

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

AFFINITY LABS OF TEXAS, LLC,  
Plaintiff,  
v.  
APPLE INC.,  
Defendant.

No. C 09-04436 CW  
ORDER GRANTING IN  
PART AND DENYING  
IN PART  
PLAINTIFF'S  
ADMINISTRATIVE  
MOTION TO SEAL  
(Docket No.215)

Plaintiff Affinity Labs of Texas, LLC, has moved to file under seal various documents submitted in connection with its Claim Construction Reply Brief, Summary Judgment Reply Brief, and Brief in Opposition to Apple's Motion for Summary Judgment. Docket No. 215.

Pursuant to Local Rule 79-5(d), Affinity moves to seal Exhibits 1, 3, 5, 8, 22, 23, and 25 to the Declaration of David C. Dotson in Support of its Brief. Affinity also moves pursuant to Local Rule 79-5(c) and (d), to seal portions of its Brief that disclose information designated Highly Confidential by Apple. On June 9, 2011, Darin J. Glasser submitted a Declaration in Support of Apple, Inc.'s Request to Maintain Certain Confidential Documents Under Seal. Docket No. 236. Glasser's declaration gave support to sealing Exhibits 1, 3, 5, 8, 22, 23, and 25, but did not request

1 the sealing of portions of Affinity's Brief. Having considered the  
2 motion, and supporting declarations, the Court GRANTS the motions  
3 to seal Exhibits 1, 3, 5, 8, 22, 23, and 25, but DENIES without  
4 prejudice the request to seal portions of its Brief.

5 Pursuant to Local Rule 79-5(b), Affinity moves to seal  
6 Exhibits 10, 11 and 26 to the Dotson Declaration, and Exhibit M3 to  
7 the Declaration of Joseph C. McAlexander III in Support of its  
8 Brief. According to Affinity, Exhibits 10 and 11 warrant sealing  
9 because they contain certain information designated Highly  
10 Confidential by third party Yahoo! Inc. Yahoo! has not filed a  
11 declaration in support of sealing this information. However, it is  
12 not clear that Yahoo! has been served or otherwise notified of the  
13 motion. Thus, the Court reserves judgment regarding the motion as  
14 to Exhibits 10 and 11. On or before June 15, 2011, Affinity shall  
15 serve Yahoo! the motion, or notify the Court that it has already  
16 done so. In the event that Yahoo! seeks to seal the information,  
17 it shall file a declaration in support of the motion by June 22,  
18 2011.

19 The motion as to Exhibit M3 to the McAlexander Declaration is  
20 similarly lacking evidence from third parties and Apple to support  
21 sealing. However, it is also unclear where Affinity has notified  
22 the third parties of this motion to seal regarding Exhibit M3.  
23 Thus, on or before June 15, 2011, Affinity shall serve the motion  
24 to the pertinent third parties, or notify the Court that it has  
25 already done so. In the event that these third parties seek to  
26 seal Exhibit M3, they shall file a declaration in support of the  
27 motion by June 22, 2011. The Court reserves judgment on the motion  
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1 as to Exhibit M3.

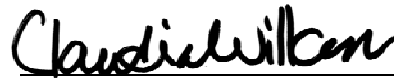
2 The Court GRANTS the motion as to Exhibit 26 to the Dotson  
3 Declaration.

4 Pursuant to Local Rule 79-5(c), Affinity moves to seal  
5 portions of Exhibit M4 to the McAlexander Declaration. Pursuant to  
6 Local Rule 79-5(c) and (d), Affinity met with Apple concerning  
7 Exhibit M4. According to Affinity, Apple demanded that certain  
8 portions of Exhibit M4 be filed under seal. However, Apple failed  
9 to file a declaration in support of sealing that portion of Exhibit  
10 M4. Thus, the motion to seal Exhibit M4 is DENIED without  
11 prejudice.

12 In sum, the following items shall be sealed: Exhibits 1, 3, 5,  
13 8, 22, 23, 25 and 26 to the Dotson Declaration. The following  
14 items shall not be sealed unless further evidence submitted  
15 demonstrates that sealing is warranted: Affinity's Brief and  
16 Exhibit M4 to the McAlexander Declaration. The Court reserves  
17 judgment as to Exhibits 10 and 11 to the Dotson Declaration, and  
18 Exhibits M3 to the McAlexander Declaration. On or before June 15,  
19 2011 Affinity shall serve this order on Yahoo! and all third-  
20 parties seeking to seal Exhibit M3.

21 IT IS SO ORDERED.

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23 Dated: 6/13/2011



CLAUDIA WILKEN  
United States District Judge

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