

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

United States District Court
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FINISAR CORPORATION,
Plaintiff

No. 08-3388 MMC

v.

**ORDER DENYING APPLICATION TO
FILE DOCUMENTS UNDER SEAL;
DIRECTIONS TO CLERK**

JDS UNIPHASE CORPORATION,
Defendant

Before the Court is the "Declaration of Kurt E. Wilson in Support of Application to File Documents Under Seal Pursuant to Local Rule 79-5," filed October 6, 2008. No separate application was filed; accordingly, the Court construes said declaration as the application. So construed, the Court rules on the application as follows.

Defendant seeks leave to file under seal the entirety of three declarations filed in support of defendant's motion for summary judgment, on the ground that plaintiff has designated the entirety of such documents as confidential.

Under the Local Rules of this District, where a party seeks to file under seal any material designated as confidential by another party, the submitting party must file a motion for a sealing order. See Civil L.R. 79-5(d). "Within five days thereafter, the designating party must file with the Court and serve a declaration establishing that the designated information is sealable, and must lodge and serve a narrowly tailored proposed sealing

1 order, or must withdraw the designation of confidentiality.” Id. “If the designating party
2 does not file its responsive declaration as required by this subsection, the document or
3 proposed filing will be made part of the public record.” Id.


4 Here, the designating party, plaintiff, has not filed a responsive declaration within the
5 requisite time.

6 Accordingly, the application is hereby DENIED, and the Clerk is DIRECTED to file
7 the following three documents in the public record:

- 8 1. Declaration of Jack Jewell in Support of Motion for Summary Judgment, or in the
9 Alternative, Summary Adjudication;
- 10 2. Declaration of Steve Hane in Support of Motion for Summary Judgment, or in the
11 Alternative, Summary Adjudication; and
- 12 3. Declaration of Jeremiah Chan in Support of Motion for Summary Judgment, or in
13 the Alternative, Summary Adjudication.

14 **IT IS SO ORDERED.**

15
16 Dated: October 21, 2008


17 MAKINE M. CHESNEY
United States District Judge