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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HUAWEI TECHNOLOGIES, CO, LTD, et al.,

Plaintiffs,

v.

SAMSUNG ELECTRONICS CO, LTD., et al.,

Defendants.

Case No. [3:16-cv-02787-WHO](#)

ORDER ON PENDING MOTIONS TO SEAL

Re: Dkt. Nos. 327, 331, 333, 334, 347, 349, 355, 357, 369, 371, 375, 378, 396, 398, 428, 430

Currently before me are numerous administrative motions for leave to file under seal various portions of pleadings and exhibits submitted in support of and in opposition to the parties' (1) cross-motions for summary judgment, (2) motions to strike and exclude, and (3) *Daubert* motions.

In an Order dated September 25, 2018, I directed the parties to file one consolidated chart identifying the specific, narrowly tailored information they sought to seal by specific docket and sub-docket number (*e.g.*, ECF Dkt. No. 384-2) and then by page/line or paragraph number. Order on Motions for Summary Judgment, *Daubert* Motions, Motions to Strike and Exclude ("9/25/18 Order") [Dkt. No. 419 [redacted]] 92–93. I directed that the chart must also identify the specific portion of a declaration where a person with knowledge demonstrated compelling reasons to justify sealing that specific piece of information, including the harm that public disclosure would cause. I provided guidance with examples of what information would and would not be sealable under the compelling reasons standard. *See Ctr. for Auto Safety v. Chrysler Group, LLC*, 809 F.3d 1092, 1101 (9th Cir. 2016). Finally, I ordered the parties to identify matters that could be wholly unsealed with the same degree of specificity.

Parties submitted a joint chart on October 15, 2018. Dkt. No. 420. Their amended

United States District Court
Northern District of California

1 requests reflect a reduction in both the number of docket entries and the number of redactions
2 within documents.

3 The parties have filed two substantive motions since submitting their joint chart, one of
4 which I have addressed. *See* Order on Samsung’s Motion for Clarification [Dkt. No. 432]. I will
5 resolve the related motions to seal at the end of this Order. *See infra* Section I.E – Later-
6 Submitted Requests.

7 For the reasons set forth below, I will grant¹ in part and deny in part the parties’ requests.

8 **I. INFORMATION THE PARTIES WISH TO KEEP UNDER SEAL**

9 **A. Technical Product Information Including Source Code**

10 In my September 25, 2018 Order I advised the parties, “Descriptions of confidential
11 functions of accused products, including references to the contents of source code are sealable, if
12 those functions or portions of source code are not otherwise obvious, expected, or publicly
13 known.” 9/25/18 Order 93. Huawei, Samsung, Qualcomm, Nokia, AT&T, and T-Mobile request
14 sealing of information that they assert falls into this category.

15 Huawei seeks to seal excerpts that “reveal highly confidential technical details about
16 Huawei’s products accused of patent infringement in this case, including schematics and source-
17 code level implementation details.” Declaration of Xiaowu Zhang (“Zhang Decl.”) [Dkt. No. 420-
18 1] ¶ 5. This information is not publicly known, and Huawei “has implemented strict measures to
19 protect [its] confidentiality.” *Id.* Public disclosure would allow Huawei’s competitors to use the
20 information to improve their competing products. *Id.*

21 Samsung seeks to seal excerpts that “reveal highly confidential technical information,”
22 including “descriptions of the source code . . . and how that source code operates, as well as the
23 network functionality . . . and the testing performed on the accused Samsung products.”
24 Declaration of Hojin Chang (“Chang Decl.”) [Dkt. No. 421] ¶ 6. This information is not publicly
25 known, and Samsung maintains it as a trade secret. *Id.* Public disclosure would harm Samsung by
26

27 _____
28 ¹ The parties should note that just because I agree to seal information at this juncture does not necessarily
29 mean it will remain sealable at trial, particularly if it is key to the public’s ability to understand the case and

1 allowing its competitors to improve their competing products without expending the same time
2 and resources. *Id.*

3 Qualcomm seeks to seal excerpts that “contain references [to] and discussion of
4 Qualcomm’s confidential information and confidential source code.” Declaration of Matthew
5 Dobbins (“Dobbins Decl.”) [Dkt. No. 366-2] ¶ 3. Qualcomm carefully guards this information,
6 and public disclosure would cause it significant competitive injury. *Id.*

7 Nokia seeks to seal sensitive business information “including technical information that
8 has not been publicly disclosed, discussions regarding patent procurement practices, and details
9 regarding its relationships with business partners.” Declaration of Ryan Koppelman (“Koppelman
10 Decl.”) [Dkt. No. 346] ¶ 2. Public disclosure of this confidential information would give an
11 advantage to Nokia’s competitors.² *Id.* ¶ 3.

12 AT&T and T-Mobile seek to seal confidential information about their respective LTE
13 communication networks. Declaration of Beth Crowder (“Crowder Decl.”) [Dkt. No. 400] ¶ 5;
14 Declaration of Paula Phillips (“Phillips Decl.”) [Dkt. No. 400] ¶ 4. Disclosure of this information
15 would cause them harm because they would not have the same insight into others’ networks.
16 Crowder Decl. ¶ 5; Phillips Decl. ¶ 4.

17 There are compelling reasons to seal the information falling into this category. The
18 parties’ requests and my orders are as follows:

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² Nokia also notes that I granted a prior motion to seal similar confidential information. Koppelman Decl. ¶ 4. That motion was subject only to the good cause standard, whereas this one is subject to the compelling justification standard. *See* Dkt. No. 188.

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 327-8 Huawei's MSJ	Huawei: yellow-highlighted portions (page 14, lines 1-11, table; page 18, lines 1-27 and Figure 8; page 19, lines 1-7 including Figure, footnote 13) Samsung: green-highlighted portions on page 9, line 16; page 14, table Qualcomm: blue-highlighted portions (page 14, table; page 19, lines 8-22)	Confidential product details and source code	GRANTED
Dkt. 327-46 McBride Decl., Exh. 26 (deposition)	Huawei: the redacted portions on pages 68-69	Descriptions of product functions	GRANTED
Dkt. 327-47 McBride Decl., Exh. 27 (expert report)	Huawei: the redacted portions on pages 126-27; 141-46, including all of Figure 8 on page 144 and Figure 3 on page 145; 155; 157; 158, including all of Figure 8; 159, including all of Figure 3; 160-62; 222-23; 232; 234; 274) Qualcomm: blue-highlighted portions on pages 146-47, 155, 162-63	Source code and confidential product functions	GRANTED
Dkt. 327-49 McBride Decl., Exh. 29 (quantization coefficients)	Huawei: page 3, entire page Samsung: page 1, entire page Qualcomm: page 2, entire page	Exact values of quantization coefficients	GRANTED
Dkt. 327-51 McBride Decl., Exh. 36 (expert report)	Huawei: yellow-highlighted portions (pages 119, 167-71, 180-83) Qualcomm: blue-highlighted portions on pages 171-74, 183-87	Detailed descriptions of source code	GRANTED
Dkt. 327-52 McBride Decl., Exh. 37 (deposition)	Huawei: yellow-highlighted portions (pages 233, 237, 282)	Discussions of product functions	GRANTED
Dkt. 327-55 McBride Decl., Exh. 41 (expert report)	Huawei: yellow-highlighted portions (pages 141-43) Qualcomm: blue-highlighted portions (pages 148-49)	Confidential product functions and source code	GRANTED

Document	Requesting Party and Portion to be Sealed	Description of Contents	Court Ruling
Dkt. 327-56 McBride Decl., Exh. 42 (expert report)	Huawei: yellow-highlighted portions (pages 56-57) Qualcomm: blue-highlighted portions (page 60)	Confidential product functions and source code	GRANTED
Dkt. 327-4 Huawei's Daubert Motion on Technical Issues	Huawei: yellow-highlighted portions (page 20, line 27 to page 21 line 1; page 25, lines 1-6) Samsung: green-highlighted portion on page 16, line 5 (between "standard" and "they are not") Qualcomm: blue-highlighted portions (page 20, lines 25-27; page 25, lines 7-11)	Quoting expert discussions of confidential product features	GRANTED
Dkt. 327-10 McBride Decl., Exh. 2 (expert report)	Samsung: Page 55, paragraph 118; page 63, the last sentence of paragraph 136, paragraph 138, footnote 3; page 66, paragraph 145; page 69, paragraphs 150-51; page 74, paragraph 162; page 77, paragraphs 169-70	Confidential product functions and source code	GRANTED
Dkt. 327-14 McBride Decl., Exh. 11 (expert report)	Huawei: yellow-highlighted portions (pages 165, 166-68 including Figure 8 and Figure 3, 170-76 including Figure 8, Figure 19, and Figure 21, 179-84 including Figure 8 and Figure 3) Qualcomm: blue-highlighted portions (pages 163, 168-69, 177, 184-85)	Specific descriptions of source code and product functionality, including figures	GRANTED
Dkt. 327-15 McBride Decl., Exh. 12 (expert report)	Huawei: yellow-highlighted portions (pages 36, 203-05, 246) Qualcomm: blue-highlighted portions (pages 205-07, 246-47)	Detailed descriptions of source code along with features and functionality of accused products	GRANTED

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