

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

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

FINJAN, INC.,

Plaintiff,

v.

BLUE COAT SYSTEMS, LLC,

Defendant.

Case No. 15-cv-03295-BLF

**ORDER GRANTING IN PART AND DENYING IN PART FINJAN, INC.’S ADMINISTRATIVE MOTION TO FILE DOCUMENTS UNDER SEAL**

United States District Court  
Northern District of California

Before the Court is Plaintiff Finjan, Inc.’s (“Finjan”) administrative motion to file under seal portions of its Opposition to Blue Coat’s Motion to Strike Portions of Expert Reports and select exhibits to the Declaration of James Hannah in Support thereof. ECF 212. For the reasons stated below, the motion at ECF 212 is GRANTED IN PART and DENIED IN PART.

**I. LEGAL STANDARD**

“Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’” *Kamakana v. City and Cnty. of 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 “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, 1101–02 (9th Cir. 2016). Filings that are only tangentially related to the merits may be sealed 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

1 5(d)(1)(A). “Reference to a stipulation or protective order that allows a party to designate certain  
2 documents as confidential is not sufficient to establish that a document, or portions thereof, are  
3 sealable.” *Id.*

## 4 II. DISCUSSION

5 The Court has reviewed Finjan’s sealing motion (ECF 212) and the parties’ declarations in  
6 support thereof (ECF 212-1, 215). The Court finds that the parties have articulated compelling  
7 reasons and good cause to seal the submitted documents. The Court’s rulings on the sealing  
8 request are set forth in the table below:

9 <u>ECF</u> <u>No.</u>	<u>Document to</u> <u>be Sealed</u>	<u>Result</u>	<u>Reasoning</u>
10 212-4	11 Finjan’s 12 Opposition to 13 Blue Coat’s 14 Motion to Strike 15 Portions of 16 Expert Reports	17 GRANTED as 18 to highlighted 19 portions.	20 Contains highly confidential technical information 21 regarding Blue Coat’s proprietary technology, and 22 confidential aspects of Blue Coat’s business, 23 including information relating to Blue Coat’s 24 source code, and the confidential operation of Blue 25 Coat’s products, including backend systems. 26 Marder Decl. ¶ 6, ECF 215.
27 212-6	28 Ex. 2 to Hannah 29 Decl. ISO 30 Opposition to 31 Blue Coat’s 32 Motion to Strike 33 Portions of 34 Expert Reports, 35 ECF 213-1 36 (“Hannah 37 Decl.”)	38 GRANTED.	39 Contains highly confidential technical information 40 regarding Blue Coat’s proprietary technology, and 41 confidential aspects of Blue Coat’s business, 42 including information relating to the confidential 43 operation of Blue Coat’s SSL Visibility Appliance. 44 Marder Decl. ¶ 7.
45 212-8	46 Ex. 3 to Hannah 47 Decl.	48 GRANTED.	49 Contains highly confidential technical information 50 regarding Blue Coat’s proprietary technology, and 51 confidential aspects of Blue Coat’s business, 52 including information relating to the confidential 53 operation of Blue Coat’s backend URL rating 54 systems. Marder Decl. ¶ 8.
55 212-10	56 Ex. 4 to Hannah 57 Decl.	58 GRANTED as 59 to the second 60 page of the 61 exhibit, 62 numbered 63 page 44; 64 DENIED as to 65 the remainder.	66 Second page of the exhibit, numbered page 44, 67 contains highly confidential technical information 68 regarding Blue Coat’s proprietary technology, and 69 confidential aspects of Blue Coat’s business, 70 including information relating to the confidential 71 operation of Blue Coat’s WebPulse service, 72 including backend systems. Marder Decl. ¶ 9. No 73 supporting declaration has been provided as to the 74 remainder.

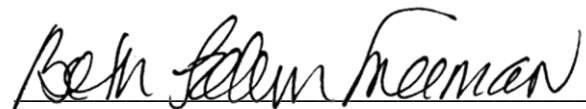
1	212-12	Ex. 5 to Hannah Decl.	GRANTED.	Contains highly confidential technical information regarding Blue Coat's proprietary technology, and confidential aspects of Blue Coat's business, including information relating to the confidential operation of Blue Coat's Content Analysis System and Malware Analysis Appliance, including backend systems. Marder Decl. ¶ 10.
2				
3				
4				

5 **III. ORDER**

6 For the foregoing reasons, the sealing motion at ECF 212 is GRANTED IN PART and  
 7 DENIED IN PART. Under Civil Local Rule 79-5(e)(2), for any request that has been denied  
 8 because the party designating a document as confidential or subject to a protective order has not  
 9 provided sufficient reasons to seal, the submitting party must file the unredacted (or lesser  
 10 redacted) documents into the public record no earlier than 4 days and no later than 10 days from  
 11 the filing of this order. Alternatively, the moving party may also renew the motion so to provide  
 12 sufficient reasons in the supporting declarations no later than 10 days from the filing of this order.

13 **IT IS SO ORDERED.**

14  
 15 Dated: May 9, 2017

16 

17 BETH LABSON FREEMAN  
 18 United States District Judge

United States District Court  
 Northern District of California

19  
 20  
 21  
 22  
 23  
 24  
 25  
 26  
 27  
 28