

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

3  
4 TESSERA, INC.,

No. C 05-4063 CW

5                                    Plaintiff,

ORDER GRANTING IN  
PART AND DENYING  
IN PART MOTION TO  
SEAL (Docket No.  
1020)

6                                    v.

7 ADVANCED MICRO DEVICES, INC.;  
8 SPANSION, LLC; SPANSION, INC.;  
9 SPANSION TECHNOLOGY, INC.;  
10 ADVANCED SEMICONDUCTOR  
11 ENGINEERING, INC.; ASE (U.S.),  
12 INC.; CHIPMOS TECHNOLOGIES, INC.;  
13 CHIPMOS U.S.A., INC.; SILICONWARE  
14 PRECISION INDUSTRIES CO., LTD.;  
15 SILICONWARE USA, INC.;  
16 STMICROELECTRONICS N.V.;  
17 STMICROELECTRONICS, INC.; STATS  
18 CHIPPAC, INC.; STATS CHIPPAC  
19 (BVI), INC.; and STATS CHIPPAC,  
20 LTD.,

21                                    Defendants.

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Defendants STMicroelectronics, Inc. and STMicroelectronics N.V. (collectively, the ST Defendants) move to file under seal Exhibits A through E to the declaration of Ryan Sandrock, submitted in support of their motion for summary judgment related to patent exhaustion, which Tessera has designated as confidential. ST Defendants also move to file under seal the declaration of Michael J. Hundt, submitted in support of their motion, which they have designated as confidential. Finally, the ST Defendants move to file under seal the portions of their motion that refer to these exhibits. The ST Defendants and Tessera have submitted declarations in support of the motion to seal. See Docket Nos. 1020-1 and 1025.

1 Exhibit E to the Sandrock declaration contains a license  
2 agreement entered into by Tessera, Inc. and third-party Motorola,  
3 Inc. Motorola Mobility LLC, previously a segment of Motorola,  
4 Inc. and successor-in-interest to the rights of Motorola, Inc.  
5 under the license agreement, has also submitted a declaration in  
6 support of the motion to seal this exhibit. See Docket No. 1029.

7 The parties seek to seal court records connected to a  
8 dispositive motion. To establish that the documents are sealable,  
9 the party who has designated them as confidential "must overcome a  
10 strong presumption of access by showing that 'compelling reasons  
11 supported by specific factual findings . . . outweigh the general  
12 history of access and the public policies favoring disclosure.'" Pintos v. Pac. Creditors Ass'n, 605 F.3d 665, 679 (9th Cir. 2010)  
13 (citation omitted). Cf. id. at 678 (explaining that a less  
14 stringent "good cause" standard is applied to sealed discovery  
15 documents attached to non-dispositive motions). This cannot be  
16 established simply by showing that the document is subject to a  
17 protective order or by stating in general terms that the material  
18 is considered to be confidential, but rather must be supported by  
19 a sworn declaration demonstrating with particularity the need to  
20 file each document under seal. Civil Local Rule 79-5(a).

21  
22 Motorola Mobility attests that public disclosure of the  
23 license agreement would place it a competitive disadvantage in  
24 entering into future license agreements by providing others in the  
25 market with "information that they would otherwise not have about  
26 Motorola Mobility's licensing terms and practices that would  
27 provide" them with "a strategic negotiation advantage." Miller  
28 Decl. ¶ 8. It further attests that it operates in a "highly

1 competitive market" and that public disclosure would give its  
2 competitors information about its licensing practices and "insight  
3 regarding costs associated with Motorola Mobility's products" that  
4 would grant the competitors a "strategic advantage in terms of  
5 competing against Motorola Mobility in the market." Id. at ¶ 9.  
6 Having reviewed Exhibit E to the Sandrock declaration, the Court  
7 concludes that Motorola Mobility has established that it and  
8 references thereto in the motion for summary judgment are  
9 sealable.

10 Tessler states that Exhibits A and D to the Sandrock  
11 declaration contain a license agreement between Tessler and non-  
12 parties Amkor Electronics, Inc. and EEMS Italia, SpA. MacDonald  
13 Decl. ¶¶ 3, 5. It states that this document contains "information  
14 about Tessler's licensing of its patented semiconductor packaging  
15 technology" and that "[p]ublic disclosure of non-public details of  
16 that program would jeopardize Tessler's ability to continue to  
17 license its technology successfully," which is "critical to its  
18 business." Id. In a related case, the Court has previously  
19 sealed a similar license between Tessler and another party. See,  
20 e.g., Docket Nos. 26, 96, Powertech Technology, Inc. v. Tessler,  
21 Inc., Case No. 11-6121. Tessler further represents that Exhibits  
22 B and C to the Sandrock declaration are copies of confidential  
23 arbitration awards from proceedings between Tessler and Amkor,  
24 which reflect the terms of the licensing agreement between them,  
25 and that these should be protected from disclosure for the same  
26 reasons as the license agreement itself. MacDonald Decl. ¶ 4.  
27 Having reviewed the contents of Exhibit A through D, the Court  
28 finds that Tessler has established that these documents and

1 references thereto in the motion for summary judgment are  
2 sealable.

3 The ST Defendants represent that the Hundt declaration  
4 contains "highly sensitive information regarding ST's business  
5 relationships with Amkor, Motorola, and EEMS." Sandrock Decl.

6 ¶ 4. This general statement does not demonstrate with  
7 particularity the need to file this declaration under seal or the  
8 type of harm that the ST Defendants would suffer if the  
9 declaration were filed in the public record. Accordingly, the ST  
10 Defendants have not established that the Hundt declaration is  
11 sealable.

12 For the reasons set forth above, the ST Defendants' motion is  
13 GRANTED IN PART and DENIED in part (Docket No. 1020). Within  
14 three days of the date of this Order, the ST Defendants shall  
15 electronically file under seal Exhibits A through E to the  
16 Sandrock declaration and their unredacted motion. By that date,  
17 the ST Defendants shall file in the public record the Hundt  
18 Declaration and a redacted version of their motion that conforms  
19 with this Order.

20 IT IS SO ORDERED.

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22 Dated: 8/10/2012

  
CLAUDIA WILKEN  
United States District Judge

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