

1 ROBERT D. FRAM (State Bar No. 126750)  
 E-Mail: rfram@cov.com  
 2 COVINGTON & BURLING LLP  
 One Front Street, 35th Floor  
 3 San Francisco, California 94111  
 Telephone: (415) 591-6000  
 4 Facsimile: (415) 591-6091

5 JO DALE CAROTHERS (State Bar No. 228703)  
 E-Mail: jcarothers@cov.com  
 6 COVINGTON & BURLING LLP  
 9191 Towne Centre Drive, 6th Floor  
 7 San Diego, CA 92212-1226  
 Telephone: (858) 678-1800  
 8 Facsimile: (858) 678-1600

9 Attorneys for Defendant and Counterclaimant  
 10 TREND MICRO INCORPORATED

11 UNITED STATES DISTRICT COURT  
 12 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 13 SAN FRANCISCO DIVISION

14 FORTINET, INC., a Delaware corporation,  
 15 Plaintiff & Counter-defendant,  
 16 v.  
 17 TREND MICRO INCORPORATED, a  
 18 California corporation,  
 19 Defendant & Counterclaimant.

Civil Case No.: CV 08-05371 MMC

**[PROPOSED] ORDER GRANTING  
 DEFENDANT AND  
 COUNTERCLAIMANT TREND  
 MICRO INCORPORATED'S  
 ADMINISTRATIVE MOTION FOR  
 LEAVE TO FILE UNDER SEAL  
 CERTAIN DOCUMENTS  
 RELATED TO RENEWED  
 MOTION TO DISMISS FIRST  
 AMENDED COMPLAINT  
 PURSUANT TO FED. R. CIV. P.  
 12(b)(1)**

DATE: June 26, 2009  
 TIME: 9:00 am  
 COURTROOM: 7, 19th Floor  
 JUDGE: Hon. Maxine M. Chesney

20  
 21  
 22  
 23  
 24  
 25  
 26  
 27  
 28 [PROPOSED] ORDER GRANTING DEFENDANT AND  
 COUNTERCLAIMANT TREND MICRO INCORPORATED'S  
 ADMINISTRATIVE MOTION FOR LEAVE TO FILE UNDER  
 SEAL CERTAIN DOCUMENTS RELATED TO RENEWED  
 MOTION TO DISMISS FIRST AMENDED COMPLAINT  
 PURSUANT TO FED. R. CIV. P. 12(b)(1)  
 Civil Case No.: CV 08-05371 MMC

1           Upon consideration of Defendant and Counterclaimant Trend Micro Incorporated's  
2 Administrative Motion for Leave to File Under Seal Certain Documents Related to Renewed  
3 Motion to Dismiss First Amended Complaint Pursuant to Fed. R. Civ. P. 12(b)(1), and good  
4 cause appearing as described in the accompanying declaration of Christopher J. Longman,  
5 Defendant's Administrative Motion IS GRANTED.

6           Exhibit 1 to the Declaration of Andrew C. Byrnes in support of Renewed Motion to  
7 Dismiss First Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(1), which discloses  
8 information relating to confidential communications between the parties and to a confidential  
9 Settlement and Patent License Agreement ("Settlement Agreement") between Fortinet and  
10 Trend Micro shall be filed under seal.

11           The following portions of Trend Micro's Renewed Motion to Dismiss First Amended  
12 Complaint Pursuant to Fed. R. Civ. P. 12(b)(1), which discloses confidential communications  
13 between the parties and the terms and conditions of a confidential Settlement and Patent License  
14 Agreement between the parties, shall also be filed under seal:

- 15           (a) 1:11-13 (from "Trend Micro's..." through the end of the sentence);  
16           (b) 1:20-21 (from "On May 11..." through the end of the sentence);  
17           (c) 2:10-12 (from "Specifically, Trend Micro..." through the end of the sentence);  
18           (d) 2:24-3:4 (from "On May 11..." through the end of the block-quoted paragraph)  
19           (e) 3:15 (the word following the phrase "Fortinet has an");  
20           (f) 4:5-6 (from "Trend Micro's May 11, 2009..." through the end of the sentence);  
21           (g) 4:27-5:1 (from "Trend Micro's May 11, 2009..." through the end of the sentence).

22           Accordingly, the Clerk is DIRECTED to file under seal Exhibit 1 and the  
23 unredacted version of Trend Micro's Renewed Motion.  
24 IT IS SO ORDERED.

25 DATED: May 20, 2009

  
The Hon. Maxine M. Chesney  
United States District Judge  
Northern District of California