

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

U.S. ETHERNET INNOVATIONS, LLC,

Plaintiff,

v.

ACER, INC., et al.,

Defendants.

and

ATHEROS COMMUNICATIONS, INC., et al.,

Intervenors.

_____ /

No. C 10-3724 CW

ORDER ON
ADMINISTRATIVE
MOTIONS TO SEAL

(Docket Nos.
1162, 1165, 1168,
1183, 1192, 1195,
1196, 1217, 1221,
1225, 1238, 1255,
1258, 1261 and
1279)

U.S. ETHERNET INNOVATIONS, LLC,

Plaintiff,

v.

AT&T MOBILITY, LLC, et al.,

Defendants.

_____ /

No. C 10-5254 CW

ORDER ON
ADMINISTRATIVE
MOTIONS TO SEAL

(Docket Nos. 525,
526, 532, 536,
537, 545, 553,
556, 559 and 568)

Before the Court are numerous administrative motions to seal filed by multiple parties.

Under Civil Local Rule 79-5, a document may be filed under seal only if a party establishes that the portions sought to be sealed "are privileged, protectable as a trade secret or otherwise entitled to protection under the law." Civ. L.R. 79-5(b). Any sealing request must be narrowly tailored to cover only sealable material. Id. The request must be supported by the designating

1 party's declaration establishing that the information is sealable.
2 Id. subsection (d).

3 "Historically, courts have recognized a 'general right to
4 inspect and copy public records and documents, including judicial
5 records and documents.'" Kamakana v. City & Cnty. of Honolulu,
6 447 F.3d 1172, 1178 (9th Cir. 2006). In considering a sealing
7 request, the Court begins with "a strong presumption of access
8 [as] the starting point." Id.

9 A party seeking to seal records attached to a dispositive
10 motion bears the burden of establishing "compelling reasons
11 supported by specific factual findings that outweigh the general
12 history of access and the public policies favoring disclosure."
13 Id. at 1178-79. This is because dispositive motions represent
14 "the heart of the interest in ensuring the public's understanding
15 of the judicial process and of significant public events." Id.
16 at 1179.

17 The strong presumption in favor of access does not apply with
18 equal force to non-dispositive motions, which may be only
19 "tangentially related" to the underlying cause of action. Id.
20 at 1179-80. A party seeking to seal materials related to non-
21 dispositive motions must show good cause by making a
22 "particularized showing" that "specific prejudice or harm will
23 result" should the information be disclosed. Id.; Fed. R. Civ. P.
24 26(c). "[B]road, conclusory allegations of potential harm" will
25 not suffice. Foltz v. State Farm Mut. Auto. Ins. Co., 331 F.3d
26 1122, 1131 (9th Cir. 2003). These different standards are applied
27 as relevant to the documents addressed below.
28

1 The Court provides the following rulings on the parties'
2 motions to seal, as articulated in the table below.

3 Case No. 10-3724

4 Docket 5 No.	Ruling
6 1162 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27	<p>Intervenor Atheros seeks permission to file under seal Exhibits 1 and 2 to the Declaration of John W. McCauley, IV in support of Intervenor's and Defendants' Motions for Summary Judgment and Opposition to Plaintiff's Dispositive Motions. These documents contain references to and excerpts from Atheros product specifications including source code.</p> <p>If Atheros seeks permission to seal these documents in their entirety, the motion is DENIED for failure to comply with Civil Local Rule 79-5(b), which requires that requests to seal be narrowly tailored.</p> <p>However, if Atheros intended to file these documents with only confidential information redacted (as suggested by its statement that "[t]he exhibits contain information that has been marked as [confidential]"), Atheros fails to file redacted versions of these documents as required by Civil Local Rule 79-5(d) (1) (C).</p>

