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	7	FINJAN, INC.,
	8	Plaintiff,
	9	V.
	10	BLUE COAT SYSTEMS, LLC,
	11	Defendant.
t ia	12	
United States District Court Northern District of California	13	Before the Court are three a
	14	Finjan, Inc. ("Finjan") and two from
	15	238, 240, 242. Two relate to the op
	16	judgment. See ECF 238, 240. The
	17	judgment. See ECF 242. For the r
Nor	18	GRANTED IN PART and DENIE

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UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA SAN JOSE DIVISION

Case No. 15-cv-03295-BLF

OMNIBUS ORDER RE: STRATIVE MOTIONS TO SEAL DOCUMENTS

[Re: ECF 238, 240, 242]

Before the Court are three administrative motions to file under seal, one from Plaintiff Inc. ("Finjan") and two from Defendant Blue Coat Systems, LLC ("Blue Coat"). ECF 0, 242. Two relate to the opposing briefing on the parties' cross-motions for summary nt. See ECF 238, 240. The other relates to Blue Coat's opening motion for summary judgment. See ECF 242. For the reasons set forth below, Blue Coat's motion at ECF 238 is GRANTED IN PART and DENIED IN PART, Finjan's motion at ECF 240 is GRANTED IN PART and DENIED IN PART, and Blue Coat's motion at ECF 242 is GRANTED.

I. LEGAL STANDARD

"Historically, courts have recognized a 'general right to inspect and copy public records 21 and documents, including judicial records and documents." Kamakana v. City & Cnty. of 22 23 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 24 25 "more than tangentially related to the merits of a case" may be sealed only upon a showing of "compelling reasons" for sealing. Ctr. for Auto Safety v. Chrysler Grp., LLC, 809 F.3d 1092, 26 27 1101-02 (9th Cir. 2016). Filings that are only tangentially related to the merits may be sealed 28 upon a lesser showing of "good cause." Id. at 1097. In addition, sealing motions filed in this

district must be "narrowly tailored to seek sealing only of sealable material." Civil L.R. 79-5(b).
A party moving to seal a document in whole or in part must file a declaration establishing that the 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:

11	А.	ECF 238		
12	ECF No.	Document to be Sealed	<u>Result</u>	<u>Reasoning</u>
13	238-4	Blue Coat's Opposition to	GRANTED as to highlighted	Contain references to highly confidential Blue Coat information regarding products and
14		Finjan's Motion for Summary	portions.	functionality, operation, architecture, and development thereof. Declaration of Eugene
15		Judgment		Marder in Support of Administrative Motion to
16				File Under Seal, ECF 238-2 ("Marder Blue Coat Sealing Decl.") ¶ 7.
17	238-6	Ex. 1 to Marder Declaration in	GRANTED as to highlighted	Contains references to highly confidential Blue Coat information regarding products and
18		Support of Blue Coat's	portions.	functionality, operation, architecture, and development thereof, including reference to
19		Opposition to		portions of Blue Coat's source code. Marder Blue
20		Finjan's Motion for Summary		Coat Sealing Decl.¶ 8.
21		Judgment, ECF 237 ("Marder		
22	220.0	Decl.")		
23	238-8	Ex. 2 to Marder Decl.	GRANTED as to highlighted	Contains references to highly confidential Blue Coat information regarding products and
24			portions.	functionality, operation, architecture, and development thereof. Marder Blue Coat Sealing
25				Decl.¶ 9.
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1	238-9	Ex. 3 to Marder	GRANTED.	Contains references to highly confidential Blue
1		Decl.		Coat information regarding products and
2				functionality, operation, architecture, and
				development thereof, including references to
3				portions of Blue Coat's source code. Marder Blue
4	238-10	Ex. 7 to Marder	GRANTED.	Coat Sealing Decl.¶ 10.
•	238-10	Decl.	GRANIED.	Reflects highly confidential Blue Coat information regarding products and functionality, operation,
5		Deel.		architecture, and development thereof. Marder
6				Blue Coat Sealing Decl.¶ 11.
0	238-11	Ex. 8 to Marder	GRANTED.	Contains references to highly confidential Blue
7		Decl.		Coat information regarding products and
0				functionality, operation, architecture, and
8				development thereof. Marder Blue Coat Sealing
9	238-12	Ex. 9 to Marder	GRANTED.	Decl.¶ 12. Contains references to highly confidential Blue
10		Decl.		Coat information regarding products and
				functionality, operation, architecture, and
11				development thereof. Marder Blue Coat Sealing
12	238-13	Ex. 17 to	DENIED	Decl.¶ 13.
	238-13	Ex. 17 to Marder Decl.	DENIED.	Finjan, the designating party, has not filed a declaration in support of sealing. <i>See</i> Marder Blue
13		Marder Deci.		Coat Sealing Decl. ¶14.
14				
	B.	ECF 240		
15	ECF	Document to	Result	Reasoning
	ECF No.	Document to be Sealed		
15 16	ECF	Document to be Sealed Finjan's	Result GRANTED as to highlighted	Contains highly confidential technical information
15	ECF No.	Document to be Sealed	GRANTED as	
15 16	ECF No.	Document to be SealedFinjan's Opposition to Blue Coat's Motion for	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
15 16 17 18	ECF No.	Document to be SealedFinjan'sOpposition to Blue Coat'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 Finjan's Administrative Motion to File Under
15 16 17	ECF No.	Document to be SealedFinjan's Opposition to Blue Coat's Motion for	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 Finjan's Administrative Motion to File Under Seal, ECF 244 ("Marder Finjan Sealing Decl.")
15 16 17 18	ECF No.	Document to be SealedFinjan'sOpposition to Blue Coat'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 Finjan's Administrative Motion to File Under Seal, ECF 244 ("Marder Finjan Sealing Decl.") ¶ 6. Contains highly confidential technical information
15 16 17 18 19	ECF No. 240-4	Document to be SealedFinjan's Opposition to Blue Coat's Motion for Summary JudgmentEx. 3 to Kastens 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 Finjan's Administrative Motion to File Under Seal, ECF 244 ("Marder Finjan Sealing Decl.") ¶ 6. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and
15 16 17 18 19 20	ECF No. 240-4	Document to be SealedFinjan's Opposition to Blue Coat's Motion for Summary JudgmentEx. 3 to Kastens Declaration in Support of Finjan's	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 Finjan's Administrative Motion to File Under Seal, ECF 244 ("Marder Finjan Sealing Decl.") ¶ 6. Contains highly confidential technical information
15 16 17 18 19 20 21	ECF No. 240-4	Document to be SealedFinjan's Opposition to Blue Coat's Motion for Summary JudgmentEx. 3 to Kastens 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 Finjan's Administrative Motion to File Under Seal, ECF 244 ("Marder Finjan Sealing Decl.") ¶ 6. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business.
 15 16 17 18 19 20 21 22 23 	ECF No. 240-4	Document to be SealedFinjan's Opposition to Blue Coat's Motion for Summary JudgmentEx. 3 to Kastens Declaration in Support of Finjan's Opposition to Blue Coat's Motion for	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 Finjan's Administrative Motion to File Under Seal, ECF 244 ("Marder Finjan Sealing Decl.") ¶ 6. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business.
15 16 17 18 19 20 21 22	ECF No. 240-4	Document to be SealedFinjan's Opposition to Blue Coat's Motion for Summary JudgmentEx. 3 to Kastens Declaration in Support of Finjan's Opposition to Blue Coat'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 Finjan's Administrative Motion to File Under Seal, ECF 244 ("Marder Finjan Sealing Decl.") ¶ 6. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business.
 15 16 17 18 19 20 21 22 23 	ECF No. 240-4	Document to be SealedFinjan's Opposition to Blue Coat's Motion for Summary JudgmentEx. 3 to Kastens Declaration in Support of Finjan's Opposition to Blue Coat'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 Finjan's Administrative Motion to File Under Seal, ECF 244 ("Marder Finjan Sealing Decl.") ¶ 6. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business.
 15 16 17 18 19 20 21 22 23 24 	ECF No. 240-4	Document to be SealedFinjan's Opposition to Blue Coat's Motion for Summary JudgmentEx. 3 to Kastens Declaration in Support of Finjan's Opposition to Blue Coat'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 Finjan's Administrative Motion to File Under Seal, ECF 244 ("Marder Finjan Sealing Decl.") ¶ 6. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business.
 15 16 17 18 19 20 21 22 23 24 25 	ECF No. 240-4	Document to be SealedFinjan's Opposition to Blue Coat's Motion for Summary JudgmentEx. 3 to Kastens Declaration in Support of Finjan's Opposition to Blue Coat's Motion for Summary Judgment, ECF 241-1 ("Kastens	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 Finjan's Administrative Motion to File Under Seal, ECF 244 ("Marder Finjan Sealing Decl.") ¶ 6. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business.
 15 16 17 18 19 20 21 22 23 24 25 26 	ECF No. 240-4	Document to be SealedFinjan's Opposition to Blue Coat's Motion for Summary JudgmentEx. 3 to Kastens Declaration in Support of Finjan's Opposition to Blue Coat's Motion for Summary Judgment, ECF 241-1 ("Kastens	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 Finjan's Administrative Motion to File Under Seal, ECF 244 ("Marder Finjan Sealing Decl.") ¶ 6. Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business.

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1 2	240-8	Ex. 4 to Kastens Decl.	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 8.
3	240-10	Ex. 5 to Kastens	GRANTED.	Contains highly confidential technical information
4		Decl.		regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business.
5	240-12	Ex. 6 to Kastens	GRANTED.	Marder Finjan Sealing Decl. ¶ 9. Contains highly confidential technical information
6 7		Decl.		regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business.
	240-14	Ex. 7 to Kastens	GRANTED.	Marder Finjan Sealing Decl. ¶ 10. Contains highly confidential technical information
8 9		Decl.		regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business.
	240-16	Ex. 10 to	GRANTED.	Marder Finjan Sealing Decl. ¶ 11.
10	240-10	Kastens Decl.	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and
11				confidential aspects of Blue Coat's business.
12	240-18	Ex. 11 to	DENIED.	Marder Finjan Sealing Decl. ¶ 12. Neither party supports filing this exhibit under
13		Kastens Decl.		seal. See Marder Finjan Sealing Decl. ¶ 13; Declaration of James Hannah in Support of
14				Finjan's Administrative Motion to File Under Seal ("Hannah Sealing Decl."), ECF 240-1 ¶ 7.
15 16	240-20	Ex. 12 to Kastens Decl.	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 14.
17	240-22	Ex. 13 to	GRANTED.	Contains highly confidential technical information
18		Kastens Decl.		regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business.
19				Marder Finjan Sealing Decl. ¶ 15.
20	240-24	Ex. 14 to Kastens Decl.	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and
21				confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 16.
22	240-26	Ex. 17 to	GRANTED as	Page BC2-0778674 contains highly confidential
23		Kastens Decl.	to page BC2- 0778674;	technical information regarding Blue Coat's proprietary technology, and confidential aspects of
24			DENIED as to	Blue Coat's business. Marder Finjan Sealing
25			the remainder	Decl. ¶ 17. Neither party supports filing the remainder of this document under seal. <i>See id.</i> ;
26	<u> </u>			Hannah Sealing Decl. ¶ 7.
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1	240-28	Ex. 18 to	GRANTED as	The excerpts at 7:15-14:25 contain highly
1		Kastens Decl.	to the excerpts	confidential technical information regarding Blue
2			at 7:15-14:25;	Coat's proprietary technology, and confidential
			DENIED as to	aspects of Blue Coat's business. Marder Finjan
3			the remainder.	Sealing Decl. ¶ 18. Neither party supports filing
4				the remainder of this document under seal. See
	240-30	Ex. 19 to	GRANTED as	<i>id</i> .; Hannah Sealing Decl. ¶ 7. The excerpts at pages 5-6 contain highly
5	2-10-30	Kastens Decl.	to the excerpts	confidential technical information regarding Blue
6			at pages 5-6;	Coat's proprietary technology, and confidential
0			DENIED as to	aspects of Blue Coat's business. Marder Finjan
7			the remainder.	Sealing Decl. ¶ 19. Neither party supports filing
0				the remainder of this document under seal. See
8				<i>id.</i> ; Hannah Sealing Decl. ¶ 7.
9	240-32	Ex. 20 to	GRANTED.	Contains highly confidential technical information
		Kastens Decl.		regarding Blue Coat's proprietary technology, and
10				confidential aspects of Blue Coat's business. Marder Finjan Sealing Decl. ¶ 20.
11	240-34	Ex.26 to	GRANTED.	Contains highly confidential technical information
	210 31	Kastens Decl.	GIUNTED.	regarding Blue Coat's proprietary technology, and
12				confidential aspects of Blue Coat's business.
13				Marder Finjan Sealing Decl. ¶ 21.
15	240-36	Ex. 29 to	GRANTED.	Contains highly confidential technical information
14		Kastens Decl.		regarding Blue Coat's proprietary technology, and
15				confidential aspects of Blue Coat's business.
15	240.20	E 20 /		Marder Finjan Sealing Decl. ¶ 22.
16	240-38	Ex. 30 to Kastens Decl.	GRANTED.	Contains highly confidential technical information
17		Kastells Deci.		regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business.
17				Marder Finjan Sealing Decl. ¶ 23.
18	240-40	Ex. 33 to	GRANTED.	Consists entirely of Blue Coat source code.
		Kastens Decl.		Marder Finjan Sealing Decl. ¶ 24.
19	240-42	Ex. 34 to	GRANTED.	Consists entirely of Blue Coat source code.
20		Kastens Decl.		Marder Finjan Sealing Decl. ¶ 25.
	C	ECF 242		
21	C. ECF	Document to	Result	Reasoning
22	No.	be Sealed	<u>ACSUIL</u>	<u>Avasoning</u>
	242-4	Blue Coat's	GRANTED as	Contains information relating to details of the
23		Motion for	to highlighted	internal operation of Blue Coat's products,
24		Summary	portions.	including source code routines and backend
2 4		Judgment		systems related to those products, as well as Blue

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Decl.") ¶¶ 5-10.

systems related to those products, as well as Blue

Coat's confidential business operations.

Declaration of Eugene Marder in Support of

Renewed Administrative Motion to File Under Seal, ECF 242-1 ("Marder Blue Coat Sealing

Judgment

III. ORDER

For the foregoing reasons, Blue Coat's motion at ECF 238 is GRANTED IN PART and DENIED IN PART, Finjan's motion at ECF 240 is GRANTED IN PART and DENIED IN PART, and Blue Coat's motion at ECF 242 is GRANTED. 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: June 8, 2017

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BETH LABSON FREEMAN United States District Judge