

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
Miami Division

Case No. 1:16-cv-25210-DPG

SONY CORPORATION,)
)
Plaintiff,)
)
v.)
)
FUJIFILM HOLDINGS CORPORATION,)
FUJIFILM CORPORATION, FUJIFILM)
HOLDINGS AMERICA CORPORATION,)
and FUJIFILM RECORDING MEDIA U.S.A.,)
INC.,)
)
Defendants.)
)

**SONY’S MOTION FOR LEAVE TO FILE UNDER SEAL
CONFIDENTIAL EXHIBITS E, G, AND H TO ITS COMPLAINT**

Plaintiff Sony Corporation (“Sony”), pursuant to S.D.Fla.L.R. 5.4, hereby files this Motion for Leave to File Under Seal Confidential Exhibits E, G, and H to its Complaint. Sony states the following in support of this Motion:

Sony’s Complaint alleges infringement of U.S. Patent Nos. 7,016,137 (the “137 patent”); 6,345,779 (the “779 patent”); 6,896,959 (the “959 patent”); and 7,115,331 (the “331 patent”) (collectively, the “Asserted Patents”) by Fujifilm Holdings Corporation’s, Fujifilm Corporation’s, Fujifilm Holdings America Corporation’s, and Fujifilm Recording Media U.S.A., Inc.’s Linear Tape-Open (“LTO”) products.

Exhibits E, G, and H to the Complaint all contain highly confidential information regarding the technical specifications associated with LTO Ultrium generation five (“LTO-5”) and/or six (“LTO-6”) tape products. The commercial sensitivity of the information is such that public disclosure would precipitate significant harm not only to Sony’s competitive standing, but

also to the health of the market for LTO products more generally, and, by extension, the public. Accordingly, Sony respectfully requests that the Court grant it leave to file confidential Exhibits E, G, and H to the Complaint under seal.

The common law presumption of public access to judicial records “is not absolute.” *Newman v. Graddick*, 696 F.2d 796, 803 (11th Cir. 1983) (citing *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)). The presumption “must be considered in the balance of competing interests,” *id.* (citing *Belo Broad. Corp. v. Clark*, 654 F.2d 423 (5th Cir. 1981)), including the interest in preventing any “unfair commercial advantage,” *id.* (citing *Nixon*, 435 U.S. at 599). Whether the competing interest identified outweighs the presumption of openness “is vested in the first instance in the sound discretion of the trial court.” *See, e.g., United States v. Rosenthal*, 763 F.2d 1291, 1295 (11th Cir. 1985) (citing *Newman*, 696 F.2d at 803).

It is respectfully submitted that, here, the risk of significant competitive harm to Sony, as a participant in the LTO standard, provides compelling justification to restrict the public disclosure of the confidential Exhibits E, G, and H to Sony’s Complaint, which disclose the contents of certain LTO format specifications. If the information in the LTO format specifications were publicly disclosed, Sony could be put at a significant disadvantage relative to competing storage media manufacturers that are not participating in the LTO format. Those manufacturers could not otherwise obtain this information.

Sony respectfully requests that Exhibits E, G, and H to the Complaint remain under seal through and past the final resolution of this matter, including during any period of appeal taken by any party to this case, except as otherwise ordered by this Court or required by law.

A proposed order granting this motion is attached hereto as **Exhibit A**.

WHEREFORE, Sony respectfully requests this Court to enter an Order authorizing the filing under seal of confidential Exhibits E, G, and H to the Complaint.

Dated: December 16, 2016

Respectfully submitted,

/s/ Ana Maria Barton

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**Pro Hac Vice* to be filed

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