

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

3  
4 TESSERA, INC.,

No. C 12-692 CW

5                                    Plaintiff,

ORDER GRANTING IN  
PART AND DENYING  
IN PART QUALCOMM'S  
RENEWED MOTION TO  
FILE UNDER SEAL  
(Docket No. 176)

6                                    v.

7 QUALCOMM, INC.; FREESCALE  
8 SEMICONDUCTOR, INC.; ATI  
TECHNOLOGIES, ULC,

9                                    Defendants.

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11                    Defendant Qualcomm, Inc. seeks leave to file under seal an  
12 unredacted version of Exhibit A to its motion to strike Plaintiff  
13 Tessera, Inc.'s preliminary infringement contentions. Exhibit A  
14 contains Tessera's Amended Disclosure of Asserted Claims and  
15 Infringement Contention, including Appendices A, B and C and  
16 excerpts of Appendices D and E. Qualcomm represents that the  
17 excerpts of Appendices D and E contain material that it has  
18 designated as confidential, and the Amended Disclosure and  
19 Appendices A and B contain material that Tessera and Defendants  
20 Freescale Semiconductor, Inc. and ATI Technologies ULC have  
21 designated as confidential. Tessera, Qualcomm, Freescale, ATI and  
22 Advanced Micro Devices, Inc. (AMD), ATI's parent company, have  
23 submitted declarations in support of Qualcomm's motion to seal.

24                    Because the public interest favors filing all court documents  
25 in the public record, any party seeking to file a document under  
26 seal must demonstrate good cause to do so. Pintos v. Pac.  
27 Creditors Ass'n, 605 F.3d 665, 678 (9th Cir. 2010). This cannot  
28 be established simply by showing that the document is subject to a

1 protective order or by stating in general terms that the material  
2 is considered to be confidential, but rather must be supported by  
3 a sworn declaration demonstrating with particularity the need to  
4 file each document under seal. See Civil Local Rule 79-5(a). If  
5 a document has been designated as confidential by another party,  
6 that party must file a declaration establishing that the document  
7 is sealable. Civil Local Rule 79-5(d).

8 Qualcomm represents that the excerpts of Appendices D and E  
9 contain cross-sectional views of its accused product families,  
10 which depict the specific design and content of its chip packages.  
11 Scott Decl. ¶ 5. It states this information is highly proprietary  
12 and that disclosure of this information to its competitors could  
13 devalue these assets and hurts its ability to compete. Id. at  
14 ¶ 6. Having reviewed the contents of the excerpts of Appendices D  
15 and E, the Court finds that Qualcomm has established good cause to  
16 seal them.

17 Tessera, ATI, AMD and Freescale seek to seal portions of  
18 section eight of the Amended Disclosure. Tessera states that this  
19 section contains confidential information about its licensing  
20 negotiations with prospective licensees and facts about the  
21 breadth of its licensing program and the number of Tessera  
22 licensees, and that disclosure of such information would hurt its  
23 ability to continue to license its technology successfully.  
24 McDonald Decl. ¶¶ 4, 5. ATI, AMD and Freescale represent that  
25 section eight contains confidential information regarding their  
26 discussions with Tessera about the patents-in-suit. Chow Decl.  
27 ¶¶ 3, 5; Patrick Decl. ¶¶ 3, 5. Having reviewed the relevant  
28 excerpt, the Court finds good cause to seal lines 7:6-20,

1 7:27-8:7, 8:11-9:1 and 9:2-15. The parties have not established  
2 good cause to seal lines 7:21-26 and 9:16-24, because these  
3 portions merely describe the holdings of this Court, the  
4 International Trade Commission and the Federal Circuit, which are  
5 public information.

6 Freescale, ATI and AMD also seek to seal portions of  
7 Appendices A and B, which list the product families and specific  
8 product model numbers that Tessera is accusing in this litigation.  
9 Freescale, ATI and AMD state that public disclosure of this  
10 information "could prejudice [them] relative to [their]  
11 competitors and others with whom [they] engage[] in business  
12 dealings." Chow Decl. ¶ 6; Patrick Decl. ¶ 5. Freescale, ATI and  
13 AMD do not explain how the identities of the accused products are  
14 confidential or how public disclosure thereof would in fact  
15 prejudice them. Accordingly, the Court finds that they have not  
16 established good cause to seal portions of these appendices.

17 Finally, Tessera seeks to seal Exhibit 3 to the Amended  
18 Disclosure, which contains the declaration of Kirk E. Flatow.  
19 McDonald Decl. ¶ 3. However, Qualcomm has not submitted this  
20 document as part of its exhibits in support of its motion to  
21 strike. Thus, Tessera's request is denied.

22 Accordingly, Qualcomm's motion to seal is GRANTED in part and  
23 DENIED in part (Docket No. 176). Within four days of the date of  
24 this Order, Qualcomm shall file an unredacted version of Exhibit A  
25 under seal and a redacted version in the public record. In the  
26 version filed in the public record, Qualcomm shall redact lines  
27 7:6-20, 7:27-8:7, 8:11-9:1 and 9:2-15 of the Amended Disclosure  
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and the excerpts of Appendices D and E. Qualcomm shall not redact  
Appendices A, B or C.

IT IS SO ORDERED.

Dated: July 11, 2012

  
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CLAUDIA WILKEN  
United States District Judge