

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

ABBOTT DIABETES CARE INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. _____
	)	
DEXCOM, INC.,	)	
	)	
Defendant.	)	

**PLAINTIFF’S MOTION FOR LEAVE TO FILE  
COMPLAINT UNDER SEAL**

Plaintiff Abbott Diabetes Care Inc. (“ADC”), by and through its undersigned attorneys, hereby seeks leave to file its Complaint and the exhibits thereto in this matter under seal.

In support of this motion, Plaintiff states as follows:

1. This is a civil action against defendant DexCom, Inc. (“DexCom”) for breach of contract and breach of the implied covenant of good faith and fair dealing relating to a settlement and license agreement between the parties, and for a declaratory judgment of non-infringement of certain patents due to license and exhaustion.

2. The Complaint, among other things, contains detailed allegations relating to, and cites specific provisions of, the parties’ confidential July 2014 Settlement and License Agreement (“SLA”). The SLA is attached as Exhibit B to the Complaint. The SLA contains provisions which, with certain exceptions, require the parties to keep the terms confidential.

3. The presumption of public access is overcome where the material sought to be protected is (1) “the kind of information that courts will protect[.]” and (2) “disclosure will work a clearly defined and serious injury to the party seeking closure.” *In re Cendant Corp.*, 260 F.3d 183, 194 (3d Cir. 2001) (internal quotation marks and citations omitted). If ADC disclosed

confidential information protected by the SLA, DexCom might claim that ADC breached the SLA. Moreover, the Complaint includes certain confidential details regarding the manufacture and distribution arrangements for ADC's FreeStyle Libre products. ADC therefore seeks leave to file its Complaint and exhibits thereto under seal. *See Littlejohn v. Bic Corp.*, 851 F.2d 673, 677-78 (3d Cir. 1988) (recognizing that the right of access to judicial proceedings and records "is not absolute" and stating that "[c]ourts may deny access to judicial records, for example, where they are sources of business information that might harm a litigant's competitive standing."); *Leucadia v. Applied Extrusion Techs., Inc.*, 998 F.2d 157, 166 (3d Cir. 1993) ("Documents containing trade secrets or other confidential business information may be protected from disclosure.").

4. ADC will file a public version of the Complaint, with the confidential information redacted, within seven days of this motion being granted.

WHEREFORE, for the foregoing reasons, ADC respectfully requests leave to file its Complaint and exhibits thereto in this matter under seal.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

OF COUNSEL:

*/s/ Jack B. Blumenfeld*

Edward A. Mas II  
Leland G. Hansen  
James M. Hafertepe  
Sharon A. Hwang  
Michael J. Carrozza  
Manuela Cabal  
MCANDREWS, HELD & MALLOY, LTD.  
500 West Madison Street, 34th Floor  
Chicago, IL 60661  
(312) 887-8000

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Jack B. Blumenfeld (#1014)  
Rodger D. Smith II (#3778)  
Anthony D. Raucci (#5948)  
1201 North Market Street  
P.O. Box 1347  
Wilmington, DE 19899  
(302) 658-9200  
jblumenfeld@morrisnichols.com  
rsmith@morrisnichols.com  
araucci@morrisnichols.com

Ellisen Shelton Turner  
KIRKLAND & ELLIS LLP  
2049 Century Park East, Suite 3700  
Los Angeles, CA 90067  
(310) 552-4200

*Attorneys for Plaintiff Abbott Diabetes Care Inc.*

Amanda J. Hollis  
KIRKLAND & ELLIS LLP  
300 North LaSalle  
Chicago, IL 60654  
(312) 862-2000

Benjamin A. Lasky  
KIRKLAND & ELLIS LLP  
601 Lexington Avenue  
New York, NY 10022  
(212) 446-4800

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