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3	UNITED STATES DISTRICT COURT			
4	NORTHERN DISTRICT OF CALIFORNIA			
5	SAN JOSE DIVISION			
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7	FINJAN, INC.,	Case No. 15-cv-03295-BI		
8	Plaintiff,			
9	v.	OMNIBUS ORDER RE: ADMINISTRATIVE MO		
10	BLUE COAT SYSTEMS, LLC,	SEAL DOCUMENTS		
11	Defendant.	[Re: ECF 226, 227]		
12				
13	Before the Court are two administra	ative motions to file under seal, one		

to file under seal, one from Plaintiff Finjan, Inc. ("Finjan") and one from Defendant Blue Coat Systems, LLC ("Blue Coat"). ECF 226, 227. Both relate to the opening briefing on the parties' cross-motions for summary judgment. See id. For the reasons set forth below, Blue Coat's motion (ECF 226) is GRANTED and Finjan's motion (ECF 227) is GRANTED IN PART and DENIED IN PART.

No. 15-cv-03295-BLF

INISTRATIVE MOTIONS TO

I. LEGAL STANDARD

"Historically, courts have recognized a 'general right to inspect and copy public records 19 and documents, including judicial records and documents." Kamakana v. City & Cnty. of 20 21 Honolulu, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting Nixon v. Warner Commc'ns, Inc., 435 U.S. 589, 597 & n.7 (1978)). Consequently, access to motions and their attachments that are 22 23 "more than tangentially related to the merits of a case" may be sealed only upon a showing of 24 "compelling reasons" for sealing. Ctr. for Auto Safety v. Chrysler Grp., LLC, 809 F.3d 1092, 1101-02 (9th Cir. 2016). Filings that are only tangentially related to the merits may be sealed 25 upon a lesser showing of "good cause." Id. at 1097. In addition, sealing motions filed in this 26 district must be "narrowly tailored to seek sealing only of sealable material." Civil L.R. 79-5(b). 27 28 A party moving to seal a document in whole or in part must file a declaration establishing that the

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identified material is "sealable." Civ. L.R. 79-5(d)(1)(A). "Reference to a stipulation or
protective order that allows a party to designate certain documents as confidential is not sufficient
to establish that a document, or portions thereof, are sealable." *Id.*

II. DISCUSSION

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The Court has reviewed the parties' sealing motions and the declarations submitted in support thereof. The Court finds that the parties have articulated compelling reasons and good cause to seal certain portions of the submitted documents. The proposed redactions are also narrowly tailored. The Court's rulings on the sealing requests are set forth in the tables below:

9	А.	ECF 226		
10	ECF	Document to	Result	Reasoning
10	<u>No.</u>	be Sealed		
11	226-4	Ex. 2 to Marder	GRANTED as	Contains references to highly confidential Blue
		Declaration in	to highlighted	Coat information regarding products and
12		Support of Blue	portions.	functionality, operation, architecture, and
10		Coat's Motion		development thereof, including reference to
13		for Summary		portions of Blue Coat's source code. Declaration
14		Judgment, ECF		of Eugene Marder in Support of Administrative
17		225 ("Marder		Motion to File Under Seal, ECF 226-1 ("Marder
15		Decl.")		Blue Coat Sealing Decl.") ¶ 6.
	226-6	Ex. 3 to Marder	GRANTED as	Contains references to highly confidential Blue
16		Decl.	to highlighted	Coat information regarding products and
17			portions.	functionality, operation, architecture, and
1/				development thereof, including reference to
18				portions of Blue Coat's source code. Marder Blue
				Coat Sealing Decl. ¶ 7.
19	226-8	Ex. 9 to Marder	GRANTED.	Entirely comprised of Blue Coat source code.
20		Decl.		Marder Blue Coat Sealing Decl. ¶ 8.
20	226-10	Ex. 10 to	GRANTED.	Entirely comprised of Blue Coat source code.
21		Marder Decl.	~~~~	Marder Blue Coat Sealing Decl. ¶ 9.
	226-12	Ex. 11 to	GRANTED.	Contains references to highly confidential Blue
22		Marder Decl.		Coat information regarding products and
22				functionality, operation, architecture, and
23				development thereof. Marder Blue Coat Sealing
24	006.14	F 124		
- '	226-14	Ex. 13 to	GRANTED.	Contains references to highly confidential Blue
25		Marder Decl.		Coat information regarding products and
				functionality, operation, architecture, and
26				development thereof. Marder Blue Coat Sealing
27				Decl. ¶ 11.
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1 2 3	226-16	Ex. 16 to Marder Decl.	GRANTED.	Contains references to highly confidential Blue Coat information regarding products and functionality, operation, architecture, and development thereof. Marder Blue Coat Sealing Decl. ¶ 12.
4	226-18	Ex. 17 to Marder Decl.	GRANTED.	Contains references to highly confidential Blue Coat information regarding products and functionality, operation, architecture, and
6				development thereof. Marder Blue Coat Sealing Decl. ¶ 13.
7 8	226-20	Ex. 18 to Marder Decl.	GRANTED.	Contains references to highly confidential Blue Coat information regarding products and functionality, operation, architecture, and development thereof. Marder Blue Coat Sealing
9		D 10		Decl. ¶ 14.
10	226-22	Ex. 19 to Marder Decl.	GRANTED as to highlighted portions.	Contains highly confidential Blue Coat information regarding products and functionality, operation, architecture, and development thereof.
11	226.24	Ex. 21.45		Marder Blue Coat Sealing Decl. ¶ 15.
12	226-24	Ex. 21 to Marder Decl.	GRANTED as to highlighted portions.	Contains references to highly confidential Blue Coat information regarding products and functionality, operation, architecture, and
13 14			portions.	development thereof. Marder Blue Coat Sealing Decl. ¶ 16.
15	226-26	Ex. 24 to Marder Decl.	GRANTED.	Contains references to highly confidential Blue Coat information regarding products and functionality, operation, architecture, and
16 17				development thereof. Marder Blue Coat Sealing Decl. ¶ 17.
18	226-28	Ex. 25 to Marder Decl.	GRANTED.	Entirely comprised of Blue Coat source code. Marder Blue Coat Sealing Decl. ¶ 18.
19	226-30	Ex. 26 to Marder Decl.	GRANTED.	Entirely comprised of Blue Coat source code. Marder Blue Coat Sealing Decl. ¶ 19.
20	226-32	Ex. 27 to Marder Decl.	GRANTED.	Entirely comprised of Blue Coat source code. Marder Blue Coat Sealing Decl. ¶ 20.
21	226-34	Ex. 28 to Marder Decl.	GRANTED.	Contains references to highly confidential Blue Coat information regarding products and
22 23				functionality, operation, architecture, and development thereof. Marder Blue Coat Sealing
24	226-36	Ex. 29 to Marder Decl.	GRANTED.	Decl. ¶ 21. Entirely comprised of Blue Coat source code. Marder Blue Coat Sealing Decl. ¶ 22.
25	226-38	Ex. 30 to Marder Decl.	GRANTED.	Contains references to highly confidential Blue
26		Warder Deci.		Coat information regarding products and functionality, operation, architecture, and development thereof. Marder Blue Coat Sealing
27				development thereof. Marder Blue Coat Sealing Decl. ¶ 23.
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226-40	Ex. 31 to	GRANTED.	Entirely comprised of Blue Coat source code.
	Marder Decl.		Marder Blue Coat Sealing Decl. ¶ 24.
226-42	Ex. 33 to	GRANTED as	Contains references to highly confidential Blue
	Marder Decl.	to highlighted	Coat information regarding products and
		portions.	functionality, operation, architecture, and
			development thereof. Marder Blue Coat Sealing Decl. ¶ 25.
226-44	Ex. 34 to	GRANTED.	Contains references to highly confidential Blue
	Marder Decl.		Coat information regarding products and
			functionality, operation, architecture, and
			development thereof. Marder Blue Coat Sealing
226.46	E 25 /		Decl. ¶ 26.
226-46	Ex. 35 to	GRANTED.	Entirely comprised of Blue Coat source code.
006.40	Marder Decl.		Marder Blue Coat Sealing Decl. ¶ 27.
226-48	Ex. 36 to	GRANTED.	Reflects highly confidential Blue Coat information
	Marder Decl.		regarding products and functionality, operation,
			architecture, and development thereof. Marder
			Blue Coat Sealing Decl. ¶ 28.
B. ECF 227			
ECF	Document to	Result	Reasoning
<u>No.</u>	be Sealed		
<u>No.</u> 227-4	be Sealed Finjan's Motion	GRANTED as	Contains highly confidential technical information
	be Sealed Finjan's Motion for Summary	GRANTED as to highlighted	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and
	be Sealed Finjan's Motion	GRANTED as	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business.
	be Sealed Finjan's Motion for Summary	GRANTED as to highlighted	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Declaration of Eugene Marder in Support of
	be Sealed Finjan's Motion for Summary	GRANTED as to highlighted	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Declaration of Eugene Marder in Support of Plaintiff Finjan, Inc.'s Administrative Motion to
	be Sealed Finjan's Motion for Summary	GRANTED as to highlighted	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Declaration of Eugene Marder in Support of Plaintiff Finjan, Inc.'s Administrative Motion to File Under Seal, ECF 232 ("Marder Finjan Sealin
227-4	be Sealed Finjan's Motion for Summary Judgment	GRANTED as to highlighted portions.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Declaration of Eugene Marder in Support of Plaintiff Finjan, Inc.'s Administrative Motion to File Under Seal, ECF 232 ("Marder Finjan Sealin Decl.") ¶ 6.
	be Sealed Finjan's Motion for Summary Judgment Ex. 26 to Caire	GRANTED as to highlighted	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Declaration of Eugene Marder in Support of Plaintiff Finjan, Inc.'s Administrative Motion to File Under Seal, ECF 232 ("Marder Finjan Sealin Decl.") ¶ 6. Contains highly confidential technical information
227-4	be Sealed Finjan's Motion for Summary Judgment Ex. 26 to Caire Declaration in	GRANTED as to highlighted portions.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Declaration of Eugene Marder in Support of Plaintiff Finjan, Inc.'s Administrative Motion to File Under Seal, ECF 232 ("Marder Finjan Sealin Decl.") ¶ 6. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and
227-4	be Sealed Finjan's Motion for Summary Judgment Ex. 26 to Caire Declaration in Support of	GRANTED as to highlighted portions.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Declaration of Eugene Marder in Support of Plaintiff Finjan, Inc.'s Administrative Motion to File Under Seal, ECF 232 ("Marder Finjan Sealin Decl.") ¶ 6. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business.
227-4	be Sealed Finjan's Motion for Summary Judgment Ex. 26 to Caire Declaration in Support of Finjan's Motion	GRANTED as to highlighted portions.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Declaration of Eugene Marder in Support of Plaintiff Finjan, Inc.'s Administrative Motion to File Under Seal, ECF 232 ("Marder Finjan Sealin Decl.") ¶ 6. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and
227-4	be Sealed Finjan's Motion for Summary Judgment Ex. 26 to Caire Declaration in Support of Finjan's Motion for Summary	GRANTED as to highlighted portions.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Declaration of Eugene Marder in Support of Plaintiff Finjan, Inc.'s Administrative Motion to File Under Seal, ECF 232 ("Marder Finjan Sealin Decl.") ¶ 6. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business.
227-4	be Sealed Finjan's Motion for Summary Judgment Ex. 26 to Caire Declaration in Support of Finjan's Motion for Summary Judgment, ECF	GRANTED as to highlighted portions.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Declaration of Eugene Marder in Support of Plaintiff Finjan, Inc.'s Administrative Motion to File Under Seal, ECF 232 ("Marder Finjan Sealin Decl.") ¶ 6. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business.
227-4	be Sealed Finjan's Motion for Summary Judgment Ex. 26 to Caire Declaration in Support of Finjan's Motion for Summary Judgment, ECF 229 ("Caire	GRANTED as to highlighted portions.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Declaration of Eugene Marder in Support of Plaintiff Finjan, Inc.'s Administrative Motion to File Under Seal, ECF 232 ("Marder Finjan Sealin Decl.") ¶ 6. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business.
227-4	be Sealed Finjan's Motion for Summary Judgment Ex. 26 to Caire Declaration in Support of Finjan's Motion for Summary Judgment, ECF 229 ("Caire Decl.")	GRANTED as to highlighted portions.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Declaration of Eugene Marder in Support of Plaintiff Finjan, Inc.'s Administrative Motion to File Under Seal, ECF 232 ("Marder Finjan Sealin Decl.") ¶ 6. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 7.
227-4	be Sealed Finjan's Motion for Summary Judgment Ex. 26 to Caire Declaration in Support of Finjan's Motion for Summary Judgment, ECF 229 ("Caire	GRANTED as to highlighted portions.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Declaration of Eugene Marder in Support of Plaintiff Finjan, Inc.'s Administrative Motion to File Under Seal, ECF 232 ("Marder Finjan Sealin Decl.") ¶ 6. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 7.
227-4	be SealedFinjan's Motionfor SummaryJudgmentEx. 26 to CaireDeclaration inSupport ofFinjan's Motionfor SummaryJudgment, ECF229 ("CaireDecl.")Ex. 27 to Caire	GRANTED as to highlighted portions.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Declaration of Eugene Marder in Support of Plaintiff Finjan, Inc.'s Administrative Motion to File Under Seal, ECF 232 ("Marder Finjan Sealin Decl.") ¶ 6. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 7.
227-4	be SealedFinjan's Motionfor SummaryJudgmentEx. 26 to CaireDeclaration inSupport ofFinjan's Motionfor SummaryJudgment, ECF229 ("CaireDecl.")Ex. 27 to Caire	GRANTED as to highlighted portions.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Declaration of Eugene Marder in Support of Plaintiff Finjan, Inc.'s Administrative Motion to File Under Seal, ECF 232 ("Marder Finjan Sealing Decl.") ¶ 6. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 7.
227-4	be SealedFinjan's Motionfor SummaryJudgmentEx. 26 to CaireDeclaration inSupport ofFinjan's Motionfor SummaryJudgment, ECF229 ("CaireDecl.")Ex. 27 to Caire	GRANTED as to highlighted portions.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Declaration of Eugene Marder in Support of Plaintiff Finjan, Inc.'s Administrative Motion to File Under Seal, ECF 232 ("Marder Finjan Sealin Decl.") ¶ 6. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 7.
227-4 227-6 227-8	be SealedFinjan's Motionfor SummaryJudgmentEx. 26 to CaireDeclaration inSupport ofFinjan's Motionfor SummaryJudgment, ECF229 ("CaireDecl.")Ex. 27 to CaireDeclaration	GRANTED as to highlighted portions. GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Declaration of Eugene Marder in Support of Plaintiff Finjan, Inc.'s Administrative Motion to File Under Seal, ECF 232 ("Marder Finjan Sealin Decl.") ¶ 6. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 7. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 8. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business.
227-4	be SealedFinjan's Motionfor SummaryJudgmentEx. 26 to CaireDeclaration inSupport ofFinjan's Motionfor SummaryJudgment, ECF229 ("CaireDecl.")Ex. 27 to CaireDeclarationEx. 28 to Caire	GRANTED as to highlighted portions. GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Declaration of Eugene Marder in Support of Plaintiff Finjan, Inc.'s Administrative Motion to File Under Seal, ECF 232 ("Marder Finjan Sealin Decl.") ¶ 6. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 7.

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1	227-12	Ex. 29 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and
2				confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 10.
3	227-14	Ex. 30 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and
4				confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 11.
5	227-16	Ex. 31 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and
6 7				confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 12.
8	227-18	Ex. 33 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and
9				confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 13.
10	227-20	Ex. 34 to Caire Declaration	GRANTED.	Consists entirely of Blue Coat source code. Marder Finjan Sealing Decl. ¶ 14.
11	227-22	Ex. 36 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and
12		Declaration		confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 15.
13 14	227-24	Ex. 39 to Caire Declaration	GRANTED.	Contains highly confidential technical information
14		Declaration		regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 16.
16	227-26	Ex. 41 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and
17				confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 17.
18	227-28	Ex. 42 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and
19				confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 18.
20	227-30	Ex. 43 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and
21 22		Declaration		confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 19.
23 24	227-32	Ex. 44 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 20.
25 26 27	227-34	Ex. 45 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 21.

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1	227-36	Ex. 48 to Caire Declaration	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and
2				confidential aspects of Blue Coat's business.
_				Marder Finjan Sealing Decl. ¶ 22.
3	227-38	Ex. 50 to Caire	DENIED.	No declaration has been submitted in support of
		Declaration		sealing. See Declaration of James Hannah in
4				Support of this Administrative Motion ("Hannah
5				Decl.") ¶ 21, ECF 227-1; Marder Finjan Sealing
5				Decl. ¶ 23.

III. ORDER

For the foregoing reasons, Blue Coat's sealing motion (ECF 226) is GRANTED and Finjan's sealing motion (ECF 227) is GRANTED IN PART and DENIED IN PART. Under Civil Local Rule 79-5(e)(2), for any request that has been denied because the party designating a document as confidential or subject to a protective order has not provided sufficient reasons to seal, the submitting party must file the unredacted (or lesser redacted) documents into the public record no earlier than 4 days and no later than 10 days from the filing of this order.

IT IS SO ORDERED.

Dated: May 30, 2017

ROEMAN

BETH LABSON FREEMAN United States District Judge

United States District Court Northern District of California