

1 Timothy P. Walker (SBN 105001)  
timothy.walker@klgates.com  
 2 L. Howard Chen (SBN 257393)  
howard.chen@klgates.com  
 3 Harold H. Davis, Jr. (SBN 235552)  
harold.davis@klgates.com  
 4 Jas Dhillon (SBN 252842)  
jas.dhillon@klgates.com  
 5 K&L GATES LLP  
 Four Embarcadero Center, Suite 1200  
 6 San Francisco, California 94111  
 Tel: (415)882-8200  
 7 Fax: (415)882-8220

8 Jeffrey M. Ratinoff (SBN 197241)  
jeffrey.ratinoff@klgates.com  
 9 K&L GATES LLP  
 630 Hansen Way  
 10 Palo Alto, CA 94304  
 Telephone: (650) 798-6700  
 11 Facsimile: (650) 798-6701

12 Attorneys for Plaintiffs ACER INC., ACER  
 13 AMERICA CORPORATION and GATEWAY,  
 INC.

14  
 15 UNITED STATES DISTRICT COURT  
 16 NORTHERN DISTRICT OF CALIFORNIA  
 17 SAN JOSE DIVISION

18 ACER INC., ACER AMERICA  
 CORPORATION AND GATEWAY, INC.

19 Plaintiffs,

20 vs.

21 TECHNOLOGY PROPERTIES LIMITED,  
 22 PATRIOT SCIENTIFIC CORPORATION,  
 AND ALLIACENSE LIMITED,

23 Defendants.

24 AND RELATED CROSS ACTIONS.  
 25

Case No.: 5:08-CV-00877 JF

**APPLICATION TO FILE UNDER SEAL  
 EXHIBITS TO PLAINTIFFS' *EX PARTE*  
 MOTION UNDER SEAL**

Judge: Hon. Howard R. Lloyd

Complaint Filed: February 8, 2008  
 Trial Date: None

1 Pursuant to FRCP 26(b)(5)(B) and Civil Local Rules 7-11 and 79-5(d), Plaintiffs Acer Inc.,  
2 Acer America Corporation, and Gateway, Inc. (collectively, "Acer") hereby request that the Court  
3 permit them to file under seal Exhibits 6-7 to the Declaration of Jas Dhillon in support of Plaintiffs'  
4 *Ex Parte* Motion for Immediate Resolution of Dispute Over Two Allegedly Privileged Documents.

5 Acer is seeking leave to file Exhibits 6-7, two emails produced by a non-party who was privy  
6 to those communications in response to a document subpoena served by Acer, under seal. Defendant  
7 Technology Properties Limited, Inc. ("TPL") claims that these emails are privileged and subject to  
8 the common interest doctrine. Acer disputes this claim and asserts that any such privilege was  
9 waived by TPL, and even if not waived, TPL failed to provide evidence establishing that the emails  
10 were privileged in the first place.

11 Accordingly, without concurring with or conceding the appropriateness of the aforementioned  
12 claim, Acer is seeking to file with the Court sealed copies of Exhibits 6-7 pursuant to Civil L.R. 79-5  
13 and FRCP 26(b)(5)(B) to assist the Court in resolving the parties' dispute over whether such  
14 documents are privileged

15 Acer is filing TPL's materials in a manner that is narrowly tailored to protect it, while  
16 minimizing the infringement of the public's right of access to documents filed with the Court. Acer  
17 is also filing herewith Notice to Defendants of their obligation under Civil L.R. 79-5(d) to file a  
18 declaration supporting the confidentiality of the documents attached as Exhibits 6-7.

19  
20 K&L GATES LLP

21  
22 Dated: October 22, 2010

By: 

Timothy P. Walker  
L. Howard Chen  
Harold H. Davis, Jr.  
Jeffrey M. Ratinoff  
Jas Dhillon

23  
24  
25  
26 Attorneys for Plaintiffs ACER INC., ACER  
27 AMERICA CORPORATION and  
28 GATEWAY, INC.