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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION
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13 ACER, INC., ACER AMERICA)
14 CORPORATION and GATEWAY, INC.,)
15 Plaintiffs,)
16 v.)
17 TECHNOLOGY PROPERTIES LIMITED,)
18 PATRIOT SCIENTIFIC CORPORATION,)
and ALLIACENSE LIMITED,)
19 Defendants.)

Case No. 5:08-cv-00877 PSG

**ADMINISTRATIVE MOTION FOR
LEAVE TO FILE UNDER SEAL
DEFENDANTS' CONFIDENTIAL
MARCH 13, 2013 LETTER RESPONSE
TO PLAINTIFFS' MARCH 11
LETTER TO JUDGE GREWAL**

Judge: Hon. Paul S. Grewal

1 Pursuant to Civil Local Rules 7-11(a) and 79-5(d), Defendants Technology Properties Ltd.,
2 Patriot Scientific Corporation, and Alliacense Ltd. (collectively, “TPL”) move for administrative
3 relief to file under seal: Defendants’ letter to Judge Grewal dated March 13, 2013 in response to
4 Plaintiffs’ letter to Judge Grewal dated March 11, 2013.

5 The Requested Sealed Document contains information that Acer has asserted constitutes
6 confidential information required to be filed under seal, pursuant to the Protective Order entered
7 into between the parties to this litigation. Generally, the Requested Sealed Document contains
8 information relating to documents produced by Acer including excerpts from deposition
9 transcripts designated confidential and references identifying internal designations concerning
10 the products at issue in this patent infringement case and in the case pending before the ITC.
11 The Requested Sealed Document also set forth details concerning Acer’s search for and
12 production of technical documents (including documents and information Acer designated as
13 confidential), detailed information about the respects in which Acer’s production is deficient, and
14 Acer’s failure to provide an explanation for its deficient production.

15 The Court should seal the document for which Defendants seek protection because it
16 contains confidential information. Because the public’s interest in non-dispositive motions is
17 relatively low, a party seeking to seal a document attached to a non-dispositive motion need only
18 demonstrate “good cause.” *Pintos v. Pac. Creditors Ass’n*, 605 F.3d 665, 678 (9th Cir. 2010);
19 *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006). The Court can
20 seal court documents when they contain “confidential . . . development . . . or commercial
21 information.” *Kamakana*, 447 F.3d at 1179–80 (finding “good cause” to seal documents
22 containing material protected by Fed. R. Civ. Proc. 26(c)(1)(G) (protecting trade secrets and
23 “other confidential . . . development . . . or commercial information”)).

24 Although the information in the Requested Sealed Documents was designated by Acer as
25 confidential information required to be filed under seal pursuant to the parties’ Protective Order in
26 this matter, Defendants rely on this information in their letter that responds to Acer’s March 11,
27 2013 letter. The parties’ confidentiality interest therefore overcomes the right of public access to
28 the record, as a substantial probability exists that the parties’ overriding confidentiality interest

1 will be prejudiced if the record is not sealed. Furthermore, the proposed sealing is narrowly
2 tailored and no less restrictive means exist to achieve this overriding interest, because it seeks
3 sealing of only the Requested Documents that are the subject of this motion.

4 The present motion is accompanied by: (a) the attached Declaration of James C. Otteson in
5 Support of the instant Administrative Motion for Leave to File Under Seal, and (b) a [Proposed]
6 Order. Pursuant to Local Civil Rule 79-5 (b) and (d), Defendants therefore lodge the Requested
7 Sealed Document with this Court and respectfully request leave to file the aforementioned
8 documents under seal.

9 Dated: March 13, 2013

Respectfully submitted,

10 AGILITY IP LAW, LLP

11 By: /s/ James C. Otteson
12 James C. Otteson

13 Attorneys for Defendants
14 TECHNOLOGY PROPERTIES LIMITED
and ALLIACENSE LIMITED

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ALLIACENSE LIMITED

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ACER, INC., ACER AMERICA)
CORPORATION and GATEWAY, INC.,)
Plaintiffs,)
v.)
TECHNOLOGY PROPERTIES LIMITED,)
PATRIOT SCIENTIFIC CORPORATION,)
and ALLIACENSE LIMITED,)
Defendants.)

Case No. 5:08-cv-00877 PSG

**DECLARATION OF JAMES C.
OTTESON IN SUPPORT OF TPL'S
ADMINISTRATIVE MOTION FOR
LEAVE TO FILE UNDER SEAL
DEFENDANTS' MARCH 13, 2013
LETTER RESPONSE TO PLAINTIFFS'
MARCH 11 LETTER TO JUDGE
GREWAL**

Judge: Hon. Paul S. Grewal

1 I, James C. Otteson, declare as follows:

2 1. I am an attorney licensed to practice in the State of California and am a partner
3 with the firm Agility IP Law, LLP, counsel for Defendants Technology Properties Limited
4 (“TPL”) and Alliacense Limited in this action. I have personal knowledge of the facts set forth
5 below and, if called upon to do so, could and would testify competently thereto.

6 2. TPL requests leave to file the following document under seal (“the Requested
7 Sealed Document”):

8 a. Letter dated March 13, 2013 to Judge Grewal in response to Plaintiffs’ letter
9 dated March 11, 2013 to Judge Grewal.

10 3. Generally, the Requested Sealed Document contains information relating to
11 documents produced by Acer including schematics, drawings, and other documents identifying
12 Acer’s internal designations concerning the products at issue in this patent infringement case and
13 in the case pending before the ITC. In addition, the Requested Sealed Document contains
14 information regarding Acer’s internal business information such as information regarding
15 manufacturing of its products, the source of its technical documents, identification of its
16 technical document repository, and detailed information concerning Acer’s technical documents
17 such as schematics and diagrams that Acer produced in discovery in this case and in the case
18 pending before the ITC. The Requested Sealed Document also set forth details of Acer’s search
19 for and production of technical documents (including documents and information Acer
20 designated as confidential), detailed information about the respects in which Acer’s production is
21 deficient, and Acer’s failure to provide an explanation for its deficient production

22 4. The information in the Requested Sealed Document is asserted by Acer to contain
23 confidential information required to be filed under seal pursuant to the parties’ Protective Order
24 in this action. TPL relies on this information in its March 13, 2013 letter to Judge Grewal. The
25 parties’ confidentiality interest therefore overcomes the right of public access to the record, as a
26 substantial probability exists that the parties’ overriding confidentiality interest will be
27 prejudiced if the record is not sealed. Further, the proposed sealing is narrowly tailored and no

1 less restrictive means exist to achieve this overriding interest.

2 I declare under penalty of perjury under the laws of the United States of America that the
3 foregoing is true and correct. Executed this 13th day of March 2013, at Menlo Park, California.

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5 /s/ James C. Otteson

6 James C. Otteson
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ACER, INC., ACER AMERICA)	Case Nos. 5:08-cv-00877 PSG
CORPORATION and GATEWAY, INC.,)	
)	
Plaintiffs,)	[PROPOSED] ORDER GRANTING
)	DEFENDANTS' ADMINISTRATIVE
)	MOTION FOR LEAVE TO FILE
v.)	UNDER SEAL DEFENDANTS'
)	MARCH 13, 2013 CONFIDENTIAL
TECHNOLOGY PROPERTIES LIMITED,)	LETTER RESPONSE TO PLAINTIFFS'
PATRIOT SCIENTIFIC CORPORATION,)	MARCH 11 LETTER TO JUDGE
and ALLIACENSE LIMITED,)	GREWAL
)	
Defendants.)	Judge: Hon. Paul S. Grewal
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Upon consideration of the motion and the supporting declaration of James C. Otteson filed therewith, the Court finds there to be good cause for granting TPL's request to file the following document under seal:

GOOD CAUSE having been shown, the Court also finds that:

1. The parties possess overriding confidentiality interests that overcome the right of public access to the Requested Sealed Document;
2. The parties' overriding confidentiality interests support sealing the record;
3. A substantial probability exists that the parties' overriding confidentiality interests will be prejudiced if the record is not sealed;
4. The proposed sealing is narrowly tailored; and

5. No less restrictive means exist to achieve this overriding interest.

IT IS THEREFORE ORDERED that TPL's Administrative Motion for Leave to File Under Seal Defendants' March 13, 2013 letter to Judge Grewal in response to Plaintiffs' March 11 letter to Judge Grewal is GRANTED.

IT IS SO ORDERED.

Dated: March ___, 2013

Paul S. Grewal
United States Magistrate Judge