

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO**

DATE/TIME	FEBRUARY 22, 2022, 1:30 p.m.	DEPT. NO	21
JUDGE	HON. SHELLYANNE W. L. CHANG	CLERK	K. CADENA
WAYMO LLC, a Delaware limited liability company, Petitioner and Plaintiff, v. CALIFORNIA DEPARTMENT OF MOTOR VEHICLES; and DOES 1 through 100, inclusive, Respondents and Defendants.		Case No.: 34-2022-80003805	
Nature of Proceedings:		ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION	

The following constitutes the Court’s tentative ruling on the request for issuance of a preliminary injunction, which is scheduled to be heard by the Court in Department 21 on Tuesday, February 22, 2022, at 1:30 p.m. The tentative ruling shall become the final ruling of the Court unless a party wishing to be heard so advises the clerk of this Department no later than 4:00 p.m. on the court day preceding the hearing and further advises the clerk that such party has notified the other side of its intention to appear.

In light of COVID-19 safety measures, the Court advises counsel to contact the Court clerk to obtain appearance log-in information. There shall be NO in-person appearances.

In the event that a hearing is requested, oral argument shall be limited to no more than 20 minutes per side.

Any party desiring an official record of this proceeding shall make arrangements for reporting services with the Court clerk no later than 4:30 p.m. on the day before the hearing. The fee is \$30.00 for civil proceedings lasting under one hour, and \$239.00 per half day of proceedings lasting more than one hour. (Local Rule 1.12(B); Gov. Code, § 68086.) Payment is due at the time of the hearing.

On January 31, 2022, this matter came on for an ex parte hearing concerning Petitioner’s request for a temporary restraining order. Upon review and consideration of the moving papers, attached exhibits, and oral argument, the Court granted the application and issued a temporary restraining order and order directing Respondent “to appear and show cause why a preliminary

injunction should not be ordered restraining and enjoying it from releasing the subject [documents] in unredacted form to any third parties.”

On February 14, 2022, Respondent filed a “Notice of Non-Opposition” stating that it does not oppose the issuance of the subject preliminary injunction. No other entity has appeared in this proceeding or filed an Opposition to the Order to Show Cause.

“In deciding whether to issue a preliminary injunction, a court must weigh two ‘interrelated’ factors: (1) the likelihood that the moving party will ultimately prevail on the merits and (2) the relative interim harm to the parties from issuance or nonissuance of the injunction.... The trial court's determination must be guided by a ‘mix’ of the potential-merit and interim-harm factors; the greater the plaintiff's showing on one, the less must be shown on the other to support an injunction.” (*Butt v. California* (1992) 4 Cal.4th 668, 677-678.) The party seeking injunctive relief bears the burden of showing all elements necessary to support issuance of a preliminary injunction. (*O’Connell v. Superior Court* (2006) 141 Cal.App.4th 1452, 1481.)

When a party seeks to enjoin a state agency in the performance of its duties, the party must make a significant showing of irreparable injury, as there is a general rule against enjoining agencies in the performance of their duties. (*Tahoe Keys Property Owners Association v. State Water Resources Control Board* (1994) 23 Cal.App.4th 1459, 1471.) Because a preliminary injunction restrains the defendant’s actions prior to a trial on the merits, it is considered an extraordinary and drastic remedy, and will not be granted lightly. (*Tahoe Keys*, (1994) 23 Cal.App.4th at 1471; *Fleishman v. Superior Court* (2002) 102 Cal.App.4th 350, 356.)

Petitioner has filed this matter as a “reverse-CPRA” petition. Petitioner challenges the DMV’s proposed disclosure to a requesting third party of records Petitioner provided in early 2021 in connection with its Application for a Permit to Deploy Autonomous Vehicles on Public Streets. As part of this application, Petitioner was required to produce sensitive trade secret information related to various Autonomous Vehicle operations processes and design capabilities. Petitioner marked the application as containing “Confidential Business Information” and Petitioner provided further sensitive trade secret information in response to the DMV’s follow-up questions, and marked these responses as “confidential.”

Petitioner maintains the trade secret information submitted implicates the unique methods by which Petitioner’s autonomous vehicles carry out fundamental aspects of dynamic driving tasks, and how those vehicles interact with Petitioner’s support personnel. Petitioner maintains other information relates to “carefully-calibrated, Waymo-specific business processes that leverage learning acquired by Waymo after years of effort and experience in developing its AV technology. Those processes implicate a number of internal business, technological, engineering and legal perspectives that are not publicly known or shared by Waymo.”

On or about October 18, 2021, the DMV notified Petitioner that it had received a Public Records Act request for the release of records relating to Petitioner’s application. At the DMV’s request, Petitioner provided redacted versions of the requested materials, protecting proprietary and trade secret information but disclosing other information. On January 3, 2022, the DMV notified Petitioner that the third-party requester had challenged some of the redactions. On

January 20, 2022 Petitioner agreed to publicly release some of the formerly redacted information, but continued to redact the sensitive trade secret information. The DMV advised Petitioner that it would have to produce all requested documents, unredacted, unless Petitioner obtained a court order preventing it from doing so.

The California Public Records Act (Gov. Code § 6250 et seq.) provides that “access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state.” Public records are to be open to inspection and “any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.” (§ 6253.)

The PRA also provides specific categories of records exempt from disclosure. (§ 6254.) Subdivision (k) provides that documents are exempt from disclosure if they are, “Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.” Evidence Code section 1060 provides, “the owner of a trade secret has a privilege to refuse to disclose the secret, and to prevent another from disclosing it, if the allowance of the privilege will not tend to conceal fraud or otherwise work injustice.”

Petitioner has provided detailed declarations as to why the subject redactions are necessary to protect its confidential trade secret information. There is no evidence before the Court that the information sought by the document request contains evidence of fraud or that its nondisclosure would otherwise work injustice which would eliminate the trade secret privilege under Evidence Code 1060. Accordingly, the Court finds the likelihood of Petitioner prevailing on the merits of its petition is very high.

The Court finds there has been no demonstration of interim harm to either Respondent or the requesting party (who has not yet intervened or otherwise appeared in this matter) should the preliminary injunction be issued. The Court has not been informed of any urgency in obtaining the redacted information and of any interim harm that would occur should the urgency be ignored. With respect to Petitioner, however, the Court finds the interim harm would be great if the Court declines to issue the preliminary injunction. Petitioner maintains the redacted information contains confidential trade secrets, and that their release “will allow Waymo’s competitors access to confidential information regarding the design, process and operational implementation of Waymo’s AVs.”

The Court finds the balancing of the two factors weighs heavily in favor of Petitioner. Accordingly, the request for a preliminary injunction is **GRANTED**.

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In the event that this tentative ruling becomes the final ruling of the Court, in accordance with Local Rule 1.06, counsel for Petitioner is directed to prepare an order granting the motion, incorporating this ruling as an exhibit to the order; submit them to counsel for Respondent for approval as to form in accordance with California Rules of Court, rule (“CRC”) 3.1312(a); and thereafter submit them to the Court for signature and entry in accordance with CRC 3.1312(b).