28

1		Accordingly, the motion is DENIED (Docket No. 1162).
2		Atheros may resubmit a modified and narrowly
3		tailored version of this sealing request no later
4		than seven days from the date of this order. If it
5		does not do so, the documents must be filed in the
6		public record.
7		
8	1165	Defendant Hewlett Packard (HP) moves to file under
9		seal all or parts of the following two documents:
10		Exhibit 1 and 2 to the Declaration of Cameron A.
11		Zinsli (Zinsli Declaration). HP has not provided
12		any justification for why these documents should be
13		sealed. Accordingly, the motion is DENIED (Docket
14		No. 1165). Within seven days of the date of this
15		order, HP shall file a declaration justifying its
16		request, or, in the alternative, file unredacted
17		versions of these documents in the public record.
18		
19	1168	Intervenor Marvell Semiconductor (MSI) moves to file
20		under seal all or part of the following documents
21		filed in support of Intervenor's and Defendants'
22		Motions for Summary Judgment and Opposition to
23		Plaintiff's Dispositive Motions:
24		1. Intervenor's and Defendants' Motions for
25		Summary Judgment and Opposition to Plaintiff's
26		Dispositive Motion. The motion is GRANTED
27		because MSI has limited its request to
28		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

confidential information.

2. Exhibits 1-5 to the Declaration of Michael Flynn-O'Brien in Support of Intervenors' and Defendants' Motions for Summary Judgment and Opposition to Plaintiff's Dispositive Motion (Flynn Declaration). These exhibits contain detailed MSI sales and financial information. The motion is GRANTED because MSI has limited its request to confidential information.

3. Exhibits 6-8 to the Flynn Declaration. These documents comprise excerpts from the expert report and deposition of Dr. Mitzenmacher, and quote MSI's highly confidential technical documentation. The motion is GRANTED because MSI has limited its request to confidential information.

4. Exhibit 9 to the Flynn Declaration. Exhibit 9 comprises excerpts from the deposition transcript of MSI's Rule 30(b)(6) technical witness, Manfred Kunz. The motion is GRANTED because MSI has limited its request to confidential information.

5. Exhibit 10 to the Flynn Declaration. Exhibit 10 comprises excerpts from the deposition transcript of Dr. Thomas M. Conte, USEI's expert regarding validity. The motion is GRANTED because MSI has limited its request to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

	<p>confidential information.</p> <p>6. The Declaration of Manfred Kunz (Kunz Declaration), in its entirety. Portions of the Kunz Declaration contain MSI's confidential technical documentation and source code for the accused products. The motion is GRANTED because MSI has limited its request to confidential information.</p> <p>7. Exhibit 1 to the Kunz Declaration. Exhibit 1 is an excerpt from MSI's internal and confidential correspondence regarding analysis of certain MSI and third party products. The motion is GRANTED because MSI has limited its request to confidential information.</p> <p>Accordingly, MSI's motion to seal is GRANTED (Docket No. 1168).</p>
1183	<p>Defendant Apple moves to file under seal all or part the following documents in Support of its Motion for Partial Summary Judgment of Non-Infringement of the 094 Patent:</p> <p>1. Exhibit 1 to the Declaration of Chris Cravey (Cravey Declaration). The document contains technical material from Sun Microsystem's (now Oracle America, Inc.) proprietary literature describing the structure, configuration, and operation of the Sun Ethernet technology. The motion is GRANTED because Apple has limited its</p>

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

request to confidential information.

2. Exhibit 2 to the Cravey Declaration. Exhibit 2 is a detailed summary of Apple's Ethernet components and software. The motion is GRANTED because Apple has limited its request to confidential information.

3. Exhibit 3 to the Cravey Declaration. Exhibit 3 contains highly sensitive information regarding how certain aspects of the Sun Ethernet technology was utilized and implemented in certain Apple products. The motion is GRANTED because Apple has limited its request to confidential information.

4. Exhibit 4 to the Cravey Declaration. Exhibit 4 comprises excerpts from the Sun GEM Gigabit Ethernet ASIC Specification. The motion is GRANTED because Apple has limited its request to confidential information.

5. Exhibit 5 to the Cravey Declaration. Exhibit 5 comprises portions of Apple's Ethernet driver source code for the accused Sun Ethernet technology utilized in certain Apple products. The motion is GRANTED because Apple has limited its request to confidential information.

