

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

IN RE: NEO WIRELESS, LLC,  
PATENT LITIGATION

Case No. 2:22-MD-03034-TGB  
HON. TERRENCE G. BERG

JURY TRIAL DEMANDED

**DEFENDANTS' UNOPPOSED MOTION FOR LEAVE TO FILE UNDER  
SEAL PORTIONS OF THEIR BRIEF IN SUPPORT OF ITS MOTION TO  
EXCLUDE THE OPINIONS OF NEO'S DAMAGES EXPERT, MS.  
HARVEY, AND CERTAIN OPINIONS OF NEO'S TECHNICAL EXPERTS,  
DR. MAHON AND MR. JONES, AND RELATED EXHIBITS**

Pursuant to Local Rule 5.3(b), Defendants respectfully move for an Order permitting them to file portions of their Brief in Support of Its Motion to Exclude the Opinions of Neo's Damages Expert, Ms. Harvey, and Certain Opinions of Neo's Technical Experts, Dr. Mahon and Mr. Jones ("Defendants' Brief"), and the following exhibits, under seal:

Exhibit A – License Agreement;

Exhibit B – License Agreement;

Exhibit C – Excerpts of Ms. Dean's Damages Rebuttal Report;

Exhibit D – License Agreement;

Exhibit E – License Agreement;

Exhibit F – License Agreement;

Exhibit G – Ms. Harvey’s Damages Opening Report;

Exhibit H – Excerpts of Ms. Harvey’s deposition transcript;

Exhibit J – Information produced by third-party Avanci;

Exhibit L – Excerpt of Neo’s document related to licensing negotiations;

Exhibit N – Excerpts of Ms. Harvey’s Defendant Specific Appendices;

Exhibit P – Dr. Mahon’s Appendix I to Opening Report;

Exhibit Q – Excerpts of Dr. Mahon’s deposition transcript;

Exhibit R – Mr. Jones’s Appendix A;

Exhibit S – Dr. Mahon’s Appendix F to Opening Report;

Exhibit T – Dr. Mahon’s Appendix E to Opening Report;

Exhibit U – Mr. Jones’s Tesla Supplement;

Exhibit V – Excerpts of Mr. Jones’s deposition transcript;

Exhibit X – Dr. Mahon’s Appendix I to Opening Report.

(referred to collectively as “the Sealed Exhibits”).

Both Defendants’ Brief and the Sealed Exhibits contain highly confidential information regarding licensing negotiations and discussions of licensing negotiation details, financial information, and other technical information that has been designated Confidential, Highly Confidential – Attorneys’ Eyes Only, or Outside Attorneys’ Eyes Only – Source Code by Neo or third-parties pursuant to

the Protective Orders (D.I. 125, D.I. 126, D.I. 210) entered in this case. Additional information about the particular privacy interests that apply to Defendants' Brief and to the Sealed Exhibits is provided in the attached Index of Documents Proposed for Sealing.

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 negotiations and licensing details, including information that has been designated Highly Confidential Attorneys' Eyes Only by parties to this action, and technical and business information designated Confidential, Highly Confidential – Attorneys' Eyes Only, or Outside Attorneys' Eyes Only – Source Code by a third parties. Such information should therefore be permitted to be filed under seal to respect the parties' privacy and to respect that parties' competitive advantages gains by maintaining such information confidential. *See Brown & Williams*, 710

F.2d at 1179; *Apple Inc. v. Samsung Elecs., Co.*, 727 F.3d 1214, 1225-26 (Fed. Cir. 2013). Good cause therefore exists, and there is no opposition.

Redacted and unredacted copies of Defendants' Brief in Support of its Motion to Exclude the Opinions of Neo's Damages Expert, Ms. Harvey, and Certain Opinions of Neo's Technical Experts, Dr. Mahon and Mr. Jones are provided with this filing pursuant to L.R. 5.3(b)(3)(A)(v) and (vi), demonstrating that the proposed redactions are narrowly tailored. Because of the nature of the material in the Sealed Exhibits, Defendants request these documents be kept under seal in their entirety.

Counsel for Plaintiff Neo Wireless, LLC confirmed via email that it does not oppose the relief requested in this motion.

For the reasons set forth above, the Defendants respectfully requests that the Court grant its Unopposed Motion for Leave to File Under Seal. A proposed Order is concurrently submitted through the ECF system.

Date: June 20, 2024

Respectfully submitted,

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