

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

2024 NY Slip Op 32524(U)

July 16, 2024

Supreme Court, New York County

Docket Number: Index No. 653625/2021

Judge: Joel M. Cohen

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

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INTERNATIONAL BUSINESS MACHINES CORPORATION,	INDEX NO.	<u>653625/2021</u>
Plaintiff,		04/19/2024, 04/19/2024, 04/19/2024,
- v -	MOTION DATE	<u>04/19/2024</u>
GLOBALFOUNDRIES U.S. INC.,		050 051 052
Defendant.	MOTION SEQ. NO.	<u>053</u>

**DECISION + ORDER ON
MOTION**

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 050) 1368, 1369, 1370, 1371, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1380, 1381, 1382, 1383, 1384, 1385, 1386, 1387, 1388, 1389, 1390, 1391, 1392, 1393, 1394, 1395, 1396, 1397, 1398, 1399, 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413, 1414, 1415, 1416, 1417, 1418, 1419, 1420, 1421, 1422, 1423, 1424, 1425, 1426, 1427, 1428, 1429, 1430, 1431, 1432, 1433, 1434, 1435, 1436, 1437, 1438, 1439, 1440, 1441, 1442, 1443, 1444, 1445, 1446, 1447, 1448, 1449, 1450, 1451, 1534

were read on this motion to SEAL/REDACT

The following e-filed documents, listed by NYSCEF document number (Motion 051) 1452, 1453, 1454, 1455, 1456, 1457, 1458, 1459, 1460, 1461, 1462, 1463, 1535

were read on this motion to SEAL/REDACT

The following e-filed documents, listed by NYSCEF document number (Motion 052) 1464, 1465, 1466, 1467, 1468, 1469, 1532, 1536

were read on this motion to SEAL/REDACT

The following e-filed documents, listed by NYSCEF document number (Motion 053) 1470, 1471, 1472, 1473, 1474, 1475, 1476, 1477, 1478, 1479, 1480, 1481, 1482, 1483, 1484, 1485, 1486, 1487, 1488, 1489, 1490, 1491, 1492, 1493, 1494, 1495, 1496, 1497, 1498, 1499, 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, 1517, 1518, 1519, 1520, 1521, 1522, 1523, 1524, 1525, 1526, 1527, 1528, 1529, 1530, 1531, 1533, 1537

were read on this motion to SEAL/REDACT

Plaintiff International Business Machines Corporation (“IBM”) seeks orders sealing and/or redacting exhibits that were filed in connection with this proceeding as NYSCEF

Document Numbers 676, 677, 678, 679, 680, 683, 684, 690, 697, 698, 699, 700, 701, 707, 720, 723, 728, 734, 736, 739, 741, 743, 751, 753, 754, 757, 759, 771, 772, 773, 775, 776, 777, 796, 818, 819, 821, 839, 999, 1002, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1380, 1381, 1382, 1383, 1384, 1385, 1386, 1387, 1388, 1389, 1390, 1391, 1392, 1393, 1394, 1395, 1396, 1397, 1398, 1399, 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413, 1414, 1415, 1416, 1417, 1418, 1419, 1420, 1421, 1422, 1423, 1424, 1425, 1426, 1427, 1428, 1429, 1430, 1431, 1432, 1433, 1434, 1435, 1436, 1437, 1438, 1439, 1440, 1441, 1442, 1443, 1444, 1445, 1446, 1447, 1448, 1449, 1450, and 1451 (MS 050); and 761, 762, 765, 766, 1456, 1457, 1458, and 1459 (MS 051) (the “IBM Documents”). In addition, Defendant GlobalFoundries, U.S. Inc. (“GF”) seeks orders sealing and/or redacting exhibits that were filed in connection with this proceeding as NYSCEF Document Numbers 952, 961, and 1467 (MS 052); and 760, 763, 764, 781, 798, 801, 817, 820, 826, 833, 842, 843, 846, 848, 1007, 1171, 1172, 1173, 1175, 1185, 1186, 1194, 1195, 1203, 1208, 1209, 1210, 1211, 1221, 1473, 1474, 1475, 1476, 1477, 1478, 1479, 1480, 1481, 1482, 1483, 1484, 1485, 1486, 1487, 1488, 1489, 1490, 1491, 1492, 1493, 1494, 1495, 1496, 1497, 1498, 1499, 1500, and 1501 (MS 053) (the “GF Documents”; together with the IBM Documents, the “Subject Documents”). For the following reasons, all four motions are **granted**.

