

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	Civil Action No. 1:08 CV 1311
	)	
v.	)	
	)	
MICROSEMI CORPORATION,	)	
Defendant.	)	
	)	

**ORDER**

Before the Court is the Plaintiff’s Motion to Seal Exhibit 8 to Plaintiff’s Emergency Motion for a Temporary Restraining Order and Preliminary Injunction. Exhibit 8 consists of the schedules attached to the execution copy of the Asset Purchase Agreement between Defendant Microsemi Corporation (“Microsemi”) and Semicoa, Inc. (“Semicoa”), dated July 14, 2008. The schedules contain information regarding the assets and liabilities assumed by Microsemi as a result of its purchase of Semicoa.

Exhibit 8 was provided to the Department of Justice by Microsemi in confidence. Public disclosure of the confidential information contained in the exhibit might place the Defendant, as well as any company that may acquire assets divested as a result of this action, at a disadvantage with respect to their existing and potential competitors, who would gain access to pricing and supply information contained therein. The Court therefore finds that it is appropriate to enter an order sealing the aforementioned exhibit.

The Court has come to this conclusion mindful of the factors set forth in *Ashcraft v. Conoco, Inc.*, 218 F.3d 288, 302 (4th Cir. 2000), which mandates that before entering an order sealing documents, a district court must “(1) provide public notice of the request to seal and allow interested parties a reasonable opportunity to object, (2) consider less drastic alternatives to sealing the documents, and (3) provide specific reasons and factual findings supporting its decision to seal the documents and for rejecting the alternatives.”

Docketing the motion to seal “reasonably in advance of deciding the issue” is sufficient to provide the public notice required by *Ashcraft*. *In re Knight Publ’g Co.*, 743 F.2d 231, 235 (4th Cir. 1984). The Plaintiff has properly noticed its motion for a hearing, and this Court’s docket has been made available to the public. In addition, the Court finds that there are no less drastic alternatives to sealing the aforementioned exhibit. Redacting the competitively sensitive information from this exhibit is not an option. The Court must review the pricing and supply information contained in the exhibit in order to determine whether the Defendant’s acquisition of the assets of Semicoa has resulted in competitive harm.

For these reasons, and for good cause shown, the Plaintiff’s Motion to Seal Exhibit 8 to Plaintiff’s Emergency Motion for a Temporary Restraining Order and Preliminary Injunction is GRANTED. It is ORDERED that Exhibit 8 shall be SEALED until further order of this Court.

**SO ORDERED**, this \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE