiff represents that Defendants do not object to its motions 28 1 provide important, sometimes the only, bases or explanations for a court’s decision.” 2 *Oliner v. Kontrabecki*, 745 F.3d 1024, 1025 (9th Cir.

2014) (quotation marks omitted). 3 Accordingly, when considering a request to seal, “a strong presumption in favor of 4 access” is generally a court’s “starting point.” *United States v. Bus. of Custer Battlefield 5 Museum & Store*, 658 F.3d 1188, 1194 (9th Cir. 2011) (quoting *Kamakana*, 447 F.3d at 6 1178).

For filings more than tangentially relevant to the case’s merits, that presumption 7 can be overcome only by a showing of a “compelling reason,” that “outweigh[s] the 8 general history of access and the public policies favoring disclosure.” *Id.* at 1194–95; 9 *Settrini v. City of San Diego*, No. 320CV02273RBMBGS, 2022 WL 6785755 *1 (S.D. 10 Cal. Oct. 11, 2022). “When the underlying motion does not surpass... tangential 11 relevance... [a] ‘good cause’ standard applies.” *Settrini*, 2022 WL 6785755 at *1.

12 III. DISCUSSION 13 As the parties have each filed several motions to seal, the Court will address them 14 by filing party. As a preliminary matter, Defendants argue that the “compelling reason” 15 standard discussed above applies to their pending motions to seal. Doc. No. 400 at 5; see 16 Doc. No. 406 at 3. Plaintiffs appear to agree as to its motions. See Doc.

No. 412 at 2. 17 As discussed in its previous order, the Court agrees that this is the applicable standard. 18 Doc. No. 397 at 4. 19 “In general, ‘compelling reasons’ sufficient to outweigh the public’s interest in 20 disclosure and justify sealing court records exist when such ‘court files might have 21 become a vehicle for improper purposes,’ such as the use of records to gratify private 22 spite, promote public scandal, circulate libelous statements, or release trade secrets.” 23 *Kamakana*, 447 F.3d at 1179 (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 24 598 (1978)). “Courts have held that ‘confidential business information’ in the form of 25 ‘license agreements, financial terms, details of confidential licensing negotiations, and 26 business strategies’ also satisfies the compelling reasons standard.” *Nia v. Bank of Am.*, 27 N.A., No. 21-CV-1799-BAS-BGS, 2024 WL 171659 *3 (S.D.

Cal. Jan. 12, 2024). Courts 28 have held this latter category to include confidential information about a business's 1 profits, expenditures, and losses. See *Pulse Elecs., Inc. v. U.D. Elec. Corp.*, 530 F. Supp. 2d 988, 1030–31 (S.D. Cal. 2021), *aff'd*, No. 2021-1856, 2022 WL 1436146 (Fed. Cir. 3 May 6, 2022). 4 A. Defendants' Motions 5 Defendants move to seal an unredacted version of their Daubert motion and 6 exhibits concerning Plaintiff's expert, Gary R. Trugman, CPA/ABV, FASA, MVS ("Dr.

7 Trugman"). Doc. No. 400. Additionally, Defendants seek to file an unredacted version 8 of their Daubert motion concerning Plaintiff's technical expert, Dr. Henry Furneaux ("Dr. 9 Furneaux"). Doc. No. 403. Finally, Defendants seek to file under seal an unredacted 10 version of their motion for summary judgment, and Exhibits 1-3, 6-11, 14-19, which are 11 marked as confidential but which Defendants argue are not truly proper for sealing.

12 Turning to the motion concerning Dr. Trugman, Defendants argue that all 13 information they seek to seal represents confidential financial information that may harm 14 Defendant Exocel Bio Inc.'s competitive position. Doc. No. 400 at 5–6.

Having 15 reviewed the unredacted motion and exhibits, all information Defendants seek to redact 16 in the motion itself are dollar figures concerning royalties or revenue. Compare Doc. No. 17 407 at 24 with Doc. No. 401 at 24.

The same is true for the Exhibit 1, with the addition 18 of confidential processes. See, e.g., Doc. No. 407-2 at 3, 8, 11; Doc. 401-1 at 3, 8, 11. 19 Redactions as to Exhibit 3 concern confidential business techniques and processes. See, 20 e.g., Doc. No. 407-4 at 3; Doc. No. 401-2 at 3–4. Redactions to Exhibit 5 also concern 21 royalty figures, and potential damages figures directly derived therefrom.

Doc. No. 407- 22 6 at 7; Doc. No. 401-3 at 7. Thus, sealing is appropriate for these portions of the motion 23 and exhibits. Additionally, Defendants redact information sparingly, including only the 24 minimum necessary to keep confidential these figures. See generally Doc. Nos. 407– 25 407-6.

Therefore, the Court determines that Defendants have met their burden. 26 As to the Furneaux motion, the exhibits Defendants seek to seal are, as they assert, 27 entirely made up of Plaintiff's trade secret disclosures and reports and depositions 28 discussing confidential processes and trade secrets. See Doc. No. 404-1–404-5.

Thus, 1 sealing is appropriate, as is sealing these documents in their entirety—due to the volume 2 and frequency of the content appropriate for sealing throughout, redaction would be 3 ineffective and wasteful. In the motion itself, Defendants redact only content necessary 4 to preserve confidential trade secrets. Compare Doc. No. 402 with Doc. No. 404. 5 Finally, as to the motion for summary judgment, "Defendants disagree with 6 [Plaintiff's] confidentiality designations and dispute that the documents are worthy of 7 sealing[.]" because, as their motion for summary

judgment asserts, they believe Plaintiff 8 “fail[s] to identify a legally protectable trade secret.” Doc.

No. 406 at 4. Nevertheless, 9 they request the Court seal pursuant to the protective order, stating that Plaintiff must 10 “file a joinder and provide the legal basis for sealing Defendants’ [m]otion for [s]ummary 11 [j]udgment... and [e]xhibits.” Id. While the Court understands this position to be 12 consistent with the arguments underpinning the motion for summary judgment, Doc.

No. 13 408 at 7, the Court does not read it as consistent with the protective order, which states 14 only that “before any materials... designated as confidential information are filed with 15 the Court for any purpose, the party seeking to file such material must seek permission of 16 the Court to file the material under seal.” Doc. No. 124 at 6.

To rule on this basis would 17 be, in effect, to rule on summary judgment, and to wait until summary judgment to rule 18 on the motion to seal would be inefficient and ultimately futile. Defendant provides 19 notice of the basis for sealing (protecting alleged trade secrets) and represents that 20 Plaintiff does not object to sealing the documents. Doc. No. 406 at 3–4.

Thus, the Court 21 determines it has sufficient foundation to assess the motion without further briefing. 22 As to the exhibits for sealing here and separate statement of facts, the proposed 23 sealed exhibits contain discussion of Plaintiff’s alleged trade secrets all throughout, and 24 some are among those also attached to the two Daubert motions. See generally Doc.

No. 25 410-1–410-16. As such, mere redaction would be ineffective. Reviewing the motion 26 itself, the redacted portions discuss alleged trade secrets and confidential processes 27 central to Plaintiff’s operations and the claims. See, e.g. Doc. No. 408 at 9–12; Doc. No. 28 1 410 at 8–12. Defendant redacts the filings sparingly, and only as relevant to the alleged 2 sensitive material.

Thus, sealing is proper. 3 B. Plaintiff’s Motions 4 Plaintiff seeks to file under seal unredacted versions of its three Daubert motions 5 concerning Defendants experts Dr. Aejax Sayeed (“Dr. Sayeed”), Dr. Scott Olson (“Dr. 6 Olson”, and Ms. Lisl Unterholzner (“Ms. Unterholzner”), respectively. Doc. Nos. 412, 7 415, 418. Plaintiff asserts that the sealed version of each contains information related to 8 its trade secrets, which would reveal those secrets if filed openly, though it does not 9 provide specific details.

See, e.g., Doc. No. 412. 10 As to the motion to file under seal documents concerning Plaintiff’s Daubert 11 motion for Dr. Sayeed, the redacted exhibit materials appear to contain information 12 related to the alleged trade secrets in this case, and discussion thereof. See, e.g. Doc. No. 13 413-5; Doc. No. 413-6 at 5. Likewise, the redactions are reasonably minimal and 14 restricted to discussion of trade secrets or confidential processes.

Compare Doc. No. 15 411-6 at 5 with Doc. No. 413-6 at 5; compare Doc. No. 411-10 at 3–5 with 413-10 at 3–5; 16 see Doc. No. 411-13. The same is true of the motion itself. Compare Doc. No. 411 with 17 Doc. No. 413. 18 Turning to the motion for Dr. Olson, Plaintiff takes a similar, narrow approach, 19 redacting only those sections with trade secret information or specific discussion thereof.

20 Compare Doc. 414 with Doc. No. 416; Compare Doc. No. 414-5 with Doc. No. 416-5. 21 Though there are some documents within of questionable import or confidential nature, 22 see, e.g., Doc. No. 416-3, their bearing on the properly sealed documents and minimal 23 content are such that the Court will seal them as well. 24 As to the motion for Ms. Unterholzner, Plaintiff’s “trade secrets” argument is 25 weaker.

Many of the redactions throughout the exhibits correlate to damages, profit, and 26 revenue figures rather than trade secrets. See, e.g., Doc. No. 417-2 at 4, 8, 14; Doc. No. 27 419-2 at 4, 8, 14; Doc. No. 417-3 at 9; Doc. No. 419-3 at 9.

The same is true of the 28 redacted portions in the motion itself. See, e.g., Doc. No. 417 at 10; Doc. No. 419 at 10. 1 || Nonetheless this sort of information may be sealed. See *Pulse Elecs., Inc.*, 530 F. Supp. 2 at 1030-31. Likewise, many of these documents are the same as those Defendants 3 || seek to seal in their motion concerning Dr. Trugman. Compare Doc No. 419-2 with Doc.

4 ||No. 401-1. Thus, the Court determines the request to seal the documents is proper, if for 5 different reason than Plaintiff articulates. 6 IV. CONCLUSION 7 For these reasons, the Court GRANTS the motions to file under seal and 8 || DIRECTS the Clerk of Court to file Doc. Nos. 401, 404, 410, 413, 416, 419, and their 9 || respective attachments, under seal.

The Court further GRANTS the parties’ joint motion 10 || to strike and DIRECTS the Clerk of Court to strike Doc. Nos. 399 and 402. The parties 11 refile the corrected versions of those documents no later than May 16, 2025. 12 As the Court understands the proposed refiled versions to be identical to the 13 existing documents except for corrected redactions, and the Court has already reviewed 14 || their contents in deciding the motions to seal, it determines issuing a decision on the 15 || motions to seal now is proper, and DIRECTS the filing party to separately file a notice 16 the docket indicating: (1) which new filing corresponds to which stricken filing; 17 and any changes in pagination between new and old versions, to preserve the 18 usefulness of citations herein to documents that will be stricken.

19 IT IS SO ORDERED. 20 || Dated: May 14, 2025 “ With hl UM ~f “llr 21 HON. MICHAEL M. ANELLO 22 United States District Judge 23 24 25 26 27 28