UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA SAN JOSE DIVISION

FINJAN, INC.,

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Plaintiff,

v.

BLUE COAT SYSTEMS, LLC,

Defendant.

Case No. 15-cv-03295-BLF

OMNIBUS ORDER RE: SEALING MOTIONS

[Re: ECF 321, 323]

Before the Court are two administrative motions to file under seal, one from Plaintiff Finjan, Inc. ("Finjan") and one from Defendant Blue Coat Systems, LLC ("Blue Coat"). ECF 321, 323. Both relate to the responsive briefing on the parties' motions in limine. See id. For the reasons set forth below, the motion at ECF 321 is GRANTED and the motion at ECF 323 is GRANTED IN PART and DENIED IN PART.

T. 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 & 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).



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

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:

A. ECF 321

Sect Document to be Sealed	Α.	ECF 321		
Salue Coat's Opposition to Finjan's Motion in Limine No. 2 GRANTED as Opposition to Finjan's Motion in Limine No. 4 GRANTED as Opposition to Finjan's Motion in Limine No. 4 GRANTED as Opposition to Finjan's Motion in Limine No. 4 GRANTED as Opposition to Finjan's Motion in Limine No. 4 GRANTED as Opposition to Finjan's Opposition			<u>Result</u>	Reasoning
Opposition to Finjan's Motion in Limine No. 2 Blue Coat's Opposition to Finjan's Motion in Limine No. 4 Blue Coat's Opposition to Finjan's Motion in Limine No. 4 Blue Coat's Opposition to Finjan's Motion in Limine No. 4 Blue Coat's Opposition to Finjan's Motion in Limine No. 4 Blue Coat's Opposition to Finjan's Motion in Limine No. 4 Blue Coat's Opposition to Finjan's Opposition to Finjan's Opposition to Finjan's Daubert Motion Blue Coat's Opposition to Finjan's Daubert Motion Blue Coat's Contains confidential competitive information and confidential technical information relating to the operation and confidential technical information relating to the operation and confidential technical information relating to the operation and capabilities of Blue Coat's Content Analysis System ("CAS"), MAA, and SA products. Brewer Blue Coat Sealing Decl. ¶ 10. Contains information confidential to Finjan's licensing negotiations and license agreements.	<u>No.</u>	<u>be Sealed</u>		
Finjan's Motion in Limine No. 2 Blue Coat's Opposition to Finjan's Motion in Limine No. 4 Blue Coat's Opposition to Finjan's Motion in Limine No. 4 Blue Coat's Opposition to Finjan's Motion Finjan's Opposition to Finjan's Oppo	332-1	Blue Coat's	GRANTED as	
Saling Decl.") ¶ 8. Sealing Decl.") ¶ 8.			to highlighted	information. Declaration of Robin Brewer in
Sealing Decl.") ¶ 8. 332-3 Blue Coat's Opposition to Finjan's Motion in Limine No. 4 332-5 Blue Coat's Opposition to Finjan's Opposition to Op		_	portions.	
332-3 Blue Coat's Opposition to Finjan's Motion in Limine No. 4 332-5 Blue Coat's Opposition to Finjan's Opposition to Opposition to Finjan's Opposition to Opposition to Finjan's Opposition to		in Limine No. 2		
Opposition to Finjan's Motion in Limine No. 4 Blue Coat's Opposition to Finjan's Oppositio				Sealing Decl.") ¶ 8.
Finjan's Motion in Limine No. 4 Similar No. 4 Finjan's Motion in Limine No. 4 Finjan's Motion in Limine No. 4 Finjan's Motion in Limine No. 4 GRANTED as to highlighted portions. GRANTED as to highlighted portions. Finjan's Daubert Motion Contains information confidential to Finjan's licensing negotiations and license agreements.	332-3	Blue Coat's	GRANTED as	-
in Limine No. 4 ("SA") and Malware Analysis Appliance ("MAA") products. Brewer Blue Coat Sealing Decl. ¶ 9. 332-5 Blue Coat's Opposition to Finjan's Daubert Motion GRANTED as to highlighted portions. GRANTED as to highlighted portions. Contains confidential competitive information and confidential technical information relating to the operation and capabilities of Blue Coat's Content Analysis System ("CAS"), MAA, and SA products. Brewer Blue Coat Sealing Decl. ¶ 10. Contains information confidential to Finjan's licensing negotiations and license agreements.		Opposition to	to highlighted	information relating to the operation and
("MAA") products. Brewer Blue Coat Sealing Decl. ¶ 9. 332-5 Blue Coat's Opposition to Finjan's Daubert Motion GRANTED as to highlighted portions. Contains confidential competitive information and confidential technical information relating to the operation and capabilities of Blue Coat's Content Analysis System ("CAS"), MAA, and SA products. Brewer Blue Coat Sealing Decl. ¶ 10. Contains information confidential to Finjan's licensing negotiations and license agreements.		-	portions.	
Decl. ¶ 9. 332-5 Blue Coat's Opposition to Finjan's Daubert Motion Blue Coat's Opposition to Finjan's Daubert Motion Blue Coat's Opposition to Finjan's Daubert Motion Contains confidential competitive information and confidential technical information relating to the operation and capabilities of Blue Coat's Content Analysis System ("CAS"), MAA, and SA products. Brewer Blue Coat Sealing Decl. ¶ 10. Contains information confidential to Finjan's licensing negotiations and license agreements.		in Limine No. 4		("SA") and Malware Analysis Appliance
Blue Coat's Opposition to Finjan's Daubert Motion Blue Coat's Opposition to Finjan's Daubert Motion GRANTED as to highlighted portions. Contains confidential competitive information and confidential technical information relating to the operation and capabilities of Blue Coat's Content Analysis System ("CAS"), MAA, and SA products. Brewer Blue Coat Sealing Decl. ¶ 10. Contains information confidential to Finjan's licensing negotiations and license agreements.				("MAA") products. Brewer Blue Coat Sealing
Opposition to Finjan's Daubert Motion to highlighted portions. Daubert Motion to Finjan's Daubert Motion to highlighted portions. Daubert Motion to highlighted portions. Contains information relating to the operation and capabilities of Blue Coat's Content Analysis System ("CAS"), MAA, and SA products. Brewer Blue Coat Sealing Decl. ¶ 10. Contains information confidential to Finjan's licensing negotiations and license agreements.				Decl. ¶ 9.
Finjan's Daubert Motion portions. operation and capabilities of Blue Coat's Content Analysis System ("CAS"), MAA, and SA products. Brewer Blue Coat Sealing Decl. ¶ 10. Contains information confidential to Finjan's licensing negotiations and license agreements.	332-5	Blue Coat's	GRANTED as	Contains confidential competitive information and
Daubert Motion Analysis System ("CAS"), MAA, and SA products. Brewer Blue Coat Sealing Decl. ¶ 10. Contains information confidential to Finjan's licensing negotiations and license agreements.		Opposition to	0 0	
products. Brewer Blue Coat Sealing Decl. ¶ 10. Contains information confidential to Finjan's licensing negotiations and license agreements.		Finjan's	portions.	operation and capabilities of Blue Coat's Content
Contains information confidential to Finjan's licensing negotiations and license agreements.		Daubert Motion		Analysis System ("CAS"), MAA, and SA
licensing negotiations and license agreements.				1 2 "
				Contains information confidential to Finjan's
Declaration of Hannah Lee in Support of Rlue				
				Declaration of Hannah Lee in Support of Blue
Coat's Administrative Motion to File Under Seal,				Coat's Administrative Motion to File Under Seal,
ECF 334 ("Lee Blue Coat Sealing Decl.") ¶ 4.				ECF 334 ("Lee Blue Coat Sealing Decl.") ¶ 4.



1	321-3	Ex. D to Declaration of	GRANTED.	Contains confidential competitive and financial information relating to Blue Coat and Finjan, and
2		Robin Brewer in Support of Blue		confidential information relating to Blue Coat's backend systems. Brewer Blue Coat Sealing Decl.
3		Coat's		¶ 11. Contains information confidential to
4		Oppositions to		Finjan's licensing negotiations and license
		Finjan's Motions <i>in</i>		agreements. Lee Blue Coat Sealing Decl. ¶ 4.
5		Limine, ECF		
6		320 ("Brewer Decl.")		
7	321-4	Ex. F to Brewer	GRANTED.	Contains confidential competitive and financial
8		Decl.		information relating to Blue Coat. Brewer Blue Coat Sealing Decl. ¶ 12.
9	321-5	Ex. G to Brewer Decl.	GRANTED.	Contains sensitive and confidential sales and
10		Deci.		revenue information. Brewer Blue Coat Sealing Decl. ¶ 13.
11	321-6	Ex. H to Brewer	GRANTED.	Contains confidential competitive and financial
		Decl.		information relating to Blue Coat, and confidential information relating to Blue Coat's backend
12				systems. Brewer Blue Coat Sealing Decl. ¶ 11.
13	321-7	Ex. I to Brewer Decl.	GRANTED.	Contains sensitive and confidential competitive information. Brewer Blue Coat Sealing Decl.
14		Deci.		¶ 14.
15	321-8	Ex. J to Brewer	GRANTED.	Contains sensitive and confidential competitive
		Decl.		information. Brewer Blue Coat Sealing Decl. ¶ 14.
16	321-9	Ex. K to Brewer	GRANTED.	Contains confidential competitive information
17		Decl.		relating to Blue Coat. Brewer Blue Coat Sealing Decl. ¶ 15.
18 19	321-10	Ex. L to Brewer Decl.	GRANTED.	Contains confidential revenue information. Brewer Blue Coat Sealing Decl. ¶ 16.
	321-11	Ex. N to Brewer Decl.	GRANTED.	Is a confidential license agreement. Brewer Blue Coat Sealing Decl. ¶ 17. Contains information
20		Deci.		confidential to Finjan's licensing negotiations and
21				license agreements. Lee Blue Coat Sealing Decl. ¶ 4.
22	321-12	Ex. O to Brewer	GRANTED.	Contains confidential competitive and financial
23		Decl.		information relating to Blue Coat, and confidential information relating to Blue Coat's backend
24	321-13	Ex. P to Brewer	GRANTED.	systems. Brewer Blue Coat Sealing Decl. ¶ 11. Contains confidential competitive and financial
25	521 15	Decl.	SIGHTIED.	information relating to Blue Coat and Finjan.
26	321-14	Ev. O to Danson	CDANTED	Brewer Blue Coat Sealing Decl. ¶ 18. Contains sensitive and confidential technical
	321-14	Ex. Q to Brewer Decl.	GRANTED.	information relating to the operation and
27				capabilities CAS and MAA. Brewer Blue Coat
20		·		Saaling Deal ¶ 10



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	В.	ECF 323		
1	ECF	Document to	Result	<u>Reasoning</u>
2	No. 323-4	be Sealed Finjan's	GRANTED as	Contains information confidential to Finjan's
3	323 4	Opposition to	to p.2 ll. 1-2,	business and licensing practices. Declaration of
		Blue Coat's	7, 10-11, 26;	Hannah Lee in Support of Finjan's Administrative
4		Motion in Limine No. 1	p.3 ll. 9-11, 14, 16, 20, 26-	Motion to File Under Seal, ECF 323-1 ("Lee
5		Limine No. 1	27; p. 4 ll. 1-2;	Finjan Sealing Decl.") ¶ 4. Contains highly confidential technical information relating to
6			p.6 ll. 2-3, 10-	WebPulse and highly confidential financial
			12. DENIED as to the	information and disclosures regarding confidential
7			remainder.	aspects of Blue Coat's business. Declaration of Robin Brewer in Support of Finjan's
8				Administrative Motion to File Under Seal, ECF
9				323-1 ("Brewer Finjan Sealing Decl.") ¶ 5. The
				remainder is denied because Blue Coat has not indicated that those portions of this document
10				contain confidential information. See id.
11	323-6	Finjan's	DENIED.	Does not contain confidential information of either
12		Opposition to Blue Coat's		party. Lee Finjan Sealing Decl. ¶ 5; Brewer Finjan Sealing Decl. ¶ 6.
13		Motion in		Bearing Been 6.
13	222.0	Limine No. 2	GD 1177777	
14	323-8	Finjan's Opposition to	GRANTED as to highlighted	Contains information confidential to Finjan's business and licensing practices. Lee Finjan
15		Blue Coat's	portions.	Sealing Decl. ¶ 6.
16		Motion in		
	323-10	Limine No. 4 Ex. 1 to	GRANTED.	Contains sensitive and highly confidential
17	323-10	Declaration of	OKANTED.	technical information relating to WebPulse.
18		Hannah Lee in		Brewer Finjan Sealing Decl. ¶ 7.
19		Support Finjan's		
		Oppositions to		
20		Blue Coat's		
21		Motions in Limine, ECF		
22		331 ("Lee		
		Decl.")		
23	323-12	Ex. 2 to Lee Decl.	DENIED.	Does not contain confidential information of either party. Lee Finjan Sealing Decl. ¶ 7; Brewer Finjan
24		Deci.		Sealing Decl. ¶ 8.
25	323-14	Ex. 4 to Lee	GRANTED.	Contains sensitive and highly confidential
26		Decl.		technical information relating to WebPulse.
	323-16	Ex. 5 to Lee	GRANTED.	Brewer Finjan Sealing Decl. ¶ 9. Contains sensitive and highly confidential
27	_	Decl.		technical information relating to WebPulse.
20				Brewer Finjan Sealing Decl. ¶ 10.



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1	324-1	Ex. 6 to Lee Decl.	GRANTED.	Contains sensitive and highly confidential technical information relating to WebPulse. Brewer Finjan Sealing Decl. ¶ 11.
2	324-3	Ex. 7 to Lee	GRANTED.	Contains Blue Coat's sensitive and highly
3	324-3	Decl.	OKANIED.	confidential financial and competitive information. Brewer Finjan Sealing Decl. ¶ 12.
4	324-5	Ex. 8 to Lee	GRANTED.	Contains sensitive and highly confidential
5		Decl.		technical information relating to Blue Coat's
3				products. Brewer Finjan Sealing Decl. ¶ 13.
6	324-7	Ex. 9 to Lee	GRANTED.	Contains sensitive and highly confidential
_		Decl.		technical information relating to Blue Coat's
7				products. Brewer Finjan Sealing Decl. ¶ 14.
8	324-9	Ex. 10 to Lee	GRANTED.	Contains sensitive and highly confidential
		Decl.		technical information relating to Blue Coat's
9	22111	- 44	~~ · · · · · · · · · · · · · · · · · ·	products. Brewer Finjan Sealing Decl. ¶ 15.
1.0	324-11	Ex. 11 to Lee	GRANTED.	Contains highly confidential and sensitive Blue
10		Decl.		Coat financial and competitive information.
11	224.12	E 10 4- I	CD ANTED	Brewer Finjan Sealing Decl. ¶ 16.
11	324-13	Ex. 12 to Lee Decl.	GRANTED as to highlighted	Contains information confidential to Finjan's
12		Deci.	portions.	business and licensing practices. Lee Finjan Sealing Decl. ¶ 9. Contains discussion of highly
10			portions.	confidential and sensitive Blue Coat financial and
13				competitive information. Brewer Finjan Sealing
14				Decl. ¶ 17.
1.5	324-15	Ex. 13 to Lee	GRANTED.	Contains highly confidential and sensitive Blue
15		Decl.		Coat financial information. Brewer Finjan Sealing
16				Decl. ¶ 18.
	324-17	Ex. 14 to Lee	GRANTED.	Contains sensitive and highly confidential
17		Decl.		technical information relating to WebPulse.
10	224.10	7. 45. 7	CD ANTED	Brewer Finjan Sealing Decl. ¶ 19.
18	324-19	Ex. 15 to Lee	GRANTED.	Contains highly confidential and sensitive Blue
19		Decl.		Coat financial information. Brewer Finjan Sealing
	225 1	Ev. 16 to Loo	CDANTED	Decl. ¶ 20.
20	325-1	Ex. 16 to Lee Decl.	GRANTED.	Contains highly confidential and sensitive Blue Coat financial information. Brewer Finjan Sealing
21				Decl. ¶ 21.
22	325-3	Ex. 17 to Lee	DENIED.	Does not contain confidential information of either
22		Decl.		party. Lee Finjan Sealing Decl. ¶ 7; Brewer Finjan
23	225 5	E 10 4- I	DENIED	Sealing Decl. ¶ 22. Does not contain confidential information of either
2.4	325-5	Ex. 18 to Lee Decl.	DENIED.	
24		Deci.		party. Lee Finjan Sealing Decl. ¶ 7; Brewer Finjan Sealing Decl. ¶ 23.
25	325-7	Ex. 19 to Lee	GRANTED.	Contains highly confidential and sensitive
26		Decl.		information Blue Coat competitive and business
26				information. Brewer Finjan Sealing Decl. ¶ 24.
27	325-9	Ex. 20 to Lee	DENIED.	Does not contain confidential information of either
		Decl.		party. Lee Finjan Sealing Decl. ¶ 7; Brewer Finjan
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