

United States District Court
For the Northern District of California

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

ORACLE AMERICA, INC.,
Plaintiff,
v.
GOOGLE INC.,
Defendant.

No. C 10-03561 WHA

**ORDER GRANTING IN PART
AND DENYING IN PART
MOTIONS TO SEAL**

In October 2011, the parties moved to file under seal portions of the trial briefs, motions in limine, and supporting exhibits (Dkt. Nos. 507, 532, 533, 537). On October 16, the Court issued a notice warning counsel “that unless they identify [by the pretrial conference date] a limited amount of exceptionally sensitive information that truly deserves protection, the motions will be denied outright” (Dkt. No. 540). The parties subsequently stated that they did not oppose the public filing of unredacted trial briefs (Dkt. Nos. 556, 569). Motorola Mobility, a third party for discovery, submitted a declaration in support of sealing portions of Oracle’s opposition to Google’s motion in limine No. 5 and portions of Exhibit 5-4 thereto (Dkt. No. 542). Recently, Google submitted a revised declaration in support of sealing Exhibits 15 and 32 of the Purcell declaration in support of Google’s motions in limine (Dkt. Nos. 497–15, 497–32) and documents containing any version of the Lindholm Email (Dkt. No. 648).

This order finds that portions of Oracle’s opposition to Google’s motion in limine No. 5 and portions of Exhibit 5-4 thereto contained confidential information relating to the operation of

1 Motorola's handsets. This information dealt with the operation, design, and sensitive business
2 nature of the handsets that were not known outside the company. Disclosure of this material
3 would have caused great and undue harm to Motorola's business because it would have allowed
4 its competitors access to the technical design of Motorola's handsets that was not even available
5 by reverse-engineering.

6 This order finds that Exhibit 32 of the Purcell declaration in support of Google's motions
7 in limine contained confidential information relating to Google's sensitive, non-public financial
8 data and financial projections, such as past revenues associated with Android and projected
9 revenues associated with Android. Google did not make this information available to the public.
10 This data was exceptionally sensitive, and releasing it to the public would have caused great and
11 undue harm to Google and would have placed it at a competitive disadvantage.

12 This order finds that the vast majority of content in Exhibit 15 of the Purcell declaration in
13 support of Google's motions in limine was *not* confidential. Designations of material as
14 "confidential" must be *narrowly tailored* to include only material for which there is good cause
15 (Dkt. No. 68). The order approving the stipulated protective order warned that "a pattern of
16 over-designation may lead to an order un-designating all or most materials on a wholesale basis"
17 (*ibid.*). Google declared that Exhibit 15 should be sealed because it contained "sensitive, non-
18 public financial data and financial projections" (Dkt. No. 648 at 3). However, Exhibit 15 was
19 approximately 20 pages long and only a handful of paragraphs contained information related to
20 financial data. Google's request to seal was not narrowly tailored. Google was already warned
21 that its motion to seal would be denied if it did not narrowly tailor its request. Motion to seal
22 Exhibit 15 is **DENIED**.

23 For the reasons stated in a prior order denying motion to retain confidentiality designation
24 of the Lindholm Email (Dkt. No. 596), the motion to seal documents containing any version of
25 the Lindholm Email is **DENIED**.

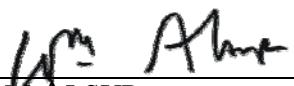
26 The motions to file under seal are **GRANTED IN PART AND DENIED IN PART**. The clerk
27 shall file under seal the unredacted versions of Oracle's opposition to Google's motion in limine
28 No. 5 and portions of Exhibit 5-4 thereto. The redacted versions shall be publicly filed. The

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clerk shall also file under seal Exhibit 32 of the Purcell declaration in support of Google's motions in limine. As to the remainder of the documents requested be filed under seal, the motions are **DENIED**.

IT IS SO ORDERED.

Dated: December 27, 2011.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE