

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SMART WEARABLE TECHNOLOGIES  
INC.,

Plaintiff,

v.

FITBIT INC,

Defendant.

Case No. [17-cv-05068-VC](#)

**ORDER ON ADMINISTRATIVE  
MOTIONS TO FILE UNDER SEAL**

Re: Dkt. Nos. 79, 94, 99, 101, 107

1. Fitbit's administrative motions to file under seal filed in connection with its summary judgment and sanctions briefing (Dkt. Nos. 79, 99, 101) are granted in part and denied in part. Fitbit has not demonstrated why it needs to seal all of the excerpted deposition transcripts of Logan Niehaus, since the entire deposition does not relate to the source code and schematics. Additionally, Fitbit has not provided adequate justification for sealing the entirety of the May 2016 letter from Fitbit's counsel. See *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092 (9th Cir. 2016); *In re Hewlett-Packard Co. Shareholder Derivative Litigation*, No. 12-cv-06003-CRB, Dkt. No. 411 (N.D. Cal. July 28, 2015). Only the references to the source code, schematics, and the bills of materials appear sealable (although it is not clear why anything more than the names of the source code functions and the values to which they are set needs to be sealed). Fitbit may refile appropriately narrowed motions to seal within 7 days. If Fitbit chooses not to seek to seal these documents, it is ordered to re-file unredacted versions of these documents within 7 days.

2. Smart Wearable Technologies's ("SWT") administrative motions to file under seal in connection with its opposition to the motion for summary judgment (Dkt. No. 94) and its

opposition to the motion for sanctions (Dkt. No. 107) are denied under Local Rule 79-5(e), since Fitbit did not file responsive declarations explaining why these documents should be sealed. SWT is ordered to re-file unredacted versions of these documents within 7 days.

**IT IS SO ORDERED.**

Dated: February 7, 2018



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VINCE CHHABRIA  
United States District Judge