

1
2
3
4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
6

7 FINJAN, INC.,
8 Plaintiff,
9 v.
10 CISCO SYSTEMS INC.,
11 Defendant.

Case No. 17-cv-00072-BLF (SVK)

ORDER ON MOTIONS TO SEAL

Re: Dkt. Nos. 491, 507, 523

12 The Administrative Motions to File Documents Under Seal currently before the Court
13 include motions filed by Plaintiff Finjan, Inc. (Dkt. 507) and Defendant Cisco Systems Inc. (Dkt.
14 491 and 523) (collectively, the “Motions”) seeking to seal certain materials submitted to the Court
15 in connection with Cisco’s Motion to Strike Portions of Finjan’s Amended Expert Report on
16 Infringement of Patent No. 7,647,633.

17 Courts recognize a “general right to inspect and copy public records and documents,
18 including judicial records and documents.” *Kamakana v. City & Cnty. Of Honolulu*, 447 F.3d
19 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Communs., Inc.*, 435 U.S. 589, 597 & n.7
20 (1978)). A request to seal court records therefore starts with a “strong presumption in favor of
21 access.” *Kamakana*, 447 F.3d at 1178 (quoting *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d
22 1122, 1135 (9th Cir. 2003)). The standard for overcoming the presumption of public access to
23 court records depends on the purpose for which the records are filed with the court. A party
24 seeking to seal court records relating to motions that are “more than tangentially related to the
25 underlying cause of action” must demonstrate “compelling reasons” that support secrecy. *Ctr. For*
26 *Auto Safety v. Chrysler Grp.*, 809 F.3d 1092, 1099 (9th Cir. 2016). For records attached to
27 motions that re “not related, or only tangentially related, to the merits of the case,” the lower
28 “good cause” standard of Rule 26(c) applies. *Id.*; see also *Kamakana*, 447 F.3d at 1179. A party

1 moving to seal court records must also comply with the procedures established by Civil Local
 2 Rule 79-5.

3 Here, the “good cause” standard applies because the information the parties seek to seal
 4 was submitted to the Court in connection with a discovery-related motion, rather than a motion
 5 that concerns the merits of the case. Having considered the Motions and supporting declarations,
 6 as well as the Declaration of Nicole Grigg (Dkt. 520) in support thereof, and the pleadings on file,
 7 and good cause appearing, the Motions are hereby **GRANTED** as follows:

8
 9 **Dkt. 491: Cisco’s Administrative Motion to File Under Seal**

Ex. No.	Document	Portion(s) to Seal	Reason(s) for Sealing
	Cisco Systems, Inc.’s Notice Of Motion And Motion To Strike Portions Of Finjan’s Amended Expert Report On Infringement Of Patent No. 7,647,633	GRANTED as to highlighted portions at: page i, lines 16, 25; page 3, lines 11-14; 16-20, 26; page 4 lines 2-3; page 5 line 10; page 7 lines 10-11, 17-18; page 8 line 18/19 (to be clear, Cisco is not seeking to seal the highlighted phrase: “parameters to run the sample file or URL” which was highlighted to direct the Court to that particular phrase); page 10 lines 9-10, 12, 14, 17, 21-22	Portions of this document contain confidential technical information and source code related to the accused Cisco products and Finjan’s expert’s analysis thereof. Public disclosure of this information would cause harm to Cisco. Redactions are narrowly tailored. See Grigg Decl. (Dkt. 491-1) at ¶ 3.

United States District Court
 Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Ex. 1	Appendix C1 from Finjan's operative infringement contentions dated November 30, 2017	GRANTED as to entire document	This document contains confidential technical information and source code related to the accused Cisco products. Public disclosure of this information would cause harm to Cisco. See Grigg Decl. (Dkt. 491-1) at ¶ 3.
Ex. 2	Appendix C3 from Finjan's operative infringement contentions dated November 30, 2017	GRANTED as to entire document	This document contains confidential technical information and source code related to the accused Cisco products. Public disclosure of this information would cause harm to Cisco. See Grigg Decl. (Dkt. 491-1) at ¶ 3.
Ex. 3	Excerpts from the "Amended Expert Report of Nenad Medvidovic, Ph.D. Regarding Infringement . . . of Patent No. 7,647,633"	GRANTED as to entire document	This document contains confidential technical information and source code related to the accused Cisco products and Finjan's expert's analysis thereof. Public disclosure of this information would cause harm to Cisco. See Grigg Decl. (Dkt. 491-1) at ¶ 3.
Ex. 4	Appendix C1 from Finjan's proposed supplemental infringement contentions dated April 19, 2019	GRANTED as to entire document	This document contains confidential technical information and source code related to the accused Cisco products. Public disclosure of this information would cause harm to Cisco. See Grigg Decl. (Dkt. 491-1) at ¶ 3.
Ex. 5	Email chain including a 3/6/20 Email from J. Hannah	GRANTED as to highlighted portions at pages 2, 3, and 10	The highlighted portions of this document contain confidential technical information and references to source code related to the accused Cisco products. Public disclosure of this information would cause harm to Cisco. Redactions are narrowly tailored. See Grigg Decl. (Dkt. 491-1) at ¶ 3.
Ex. 6	2/27/20 Email from J. Hannah	GRANTED as to highlighted portions at pages 2, 3, 5 and 6	The highlighted portions of this document contain confidential technical information and references to source code related to the accused Cisco products. Public disclosure of this

			information would cause harm to Cisco. Redactions are narrowly tailored. See Grigg Decl. (Dkt. 491-1) at ¶ 3.
--	--	--	---

Dkt. 507: Finjan’s Administrative Motion to File Under Seal

Ex. No.	Document	Portion(s) to Seal	Reason(s) for Sealing
	Plaintiff Finjan, Inc.’s Opposition To Cisco Systems, Inc.’s Motion to Strike Portions of Dr. Nenad Medvidovic’s Amended Expert Report on Infringement of Patent No. 7,647,633	GRANTED as to highlighted portions at: Page 6, lines 12-13; Page 10, lines 15-16, 17, 19, 20, 23, 24.	The highlighted portions of this document reflect confidential information relating to Cisco’s products, including confidential details relating to the design and operation of Cisco products, including its source code, which, if publicly disclosed, could result in competitive harm to Cisco. Redactions are narrowly tailored. Gregg Decl. (Dkt. 520) at ¶ 3.
Hannah Declaration In Support Of Plaintiff Finjan, Inc.’s Opposition To Cisco Systems, Inc.’s Motion to Strike Portions of Dr. Nenad Medvidovic’s Amended Expert Report on Infringement of Patent No. 7,647,633 (“Hannah Decl.”)	Declaration of James Hannah In Support Of Plaintiff Finjan, Inc.’s Opposition to Cisco Systems, Inc.’s Motion to Strike Portions of Dr. Nenad Medvidović Amended Expert Report on Infringement of Patent No. 7,647,633	GRANTED as to highlighted portions at: Page 2, lines 23, 25	The highlighted portions of this document reflect confidential information relating to Cisco’s products, including confidential details relating to the design and operation of Cisco products, including its source code, which, if publicly disclosed, could result in competitive harm to Cisco. Redactions are narrowly tailored. Gregg Decl. (Dkt. 520) at ¶ 3.
Ex. 1 to Hannah Decl.	Finjan’s redlined edits of Dr. Nenad Medvidović’s Amended Expert Report on Infringement of Patent	GRANTED as to entire document	This document reflects confidential information relating to Cisco’s products, including confidential details relating to the design and operation of Cisco products,

United States District Court
Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1		No. 7,647,633 served December 13, 2019, compared to Dr. Medvidović's Expert Report on Infringement of Patent No. 7,647,633 served July 11, 2019		including its source code, which, if publicly disclosed, could result in competitive harm to Cisco. Gregg Decl. (Dkt. 520) at ¶ 3.
2				
3				
4				
5				
6	Ex. 2 to Hannah Decl.	Finjan's redlined edits of Dr. Nenad Medvidović's Amended Expert Report on Infringement of Patent No. 7,647,633 served March 30, 2020, compared to Dr. Medvidović's Expert Report on Infringement of Patent No. 7,647,633 served December 13, 2019	GRANTED as to entire document	This document reflects confidential information relating to Cisco's products, including confidential details relating to the design and operation of Cisco products, including its source code, which, if publicly disclosed, could result in competitive harm to Cisco. Gregg Decl. (Dkt. 520) at ¶ 3.
7				
8				
9				
10				
11				
12				
13				
14				
15	Ex. 3 to Hannah Decl.	Appendix C3 of Finjan's Infringement Contentions, served June 22, 2017	GRANTED as to entire document	This document reflects confidential information relating to Cisco's products, including confidential details relating to the design and operation of Cisco products, including its source code, which, if publicly disclosed, could result in competitive harm to Cisco. Gregg Decl. (Dkt. 520) at ¶ 3.
16				
17				
18				
19				
20				
21				
22	Ex. 4 to Hannah Decl.	Appendix C1 of Finjan's Infringement Contentions, served November 30, 2017	GRANTED as to entire document	This document reflects confidential information relating to Cisco's products, including confidential details relating to the design and operation of Cisco products, including its source code, which, if publicly disclosed, could result in competitive harm to Cisco. Gregg Decl. (Dkt. 520) at ¶ 3.
23				
24				
25				
26				
27				
28				

1	Ex. 5 to Hannah Decl.	Appendix C2 of Finjan's Infringement Contentions, served November 30, 2017	GRANTED as to entire document	This document reflects confidential information relating to Cisco's products, including confidential details relating to the design and operation of Cisco products, including its source code, which, if publicly disclosed, could result in competitive harm to Cisco. Gregg Decl. (Dkt. 520) at ¶ 3.
2				
3				
4				
5				
6				
7				
8	Ex. 6 to Hannah Decl.	Appendix C3 of Finjan's Infringement Contentions, served November 30, 2017	GRANTED as to entire document	This document reflects confidential information relating to Cisco's products, including confidential details relating to the design and operation of Cisco products, including its source code, which, if publicly disclosed, could result in competitive harm to Cisco. Gregg Decl. (Dkt. 520) at ¶ 3.
9				
10				
11				
12				
13				
14				
15	Ex. 7 to Hannah Decl.	Appendix C4 of Finjan's Infringement Contentions, served November 30, 2017	GRANTED as to entire document	This document reflects confidential information relating to Cisco's products, including confidential details relating to the design and operation of Cisco products, including its source code, which, if publicly disclosed, could result in competitive harm to Cisco. Gregg Decl. (Dkt. 520) at ¶ 3.
16				
17				
18				
19				
20				
21				
22	Ex. 8 to Hannah Decl.	Appendix C5 of Finjan's Infringement Contentions, served November 30, 2017	GRANTED as to entire document	This document reflects confidential information relating to Cisco's products, including confidential details relating to the design and operation of Cisco products, including its source code, which, if publicly disclosed, could result in competitive harm to Cisco. Gregg Decl. (Dkt. 520) at ¶ 3.
23				
24				
25				
26				
27				
28				

1	Ex. 9 to Hannah Decl.	Appendix C6 of Finjan's Infringement Contentions, served November 30, 2017	GRANTED as to entire document	This document reflects confidential information relating to Cisco's products, including confidential details relating to the design and operation of Cisco products, including its source code, which, if publicly disclosed, could result in competitive harm to Cisco. Gregg Decl. (Dkt. 520) at ¶ 3.
2				
3				
4				
5				
6				
7				
8	Ex. 10 to Hannah Decl.	Appendix C7 of Finjan's Infringement Contentions, served November 30, 2017	GRANTED as to entire document	This document reflects confidential information relating to Cisco's products, including confidential details relating to the design and operation of Cisco products, including its source code, which, if publicly disclosed, could result in competitive harm to Cisco. Gregg Decl. (Dkt. 520) at ¶ 3.
9				
10				
11				
12				
13				
14				
15	Ex. 11 to Hannah Decl.	Excerpts from the Expert Report of Nenad Medvidović, Ph.D. Regarding Infringement by Cisco Systems, Inc. of Patent No. 7,647,633, served July 11, 2019	GRANTED as to entire document	This document reflects confidential information relating to Cisco's products, including confidential details relating to the design and operation of Cisco products, including its source code, which, if publicly disclosed, could result in competitive harm to Cisco. Gregg Decl. (Dkt. 520) at ¶ 3.
16				
17				
18				
19				
20				
21				
22	Ex. 12 to Hannah Decl.	Excerpts from the transcript of the deposition of the Deposition Transcript of Dr. Nenad Medvidović, taken on August 30, 2019	GRANTED as to entire document	This document reflects confidential information relating to Cisco's products, including confidential details relating to the design and operation of Cisco products, including its source code, which, if publicly disclosed, could result in competitive harm to Cisco. Gregg Decl. (Dkt. 520) at ¶ 3.
23				
24				
25				
26				
27				
28				

United States District Court
Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Ex. 13 to Hannah Decl.	Excerpts from the Second Amended Expert Report of Nenad Medvidović, Ph.D. Regarding Infringement by Cisco Systems, Inc. of Patent No. 7,647,633, served March 30, 2020	GRANTED as to entire document	This document reflects confidential information relating to Cisco’s products, including confidential details relating to the design and operation of Cisco products, including its source code, which, if publicly disclosed, could result in competitive harm to Cisco. Gregg Decl. (Dkt. 520) at ¶ 3.
Ex. 15 to Hannah Decl.	Excerpts from the transcript of the deposition of Matthew Watchinski, taken on February 19, 2019	GRANTED as to entire document	This document reflects confidential information relating to Cisco’s products, including confidential details relating to the design and operation of Cisco products, including its source code, which, if publicly disclosed, could result in competitive harm to Cisco. Gregg Decl. (Dkt. 520) at ¶ 3.

Dkt. 523: Cisco’s Administrative Motion to File Under Seal

Ex. No.	Document	Portion(s) to Seal	Reason(s) for Sealing
	Defendant Cisco Systems, Inc.’s Reply in Support of Motion to Strike Portions of Finjan’s Amended Expert Report on Infringement of Patent No. 7,647,633	GRANTED as to highlighted portions at: page 1 lines 9-10, 15, 17-18; page 2 line 28; page 3 lines 4, 6, 10, 12, 16, 18, 19-20, 22, 24, 26, 28; page 4 line 5	Portions of this document contain confidential technical information and source code related to the accused Cisco products and Finjan’s expert’s analysis thereof. Public disclosure of this information would cause harm to Cisco. Redactions are narrowly tailored. Decl. (Dkt. 523-1) at ¶ 2.

United States District Court
Northern District of California

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Ex. 1	Transcript of the February 19, 2019 Deposition of Matthew Watchinski	GRANTED as to entire document	This document contains confidential deposition testimony relating to technical information related to the structure, function and operation of the accused Cisco products. Public disclosure of this information would cause harm to Cisco. Grigg Decl. (Dkt. 523-1) at ¶ 2.
-------	--	-------------------------------	--

SO ORDERED.

Dated: April 28, 2020



SUSAN VAN KEULEN
United States Magistrate Judge