

1 MELODY DRUMMOND HANSEN (S.B. #278786)  
mdrummondhansen@omm.com  
2 HEATHER J. MEEKER (S.B. #172148)  
hmeeker@omm.com  
3 O'MELVENY & MYERS LLP  
2765 Sand Hill Road  
4 Menlo Park, California 94025-7019  
Telephone: +1 650 473 2600  
5 Facsimile: +1 650 473 2601

6 CARA L. GAGLIANO (S.B. #308639)  
cgagliano@omm.com  
7 Two Embarcadero Center  
28th Floor  
8 San Francisco, California 94111-3823  
Telephone: +1 415 984 8700  
9 Facsimile: +1 415 984 8701

10 Attorneys for Defendant  
Bruce Perens

11  
12 **UNITED STATES DISTRICT COURT**  
13 **NORTHERN DISTRICT OF CALIFORNIA**  
14 **SAN FRANCISCO DIVISION**

15 OPEN SOURCE SECURITY, INC., and  
16 BRADLEY SPENGLER,

17 Plaintiffs,

18 v.

19 BRUCE PERENS, and Does 1-50,

20 Defendants.  
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Case No. 3:17-cv-04002-LB

**DEFENDANT BRUCE PERENS'S  
ADMINISTRATIVE MOTION TO  
FILE DOCUMENTS UNDER SEAL**

**[Pursuant to Civil L.R. 7-11 and 79-5]**

Hearing Date: April 5, 2018

Time: 9:30 a.m.

Location: Courtroom C, 15th Floor

Judge: Hon. Laurel Beeler

Pursuant to Local Rules 7-11 and 79-5, Defendant Bruce Perens moves the Court for an Order sealing the following documents, or portions of documents, filed concurrently with the reply: (1) the Declaration of Melody Drummond Hansen in Support of Mr. Perens’s Reply in Support of Motion for Attorney Fees (“Drummond Hansen Reply Declaration”) and (2) Exhibits A–C attached thereto. In particular, Mr. Perens seeks to seal:

<b>Document</b>	<b>Portion(s) to be Sealed</b>
Drummond Hansen Reply Declaration	¶¶ 12, 17, 18, 21-24
Exhibit A	Portions revealing hourly rates and timekeeper fees and hours subtotals
Exhibit B	Portions revealing hourly rates and timekeeper fees and hours subtotals
Exhibit C	Entire Document
Exhibit E	Entire Document

Pursuant to Civil L.R. 79-5(d) and (e), this Motion is accompanied by the following documents: (1) the Declaration of Cara Gagliano in Support of this Motion (“Gagliano Declaration”); (2) a proposed order; (3) redacted versions of the documents sought to be filed under seal; and (4) unredacted versions of the documents sought to be filed under seal.

Mr. Perens brings this motion because certain exhibits attached to the Supplemental Drummond Hansen Declaration contain competitively sensitive information of the law firm O’Melveny & Myers LLP (“O’Melveny”) regarding the particular hourly rates charged by the firm and the fee arrangements the firm reaches with clients. *See* ECF No. 63. This information is not available publically, and is important to help the firm remain competitive in the legal market place. *Id.*

Under Civil Local Rule 79-5, a document may be filed under seal if a party establishes that the portions sought to be sealed “are privileged, protectable as a trade secret or otherwise entitled to protection under the law.” Civ. L.R. 79-5(b). However, as the Ninth Circuit has found, the “public policies that support the right of access to dispositive motions, and related

1 materials, do not apply with equal force to non-dispositive materials.” *Kamakana v. City & Cty.*  
2 *of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006). Therefore, rather than satisfy the “compelling  
3 reasons” standard associated with sealing for dispositive motions, parties seeking to file under  
4 seal documents related to non-dispositive motions need only make a “particularized showing”  
5 that “good cause” exists to seal the documents. *Id.* at 1180.

6 The sealing of this sensitive information was approved for sealing by the Court. Mr.  
7 Perens’s previous motion to seal (ECF No. 63) was granted by this Court on February 13, 2018  
8 (ECF No. 69), and Plaintiffs’ administrative motion to seal (ECF No. 77) was granted on March  
9 12, 2018 (ECF No. 81).

10 O’Melveny stands to suffer significant competitive harm if its rate information and  
11 detailed billing entries are subject to public review, and Mr. Perens likewise has an interest in the  
12 confidentiality of detailed billing entries. We therefore respectfully request that this court grant  
13 Mr. Perens’s motion to seal the above documents and portions of documents.

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15 Dated: March 22, 2018

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17 MELODY DRUMMOND HANSEN  
18 HEATHER J. MEEKER  
19 CARA L. GAGLIANO  
20 O’MELVENY & MYERS LLP

21 By:           /s/ Melody Drummond Hansen            
22 Melody Drummond Hansen  
23 Attorneys for Defendant  
24 Bruce Perens  
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