

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

3  
4    POWERTECH TECHNOLOGY INC., a  
5    Taiwanese corporation,

6                                    Plaintiff,

7                                    v.

8    TESSERA, INC., a Delaware  
9    corporation,

10                                  Defendant.

No. C 11-6121 CW

ORDER GRANTING  
DEFENDANT'S MOTION  
TO FILE UNDER SEAL  
AND DENYING  
PARTIES'  
STIPULATION FOR  
LEAVE TO FILE  
UNDER SEAL  
(Docket Nos. 24  
and 25)

11                                  \_\_\_\_\_/

12                                  Defendant Tessera, Inc. has filed a motion seeking to file  
13                                  under seal its unredacted memorandum of law in support of its  
14                                  motion to dismiss and to strike, as well as Exhibits 2, 5-7, 9, 12  
15                                  and 15 to the declaration of Nathan Lowenstein, which Defendant  
16                                  submitted in support of its motion to dismiss and to strike.  
17                                  Docket No. 24. The Court notes that Defendant has filed a  
18                                  redacted version of its memorandum in the public record. See  
19                                  Docket No. 20. Defendant and Plaintiff Powertech Technology, Inc.  
20                                  have also filed a stipulation to the sealing of these documents.  
21                                  Docket No. 25.

22                                  Defendant represents that the Court has previously granted  
23                                  permission to file Exhibits 2, 5-7 and 9 in the related case,  
24                                  Powertech Technology, Inc. v. Tessera, Inc., Case No. 10-945.  
25                                  Defendant states that the exhibits contain the license agreement  
26                                  between the parties, as well as communications between the parties  
27                                  regarding this agreement. Mot. at 2. Defendant further states  
28                                  that the exhibits contain sensitive, confidential and proprietary  
                                 business information, including information concerning the scope

1 of the license and the relevant royalty rate(s). Id. Defendant  
2 also states that the redacted portions of the memorandum quote and  
3 discuss the exhibits that it seeks to seal.

4 Defendant's filings are connected to a dispositive motion.  
5 To establish that the documents are sealable, Defendant "must  
6 overcome a strong presumption of access by showing that  
7 'compelling reasons supported by specific factual findings . . .  
8 outweigh the general history of access and the public policies  
9 favoring disclosure.'" Pintos v. Pac. Creditors Ass'n, 605 F.3d  
10 665, 679 (9th Cir. 2010) (citation omitted). This cannot be  
11 established simply by showing that the document is subject to a  
12 protective order or by stating in general terms that the material  
13 is considered to be confidential, but rather must be supported by  
14 a sworn declaration demonstrating with particularity the need to  
15 file each document under seal. Civil Local Rule 79-5(a).

16 Documents cannot be sealed based upon a stipulation. See id.  
17 Thus, the parties' stipulation is DELCLINED. (Docket No. 25).

18 Defendant, however, has provided reasons supporting the  
19 sealing of the documents. Accordingly, Defendant's motion for  
20 leave to file documents under seal is GRANTED (Docket No. 24).  
21 Within three days of the date of this Order, Defendant shall  
22 electronically file under seal its unredacted memorandum and  
23 Exhibits 2, 5-7, 9, 12 and 15 to the declaration of Nathan  
24 Lowenstein, in accordance with General Order 62.

25 IT IS SO ORDERED.

26  
27 Dated: 1/9/2012

28  
  
CLAUDIA WILKEN  
United States District Judge