6. Exhibit 6 to the Cravey Declaration. Exhibit 6 comprises certain excerpts from the May 31, 2014 deposition of USEI technical expert

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

	<p>Michael Mitzenmacher. The motion is GRANTED because Apple has limited its request to confidential information.</p> <p>7. Apple's Motion for Partial Summary Judgment, as found in Docket No. 1167-2 (redacted) and 1167-3 (unredacted). The motion is GRANTED because Apple has limited its request to confidential information.</p> <p>Accordingly, Apple's motion to seal is GRANTED (Docket No. 1183).</p>
1192	<p>Defendant Intel seeks permission to file Exhibit 1 to the Declaration of Melissa Hotze (Hotze Declaration) in Support of its Motion for Relief from Non-Dispositive Pretrial Order of Magistrate Judge. Exhibit 1 contains excerpts from the videotaped disposition of Laurence Rosenberg. Intel has not provided any reason why this document should be filed under seal, and there does not appear to be any sealable material in the document. Accordingly, Intel's motion to seal is DENIED (Docket No. 1192). Within seven days of the date of this order, Intel may file a declaration justifying its request, or, in the alternative, file an unredacted version of this document in the public record.</p>
1195	<p>USEI seeks permission to file under seal, in its entirety, its Reply in Support of its Motions for</p>

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	(536 in 10-5254)	Summary Judgment and Response in Opposition to Intervenor's and Defendants' Motions for Summary Judgment. USEI does not limit its request to only confidential material, and the document contains unsealable information. Accordingly, the motion is DENIED (Docket No. 1195) for failure to comply with Civil Local Rule 79-5(b), which requires that requests to seal be narrowly tailored. USEI may resubmit a modified and narrowly tailored version of this sealing request no later than seven days from the date of this order. Because this document has been designated confidential both by USEI and Defendants, USEI must also provide proof of service to Defendants. Within four days of being served, Defendants must file a declaration establishing that the document is sealable. If the parties fail to do so, the document must be filed in the public record.
19 20 21 22 23 24 25 26 27	1196 (537 in 10-5254)	USEI seeks permission to file under seal all or part of numerous documents in support of its Motions for Summary Judgment: 1. Exhibits 2, 9, 13-16, 22-25, 27, 29, 31, 32, 35-37, 39-47, 50-52, 54, 55, 58, 61-65, 67, 69 and 70 to the Declaration of D. Sean Nation (Nation Declaration). These documents comprise excerpts of confidential technical information, including, in some cases, source code. The

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

motion is GRANTED with regard to these documents because USEI has limited its request to confidential technical information.

2. Exhibits 4, 27, 34, 48, 53, 57, 66 and 68 to the Nation Declaration. The motion is DENIED with regard to these documents for failure to comply with Civil Local Rule 79-5(b), which requires that requests to seal be narrowly tailored. USEI may resubmit a modified and narrowly tailored version of this sealing request no later than seven days from the date of this order. If it does not do so, these documents must be filed in the public record.

3. Exhibits 3, 11, 38 and 56 to the Nation Declaration. These documents contain confidential design and technical information about Intel's products. As the designating party, Intel has provided redacted and unredacted versions of these documents in Docket No. 1207. The motion is GRANTED with regard to these documents because Intel limits the redacted material to confidential technical information. The redacted versions of these documents can be filed under seal.

4. Exhibit 59 to the Nation Declaration. The motion is DENIED with regard to this document because the document discusses issues that are

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

	<p>in the public record. USEI may file a declaration justifying its sealing request no later than seven days from the date of this order. If it does not do so, these documents must be filed in the public record.</p> <p>Accordingly, USEI's motion to seal is GRANTED in part and DENIED in part, as set forth above (Docket No. 1196).</p>
1217	<p>Defendant Apple seeks permission to file under seal all or part of the following documents in Support of the Reply in Support of Intervenors' and Defendants' Motions for Summary Judgment and Opposition to Plaintiff's Dispositive Motion:</p> <ol style="list-style-type: none">1. Exhibit 7 to the Cravey Declaration. Exhibit 7 contains excerpts from the May 31, 2014 deposition of USEI's technical expert Michael Mitzenmacher. The motion is GRANTED because Apple has limited its request to confidential information.2. Portions of Apple's Reply in Support of its Motion for Partial Summary Judgment of Non-Infringement of the '094 Patent. The document contains information about Apple's acquisition of the Sun Ethernet technology and the technical configuration and settings of the Sun Ethernet technology. The motion is GRANTED because Apple has limited its request to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

	<p>confidential information.</p> <p>Accordingly, Apple's motion to seal is GRANTED (Docket No. 1217).</p>
<p>1221 (545 in 10-5254)</p>	<p>Defendant Intel seeks permission to file under seal all or part of the following documents in support of Intervenor's' and Defendants' Reply In Support of Motions for Summary Judgment:</p> <ol style="list-style-type: none">1. The Reply itself. Portions of the document contain confidential Intel financial information and sales information pertaining to the sales of PHY chips and ICH2 products. The motion is GRANTED with regard to this document because Intel has limited its request to confidential information.2. Exhibit 67 to the Constant Reply Declaration. Exhibit 67 contains discussion of a settlement agreement. Intel does not, however, provide the name of the party who designated the document confidential, nor has it articulated a compelling reason why it should be sealed. Accordingly, with regard to Exhibit 67, this motion is DENIED. With seven days, Intel must file a declaration justifying its request and identifying the party that designated the document confidential, along with proof of service on that party. If Intel fails to do so, the document must be withdrawn. The

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

	<p>designating party must file, within four days of being served, a declaration justifying why the document is sealable. If it does not do so, the document must be filed in the public record.</p> <p>3. Exhibit 68 to the Constant Reply Declaration. Exhibit 68 is the supplemental expert report of Walter Bratic. This document refers to a confidential agreement between Intel, Xircom and 3Com. The motion is GRANTED with regard to this document because Intel has limited its redactions to only confidential information.</p> <p>4. Exhibits 69 and 70 to the Constant Reply Declaration. These are exhibits to USEI's Damages Expert's First and Supplemental Report regarding Intel. Intel seeks to seal these documents in their entirety due to the confidential financial information contained therein. The motion is GRANTED with regard to this document because Intel has limited its request to confidential information.</p> <p>Accordingly, Intel's motion to seal is GRANTED in part and DENIED in part, as set forth above (Docket No. 1221).</p>
1225	Intervenor MSI seeks permission to file under seal all or part of the following documents filed in

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

connection with the Reply in Support of Intervenors' and Defendants' Motions for Summary Judgment and Opposition to Plaintiff's Dispositive Motions:

1. The Reply itself. MSI represents that the document discusses detailed financial and technical information about MSI. However, MSI has failed to file both the redacted and unredacted versions of the document as required by Local Civil Rule 79-5(d)(1). Accordingly, with regard to this document, the motion is DENIED. Within seven days, MSI must file a declaration accompanied by the unredacted and redacted versions of this document, or, in the alternative, file an unredacted version of this document in the public record.

2. Exhibits 11-12 to the Flynn Declaration. These documents contain excerpts from the Rebuttal Expert Report of Dr. Leonard J. Forsy Re: Non-Infringement. The motion is GRANTED with regard to these documents because MSI has limited its request to confidential information.

3. Exhibit 13 to the Flynn Declaration. Exhibit 13 is a sealed "Order on Marvell's Motion for Summary Judgment" from France Telecom S.A. v. Marvell Semiconductor, Inc., Case No. 12-cv-04967-WHO (N.D. Cal.). The order contains

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

confidential business contacts, locations, and financial information, and was sealed in that case. The motion is GRANTED with regard to this document because MSI limits its request to only confidential information and the information was previously sealed.

4. Exhibit 14 to the Flynn Declaration. Exhibit 14 is the sealed "Plaintiff's Opposition to Defendant's Motion for Summary Judgment" filed in France Telecom S.A. Exhibit 14 contains confidential sales, business, and financial information. The motion is GRANTED with regard to this document because MSI limits its request to only confidential information and the information was previously sealed.

5. Exhibit 16 to the Flynn Declaration. Exhibit 16 is Exhibit 2 of Deposition of Kenny Tam, which contains two copies of a license agreement between MSI, MAPL, and 3Com. The motion is GRANTED with regard to this document because MSI has limited its request to confidential information.

6. Exhibit 17 to the Flynn Declaration. Exhibit 17 contains excerpts from the Rebuttal Expert Witness Report and Disclosure of Julie L. Davis. The motion is GRANTED with regard to this document because MSI has limited its

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

	<p>request to confidential information.</p> <p>7. Exhibit 19 to the Flynn Declaration. Exhibit 19 is the deposition transcript of MSI's Rule 30(b)(6) technical witness, Manfred Kunz. The motion is GRANTED with regard to this document because MSI limits its request to only confidential information.</p> <p>Accordingly, MSI's motion to seal is GRANTED in part and DENIED in part, as set forth above (Docket No. 1225).</p>
1238 (553 in 10-5254)	<p>USEI seeks permission to file under seal all or part of the following documents:</p> <p>1. Exhibits 1-6 and 11-14 contain the reports of USEI's primary infringement expert, Dr. Mitzenmacher, which USEI seeks to file under seal in their entirety. These exhibits are the base and supplemental infringement reports prepared by Dr. Mitzenmacher for Defendants and Intervenors. The motion with regard to these documents is DENIED for failure to comply with Civil Local Rule 79-5(b), which requires that requests to seal be narrowly tailored. USEI may resubmit a modified and narrowly tailored version of this sealing request no later than seven days from the date of this order. If it does not do so, the documents must be filed in</p>

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

	<p>the public record.</p> <p>2. Exhibit 9 is pages 49-52 of the report of USEI's expert Dr. Thomas Conte. USEI represents that Exhibit 9 has been designated by Defendants as highly confidential. Defendants have not filed declarations in support of USEI's motion to seal as required by Civil Local Rule 79-5(e). Accordingly, with regards to Exhibit 9, the motion is DENIED. Defendants must file, within four days of the date of this order, a declaration justifying why this document is sealable. If Defendants fail to do so, USEI must file this document in the public record.</p> <p>3. Exhibit 15 is a report of Dr. Walter Bratic, USEI's damages expert. The motion is DENIED with regard to this document for failure to comply with Civil Local Rule 79-5(b), which requires that requests to seal be narrowly tailored. USEI may resubmit a modified and narrowly tailored version of this sealing request no later than seven days from the date of this order. If it does not do so, the document must be filed in the public record.</p> <p>Accordingly, the motion is DENIED (Docket 1238).</p>
1255	<p>Intervenor Atheros moves to seal, in their entirety, Exhibits 1 and 5 to the Declaration of John W.</p>

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

	<p>McCauley (McCauley Declaration) in support of its opposition to USEI's motion to supplement the record and for leave to serve supplemental reports. The documents contain references to and excerpts from Atheros product specifications, which include source code. The motion (Docket No. 1255) is DENIED for failure to comply with Civil Local Rule 79-5(b), which requires that requests to seal be narrowly tailored. Atheros may resubmit a modified and narrowly tailored version of this sealing request no later than seven days from the date of this order. If it does not do so, the documents must be filed in the public record.</p>
<p>1258 (556 in 10-5254)</p>	<p>Intervenor Intel seeks permission to file under seal all or part of the following documents in connection with Intervenor's and Defendants' Opposition to USEI's Motion to Supplement the Record and for Leave to Serve Supplemental Reports:</p> <ol style="list-style-type: none">1. The Opposition itself. The motion is GRANTED with regard to this document because the materials are related to a non-dispositive motion and because Intel limits the redacted material to only confidential information.2. Exhibits 2, 4, 9, 11, 19 and 20 to the Declaration of Justin L. Constant (Constant Declaration). Intel does not provide any

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

justification for why these documents should be sealed. Accordingly, with regard to these documents, the motion is DENIED. Within seven days of the date of this order, Intel may file a declaration justifying its request, or, in the alternative, file unredacted versions of these documents in the public record. Because these documents have been designated confidential by USEI, Intel must also provide proof of service to USEI. Within four days of receiving notice, USEI must file a declaration establishing that these documents are sealable. If the parties fail to do so, these documents must be filed in the public record.

