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28E-FILED on 3/21/13

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NAZOMI COMMUNICATIONS, INC.,

Plaintiff,

v.

NOKIA CORP., et al.,

Defendant.

No. C-10-04686 RMW

**ORDER DENYING NAZOMI
COMMUNICATIONS, INC.'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL**

[Re: Dkt. No. 379]

Plaintiff Nazomi Communications, Inc. ("Nazomi") moved to file under seal: (1) portions of its Opposition to Western Digital and Sling Media's Renewed Motion for Summary Judgment of Noninfringement ("Opposition"); (2) certain exhibits to Frank D. Liu's Declaration in Support of Nazomi's Opposition; and (3) Exhibits 2-5 to the Declaration of Dr. Jonathan Babb. Nazomi filed the sealing motion because defendants ARM, PLX, Western Digital or Sling Media had designated the respective material as "highly confidential" under the protective order. *See* Civ. L.R. 79-5(d). Under the Local Rule, however, within seven days thereafter, defendants were required to "file with the Court and serve a declaration establishing that the designated information is sealable, and must lodge and serve a narrowly tailored proposed sealing order, or must withdraw the designation of confidentiality. *If the designated party does not file its responsive declaration as required by this subsection, the document or proposed filing will be made part of the public record.*" Civ. L.R. 79-5(d) (emphasis added).

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Here, the designating defendants failed to file a responsive declaration establishing that the designated information is sealable. Moreover, the court finds nothing contained therein that is in fact "privileged or protectable as a trade secret or otherwise entitled to protection under the law." Civ. L.R. 79-5(a). Pursuant to the local rule, "[a] stipulation, or a blanket protective order that allows a party to designate documents as sealable, will not suffice to allow the filing of documents under seal" for that reason alone. *Id.*

Accordingly, the court DENIES Nazomi's sealing motion. In the event the designating defendants' failure to file the requisite declaration under Local Rule 79-5(d) was inadvertent, the court gives those defendants seven days from the date of this order to do so, until Thursday, March 28. If not filed, the proposed filings will be made part of the public record.

DATED: March 21, 2013


RONALD M. WHYTE
United States District Judge