

**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 REPLY 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 Reply 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' Reply"), and the following exhibits, under seal:

Exhibit BB – Excerpt of Deposition Transcript of Nigel Andrew Jones, dated May 3, 2024;

Exhibit CC – Third party component and code document, produced as QCNEOWIRELESS3034_0000009.

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

Both Defendants’ Reply and the Sealed Exhibits contain highly confidential information regarding 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 (ECF Nos. 125, 126) entered in this case. Additional information about the particular privacy interests that apply to Defendants’ Reply 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 technical and business information designated Confidential, Highly Confidential – Attorneys’ Eyes Only, or Outside Attorneys’ Eyes Only by a third party. 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' Reply 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: August 1, 2024

Respectfully submitted,

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