3. Exhibits 3, 5, 13, 16, 17 to the Constant Declaration. These are varying versions of Mr. Bratic's Expert Report exhibits J2 and J5. The motion is GRANTED with regard to these materials because the materials are related to a non-dispositive motion and because Intel limits its request to only confidential information.

4. Exhibit 6 to the Constant Declaration. This is a chart showing calculations based on unit sales in Mr. Bratic's Expert Report. The motion is GRANTED with regard to this document because the materials are related to a non-

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

	<p>dispositive motion and because Intel limits its request to only confidential information.</p> <p>5. Exhibit 8 to the Constant Declaration. Exhibit 8 comprises a portion of the Base Expert Witness Report of Dr. Michael Mitzenmacher (Mitzenmacher Report). The motion is GRANTED because the materials are related to a non-dispositive motion and because Intel limits its request to only confidential information.</p> <p>6. Exhibits 14 and 15 to the Constant Declaration, which Intel seeks to file under seal in their entirety. These are Mr. Bratic's First and Second Supplemental Base Reports. The motion is DENIED with regard to these documents for failure to comply with Civil Local Rule 79-5(b), which requires that requests to seal be narrowly tailored. Intel may resubmit a modified and narrowly tailored version of this sealing request no later than seven days from the date of this order. If it does not do so, and USEI does not either, these documents must be filed in the public record.</p> <p>The motion is GRANTED in part and DENIED in part, as set forth above (Docket No. 1258).</p>
1261	Intervenor Marvell (MSI) seeks permission to file under seal all or part of the following documents in connection with Intervenor's And Defendants'

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Opposition To USEI's Motion To Supplement The Record
And For Leave To Serve Supplemental Reports:

1. The Opposition itself. MSI represents that the document discusses detailed financial and technical information about itself. However, MSI has failed to file both the redacted and unredacted versions of the document in connection with this motion as required by Local Civil Rule 79-5(d)(1). Accordingly, with regard to this document, the motion is DENIED. Within seven days, MSI must file a declaration accompanied by the unredacted and redacted versions of this document, or, in the alternative, file an unredacted version of this document in the public record.

2. Exhibits 2-8 to the Declaration of Michael Flynn-O'Brien (Flynn Declaration). These exhibits comprise highly confidential technical, financial, and business information. The motion is GRANTED with regard to these materials because they are related to a non-dispositive motion and because MSI limits its request to only confidential information.

MSI's motion to seal is GRANTED in part and DENIED in part, as set forth above (Docket No. 1261).

1279

USEI moves to seal the entire Supplemental Report of Walter Bratic and its Exhibits. Mr. Bratic's report

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

(568 in 10-5254)	and exhibits include information on the number of accused products sold during the damages period and a chart, for each product, stating which patent each product is accused of infringing. Most of this document is sealable. Accordingly, USEI's motion to seal is GRANTED (Docket No. 1279).
---------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Case No. 10-5254

525	<p>Intervenor Sigma Designs, Inc. (Sigma) seeks permission to file under seal all or part of the following documents in support of Intervenor's and Defendants' Motions for Summary Judgment and Opposition to Plaintiff's Dispositive Motions:</p> <ol style="list-style-type: none">1. Rebuttal Expert Report of Dr. Lin.2. Amended Expert Witness Report of Dr. Michael Mitzenmacher Regarding Infringement of U.S. Patent No. 5,299,313 by Intervenor Sigma Designs, Inc. and Defendant AT&T Services. <p>The motion (Docket No. 525) is DENIED for failure to comply with Civil Local Rule 79-5(b), which requires that requests to seal be narrowly tailored. Sigma may resubmit a modified and narrowly tailored version of this sealing request no later than seven days from the date of this order. If it does not do so, the documents must be filed in the public record.</p>
-----	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

526

Defendant AT&T Services (ATTS) seeks permission to file under seal all or part of the following documents in support of Intervenor's and Defendants' Motions for Summary Judgment and Opposition to Plaintiff's Dispositive Motions:

1. Excerpt from the April 28, 2014 Amended Expert Witness Report of Dr. Michael Mitzenmacher regarding Infringement of U.S. Patent No. 5,299,313 by Intervenor Sigma Designs, Inc. and Defendant ATTS. The motion is GRANTED with regard to this document because ATTS limits its request to only confidential information.
2. Excerpt from Appendix M of the April 25, 2014 Expert Report of Walter Bratic. The excerpt contains confidential, nonpublic, and sensitive financial information of ATTS. The motion is GRANTED with regard to this document because ATTS limits its request to only confidential information.
3. Excerpt from Appendix I of the April 25, 2014 Expert Report of Walter Bratic. The excerpt contains confidential, nonpublic, and sensitive financial information of Sigma. The motion is GRANTED with regard to this document because ATTS limits its request to only confidential information.
4. Excerpt from the transcript of Walter Bratic's

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

June 10-11, 2014 Deposition. The excerpt contains confidential, nonpublic, and sensitive information of USEI, Sigma and/or ATTS. It also contains considerable non-sealable information. The motion is DENIED with regard to this document for failure to comply with Civil Local Rule 79-5(b), which requires that requests to seal be narrowly tailored. ATTS may resubmit a modified and narrowly tailored version of this sealing request no later than seven days from the date of this order. Because this document has been designated confidential by USEI, Sigma and ATTS, Sigma must also provide proof of service to USEI and ATTS. Within four days of being served, USEI and ATTS must file a declaration establishing that the document is sealable. If the parties fail to do so, the document must be filed in the public record.

5. Excerpt from the transcript of Michael Mitzenmacher's May 31, 2014 Deposition. The excerpt contains confidential, nonpublic, and sensitive information of USEI, Sigma and ATTS. The motion is GRANTED with regard to this excerpt because ATTS limits its request to only confidential information.

ATTS's motion to seal is GRANTED in part and DENIED

1		in part, as set forth above (Docket No. 526).
2	532	Intel seeks permission to file under seal all or
3		part of the following documents in connection with
4		Intervenors' and Defendants' Motions for Summary
5		Judgment and Opposition to Plaintiff's Dispositive
6		Motions:
7		1. The Motion and Opposition itself. The motion
8		is GRANTED with regard to this document because
9		Intel limits the redacted material to only
10		confidential information.
11		2. Exhibits 1, 8, 10, 11, 16, 17, 20, 34-40 and
12		63-65 to the Constant Declaration. Intel
13		represents that USEI has designated these
14		documents as confidential, but there appears to
15		be no declaration from USEI as to why these
16		documents should be filed under seal.
17		Accordingly, with regard to these documents,
18		the motion is DENIED. Within seven days, Intel
19		must file a declaration justifying its request,
20		and USEI must file a declaration justifying why
21		these documents are sealable. If the parties
22		fail to do so, unredacted versions of these
23		documents must be filed in the public record.
24		3. Exhibits 1-7, 9, 12-14, 21, 23, 25, 27, 29-32,
25		53 and 55-58 to the Constant Declaration.
26		These documents comprise excerpts of other
27		documents and contain confidential technical,
28		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

	<p>financial and/or business information. With regard to these documents, the motion is GRANTED because Intel limits its request to only confidential information.</p> <p>4. Exhibit 29 of the Constant Declaration. With respect to this exhibit, the motion is DENIED because the document does not appear to contain any confidential information. Within seven days, Intel may file a declaration justifying why this document is sealable, or, in the alternative, it must file an unredacted version of this document in the public record.</p> <p>Accordingly, the motion is GRANTED in part and DENIED in part, as set forth above (Docket No. 532).</p>
559	<p>Intervenor Sigma seeks permission to file under seal all or part of the following documents relating to Intervenor's and Defendants' Opposition To USEI's Motion to Supplement the Record and for Leave to Serve Supplemental Reports:</p> <p>1. Exhibits 1, 2, and 4 to the Declaration of Keren Hu (Hu Declaration). These exhibits contain references to and excerpts from Sigma product specifications, which include source code. The motion is GRANTED with regard to these documents because the materials are related to a non-dispositive motion and because Sigma limits its request to only confidential</p>

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

information.

2. Exhibit 3 to the Hu Declaration. The motion is DENIED with regard to this document because it does not appear to contain any confidential information. Within seven days, Sigma may file a declaration justifying why this document is sealable, or, in the alternative, it must file an unredacted version of this document in the public record.

Accordingly, the motion is GRANTED in part and DENIED in part, as set forth above (Docket No. 559).

CONCLUSION

For the reasons set forth above, Atheros' Administrative Motion to File Under Seal (Case No. 10-3724, Docket No. 1162) is DENIED; HP's Administrative Motion to File Under Seal (Case No. 10-3724, Docket No. 1165) is DENIED; MSI's Administrative Motion to File Under Seal (Case No. 10-3724, Docket No. 1168) is GRANTED; Apple's Administrative Motion to File Under Seal (Case No. 10-3724, Docket No. 1183) is DENIED; Intel's Administrative Motion to File Under Seal (Case No. 10-3724, Docket No. 1192) is DENIED; USEI's Administrative Motion to File Under Seal (Case No. 10-3724, Docket No. 1195; Case No. 10-5254, Docket No. 536) is DENIED; USEI's Administrative Motion to File Under Seal (Case No. 10-3724, Docket No. 1196) is GRANTED in part and DENIED in part, as set forth above; Apple's Administrative Motion to File Under Seal (Case No. 10-3724, Docket No. 1217) is GRANTED; Intel's Administrative Motion to File Under Seal (Case No. 10-3724, Docket

1 No. 1221; Case No. 10-5254, Docket No. 545) is GRANTED in part and
2 DENIED in part, as set forth above; MSI's Administrative Motion to
3 File Under Seal (Case No. 10-3724, Docket No. 1225) is GRANTED in
4 part and DENIED in part, as set forth above; USEI's Administrative
5 Motion to File Under Seal (Case No. 10-3724, Docket No. 1238; Case
6 No. 10-5254, Docket No. 553) is DENIED; Atheros' Administrative
7 Motion to File Under Seal (Case No. 10-3724, Docket No. 1255) is
8 DENIED; Intel's Administrative Motion to File Under Seal (Case No.
9 10-3724, Docket No. 1258) is GRANTED in part and DENIED in part,
10 as set forth above; MSI's Administrative Motion to File Under Seal
11 (Case No. 10-3724, Docket No. 1261) is GRANTED in part and DENIED
12 in part, as set forth above; USEI's Administrative Motion to File
13 Under Seal (Case No. 10-3724, Docket No. 1279) is GRANTED; Sigma's
14 Administrative Motion to File Under Seal (Case No. 10-5254, Docket
15 No. 525) is DENIED; ATTS' Administrative Motion to File Under Seal
16 (Case No. 10-5254, Docket No. 526) is GRANTED in part and DENIED
17 in part, as set forth above; Intel's Administrative Motion to File
18 Under Seal (Case No. 10-5254, Docket No. 532) is GRANTED in part
19 and DENIED in part, as set forth above; Sigma's Administrative
20 Motion to File Under Seal (Case No. 10-5254, Docket No. 559) is
21 GRANTED in part and DENIED in part, as set forth above.

22 With regard to those documents where the motion to file under
23 seal was denied, the denials are without prejudice. The party
24 requesting sealing must submit, within seven days, a revised
25 declaration remedying the deficiencies noted above. If the
26 document has been designated confidential by a party other than
27 the party requesting sealing, the requesting party must also
28 provide proof of service on the designating party. The

1 designating party must file, within four days of receiving notice,
2 a declaration justifying why the document is sealable. Any
3 document for which these requirements are not met must be filed in
4 the public record if the designating party has not justified
5 sealing.

6 IT IS SO ORDERED.

7 Dated: November 24, 2014


8 CLAUDIA WILKEN
9 United States District Judge
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28