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 targeted redactions of the Subject Documents, 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 the redacted information contains sensitive and confidential business and financial information. Further, these Exhibits are properly sealed and/or redacted to the extent they contain nonpublic information about confidential contracts or agreements with non-parties (*Mancheski v Gabelli Grp. Capital Partners*, 39 AD3d 499, 502 [2d Dept 2007] [“[D]isclosure could impinge on the privacy rights of third parties who clearly are not litigants herein[.]”]).

Accordingly, it is

ORDERED that all four motions to seal/redact the Exhibits are **granted** in their entirety such that the parties may file and maintain redacted copies of the documents on the docket consistent with the targeted redactions proposed in connection with the motions, and the unredacted copies shall be sealed on the docket; it is further

ORDERED that the County Clerk shall maintain the unredacted documents filed as NYSCEF Document Numbers 676, 677, 678, 679, 680, 683, 684, 690, 697, 698, 699, 700, 701, 707, 720, 723, 728, 734, 736, 739, 741, 743, 751, 753, 754, 757, 759, 771, 772, 773, 775, 776, 777, 796, 818, 819, 821, 839, 999, 1002, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1380, 1381, 1382, 1383, 1384, 1385, 1386, 1387, 1388, 1389, 1390, 1391, 1392, 1393, 1394, 1395, 1396, 1397, 1398, 1399, 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, and 1411 (MS 050); 761, 762, 765, 766, 1456, 1457, 1458, and 1459 (MS 051); 952, 961, and 1467 (MS 052); and 760, 763, 764, 781, 798, 801, 817, 820, 826, 833, 842, 843, 846, 848, 1007, 1171, 1172, 1173, 1175, 1185, 1186, 1194, 1195, 1203, 1208, 1209, 1210, 1211, 1221, 1473, 1474, 1475, 1476, 1477, 1478, 1479, 1480, 1481, 1482, 1483, 1484, 1485, 1486, 1487, 1488, 1489, 1490, 1491, 1492, 1493, 1494, 1495, 1496, 1497, 1498, 1499, 1500, and 1501 (MS 053) under seal, so that the documents may be accessible by the parties, their counsel, and authorized court personnel; and it is further

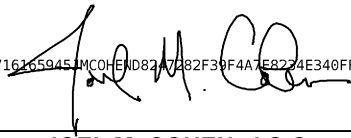
ORDERED that the exhibits filed as NYSCEF Document Numbers 1412, 1413, 1414, 1415, 1416, 1417, 1418, 1419, 1420, 1421, 1422, 1423, 1424, 1425, 1426, 1427, 1428, 1429, 1430, 1431, 1432, 1433, 1434, 1435, 1436, 1437, 1438, 1439, 1440, 1441, 1442, 1443, 1444, 1445, 1446, 1447, 1448, 1449, 1450, and 1451 (MS 050) be permitted to remain on the docket in redacted form; it is further

ORDERED that, to the extent they have not already done so, the parties shall upload redacted copies to NYSCEF of the documents which are the subject of this motion; it is further

ORDERED that nothing in this Decision and Order shall be construed as sealing documents or testimony to be admitted at trial; and it is further

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

This constitutes the Decision and Order of the Court.


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JOEL M. COHEN, J.S.C.

7/16/2024

DATE

CHECK ONE:

<input type="checkbox"/>	CASE DISPOSED	
<input checked="" type="checkbox"/>	GRANTED	<input type="checkbox"/> DENIED
<input type="checkbox"/>	SETTLE ORDER	
<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	

<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION	
<input type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/> OTHER
<input type="checkbox"/>	SUBMIT ORDER	
<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE

APPLICATION:

CHECK IF APPROPRIATE: