

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE NEO WIRELESS, LLC
PATENT LITIG.

Case No. 2:22-md-03034-TGB

Hon. Terrence G. Berg

**DEFENDANTS' UNOPPOSED MOTION FOR LEAVE TO FILE
UNDER SEAL PORTIONS OF THEIR MOTION TO COMPEL
PRODUCTION OF NEO'S LICENSING NEGOTIATIONS WITH
AVANCI AND EXHIBITS A, B, D, F AND G THERETO**

Pursuant to Local Rule 5.3(b), Defendants respectfully move for an Order permitting them to file portions of their Motion to Compel Production of Neo's Licensing Negotiations with Avanci and the following exhibits under seal:

- Exhibit A –Third-party Avanci's October 2017 "SEP Landscape Report"
- Exhibit B – Neo's Second Supplemental Response to Defendants Common Interrogatory No. 2
- Exhibit D - 7/28/23 Letter from LeRoy to Stewart
- Exhibit F – Third-Party Avanci documents
- Exhibit G – Neo NDA with third-party Avanci

The above exhibits have been designated “Confidential – Attorneys Eyes Only” by the producing party pursuant to the Protective Order (ECF No. 125) entered in this case, or the exhibits describe or quote such designated materials.

A determination on a motion for leave to file under seal is made pursuant to the sound discretion of the district court. *Meyer Goldberg, Inc. v. Fisher Foods, Inc.*, 823 F.2d 159, 161 (6th Cir. 1987). The right of the public to access judicial records “is not absolute.” *Brown & Williamson Tobacco Corp. v. F.T.C.*, 710 F.2d 1165, 1179 (6th Cir. 1983). The Sixth Circuit recognizes that “certain privacy rights of participants” are significant interests which can outweigh the public’s right to access. *Id.* (citing *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)) (additional citations omitted).

Here, the information sought to be filed under seal includes confidential agreements and patent licensing terms, including information that has been designated Confidential Attorney- only by third-party Avanci. These exhibits should be permitted to be filed under seal to respect the privacy rights of the parties. *See Brown & Williams*, 710 F.2d at 1179. These exhibits should be permitted to be filed under seal to respect the competitive advantage that the parties achieve by keeping such detailed financial information private. *See Apple Inc. v. Samsung Elecs., Co.*, 727 F.3d 1214, 1225-26 (Fed. Cir. 2013) (holding the district court abused its discretion in ordering unsealing as such the parties have “a significant interest in

preventing the release of their detailed financial information.”). Good cause therefore exists for the proposed sealed filing, and no opposition exists.

Redacted and unredacted copies of the Defendants’ Motion to Compel are provided with this filing pursuant to L.R. 5.3(b)(3)(A)(v) and (vi). Exhibits A, B, D, F, and G to Defendants’ motion should be sealed in their entirety due to the extent of the confidential information they contain.

Counsel for Ford contacted counsel for Neo Wireless, LLC on September 27, 2023, via telephone, regarding the relief requested in this motion. Counsel for Neo Wireless, LLC concurs in the relief requested in this motion.

For the reasons set forth above, the Defendants respectfully request that the Court grant its Unopposed Motion for Leave to File Under Seal.

A proposed Order is concurrently submitted through the ECF system.

Date: September 27, 2023

Respectfully submitted,

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