

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION

4
5 FINJAN, INC.,
6 Plaintiff,

7 v.

8 BLUE COAT SYSTEMS, LLC,
9 Defendant.

Case No. 15-cv-03295-BLF

**ORDER DENYING BLUE COAT
SYSTEMS LLC'S MOTION TO FILE
UNDER SEAL CERTAIN EXHIBITS IN
SUPPORT OF MOTION TO STRIKE
PORTIONS OF EXPERT REPORTS**

10 Before the Court is Defendant Blue Coat Systems, LLC's ("Blue Coat") Administrative
11 Motion to File Under Seal Certain Exhibits in Support of Defendant Blue Coat Systems LLC's Motion
12 to Strike Portions of Expert Reports. ECF 754. For the reasons stated below, the motion is
13 DENIED WITHOUT PREJUDICE.

14 **I. LEGAL STANDARD**

15 "Historically, courts have recognized a 'general right to inspect and copy public records
16 and documents, including judicial records and documents.'" *Kamakana v. City and Cnty. of*
17 *Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc'ns, Inc.*, 435
18 U.S. 589, 597 & n.7 (1978)). Consequently, access to motions and their attachments that are
19 "more than tangentially related to the merits of a case" may be sealed only upon a showing of
20 "compelling reasons" for sealing. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092,
21 1101-02 (9th Cir. 2016). Filings that are only tangentially related to the merits may be sealed
22 upon a lesser showing of "good cause." *Id.* at 1097.

23 In addition, sealing motions filed in this district must be "narrowly tailored to seek sealing
24 only of sealable material." Civil L.R. 79-5(b). A party moving to seal a document in whole or in
25 part must file a declaration establishing that the identified material is "sealable." Civ. L.R. 79-
26 5(d)(1)(A). "Reference to a stipulation or protective order that allows a party to designate certain
27 documents as confidential is not sufficient to establish that a document, or portions thereof, are
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1 sealable.” *Id.*

2 **II. DISCUSSION**

3 The Court has reviewed Blue Coat’s sealing motion (ECF 205) and its declaration in
4 support thereof (ECF 205-1). Blue Coat seeks to seal in their entirety Exhibits A-E and G-I to the
5 Marder Declaration in support of Blue Coat’s Motion to Strike Portions of Expert Reports, located
6 at ECF 205-4, -6, -8, -10, -12, -14, -16, and -18. According to Blue Coat, these documents
7 “contain highly confidential technical information regarding Blue Coat’s proprietary technology,
8 and confidential aspects of Blue Coat’s business.” Marder Decl. ISO Administrative Motion to
9 File Under Seal ¶ 3, ECF 205-1. Blue Coat also states that public disclosure of this information
10 “would create substantial risk of serious harm to Blue Coat, including evasion of Blue Coat’s
11 malware analysis tools, disclosure to competitors regarding the scanning tools used in the accused
12 products, and Blue Coat’s approach to fixes in the products.” *Id.* ¶ 5.

13 The Court finds that, although Blue Coat has articulated compelling reasons and good
14 cause to seal portions of the submitted documents, its request is not narrowly tailored. Blue Coat
15 seeks to seal each of the documents in their entirety, whereas Blue Coat’s statements regarding
16 confidentiality apply only to select portions of each of the documents. For this reason, the Court
17 DENIES Blue Coat’s sealing motion WITHOUT PREJUDICE.

18 **III. ORDER**

19 Blue Coat’s sealing motion is DENIED WITHOUT PREJUDICE. No later than 10 days
20 from the filing of this order, Blue Coat may renew its motion so as to more narrowly tailor its
21 request to seal and/or provide sufficient reasons in the supporting declaration to seal the
22 documents in their entirety. If Blue Coat does not renew its motion, it must, pursuant to Civil
23 Local Rule 79-5(e)(2), file the unredacted documents into the public record no earlier than 4 days
24 and no later than 10 days from the filing of this order.

25 **IT IS SO ORDERED.**

26 Dated: April 28, 2017

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28 BETH LABSON FREEMAN