

**International Bus. Machs. Corp. v GlobalFoundries  
U.S. Inc.**

2023 NY Slip Op 31027(U)

March 30, 2023

Supreme Court, New York County

Docket Number: Index No. 653625/2021

Judge: Joel M. Cohen

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This opinion is uncorrected and not selected for official publication.



Pursuant to § 216.1 (a) of the Uniform Rules for Trial Courts, this Court may seal a filing “upon a written finding of good cause, which shall specify the grounds thereof. In determining whether good cause has been shown, the court shall consider the interests of the public as well as of the parties” (22 NYCRR § 216.1 [a]).

The Appellate Division has emphasized that “there is a broad presumption that the public is entitled to access to judicial proceedings and court records” (*Mosallem v Berenson*, 76 AD3d 345, 348 [1st Dept 2010]). “Since the right [of public access to court proceedings] is of constitutional dimension, any order denying access must be *narrowly tailored to serve compelling objectives*, such as a need for secrecy that outweighs the public’s right to access” (*Danco Labs., Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 6 [1st Dept 2000] [emphasis added]; *see also, e.g. Gryphon Dom. VI, LLC v APP Intern. Fin. Co., B.V.*, 28 AD3d 322, 324 [1st Dept 2006]). “Furthermore, because confidentiality is the exception and not the rule, ‘the party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access’” (*Maxim, Inc. v Feifer*, 145 AD3d 516, 517 [1st Dept 2016] [citations omitted]).

The Court has reviewed the proposed sealing and/or redactions and finds that they comport with the applicable sealing standard as laid out in *Mosallem*, 76 AD3d at 348-350, and its progeny, in that they contain proprietary and highly sensitive non-public information, including the confidential terms of IBM’s relationship with both GlobalFoundries and non-party Samsung, the “disclosure [of which] could harm [the parties and/or Samsung’s] competitive standing” (*Mancheski v Gabelli Grp. Cap. Partners*, 39 AD3d 499, 502 [2d Dept 2007]).

Accordingly, it is

**ORDERED** that GlobalFoundries' motion to seal/redact (Motion Sequence 028) is **granted**; it is further

**ORDERED** that IBM's motion to seal/redact (Motion Sequence 030) is **granted**; it is further

**ORDERED** that the Clerk shall maintain the documents filed as NYSCEF Document Numbers 258, 260, 265, 273, 277, 287, 453, 460, and 479 under seal so that they may only be accessible by the parties, their counsel, and authorized court personnel; it is further

**ORDERED** that the Clerk shall maintain the documents filed as NYSCEF Document Numbers 451, 461, and 470 in their current, redacted form; it is further

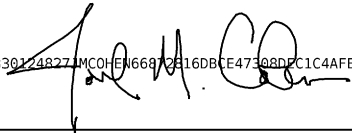
**ORDERED** that the parties refile a copy of NYSCEF Document Number 452 so that it reflects the redactions contained in NYSCEF Document Number 461. Upon refiling, the Clerk shall maintain the document in its redacted form; it is further

**ORDERED** that as it relates to future submissions, made by any party, that contain subject matter that the Court has authorized to be sealed by this Order, parties may file a joint stipulation, to be So Ordered, which will authorize the filing of such future submissions to be filed in redacted form on NYSCEF, provided that an unredacted copy of any redacted document is contemporaneously filed under seal; and it is further

**ORDERED** that nothing in this Order shall be construed as authorizing the sealing or redaction of any documents or evidence to be offered at trial.

This constitutes the Decision and Order of the Court.

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**JOEL M. COHEN, J.S.C.**

3/30/2023  
DATE

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION		
	<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/>	GRANTED IN PART		
		<input type="checkbox"/>	DENIED	<input type="checkbox"/>	OTHER	
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input type="checkbox"/>	SUBMIT ORDER		
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE