

No. 21-16029

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

NEO4J, INC., NEO4J SWEDEN AB,

Plaintiffs-Appellees,

v.

PURETHINK, LLC, iGOV, INC., JOHN MARK SUHY,

Defendants-Appellants.

On Appeal from the United States District Court
For the Northern District of California
No. 5:18-cv-07182-EJD
Hon. Edward J. Davila

**JOINDER IN APPELLANTS' MOTION TO FILE PORTIONS OF THEIR
EXCERPTS OF RECORD UNDER SEAL**

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DISCLOSURE STATEMENT

Pursuant to FRAP 26.1, the undersigned, counsel of record for Neo4j, Inc. (“Neo4j”) certifies that Neo4j, Inc., as of this date, does not have a parent corporation and that no publicly held corporation holds 10% or more of its stock.

The undersigned, counsel of record for Neo4j Sweden AB (“Neo4j Sweden”) certifies that Neo4j, Inc., as of this date, is the parent corporation of Neo4j Sweden and that no publicly held corporation holds 10% or more of Neo4j Sweden’s stock.

Date: August 26, 2021

HOPKINS & CARLEY
A Law Corporation

/s/ Jeffrey M. Ratinoff

Allonn E. Levy, Esq.
Jeffrey M. Ratinoff, Esq.

Attorneys for Appellees
Neo4j, Inc. and Neo4j Sweden AB

INTRODUCTION

Appellees join Appellants' Motion to File Portions of Their Excerpts of Record Under Seal ("Joint Motion") and provide additional information to comply with Circuit Rule 27-13(e). Specifically, Appellees seek to seal ten documents, previously sealed by the lower court, on the ground that compelling reasons outweigh the public's interest in disclosure. These ten documents are located at 10-ER-2191-2259; 10-ER-2350-2364; 10-ER-2371-2374 and 11-ER-2413-2430 (occasionally the "ten identified documents"). Appellees take no position on the remainder of Appellants' provisionally sealed documents, located at 10-ER-2260-2349; 10-ER-2365-2370; 10-ER-2375-2412 and 11-ER-2431-2496.

ARGUMENT

COMPELLING REASONS JUSTIFY THE CONTINUED SEALING OF THE TEN IDENTIFIED DOCUMENTS IN APPELLANTS' EXCERPTS OF RECORD.

There is a presumption of public access to judicial records and documents. *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003). However, that presumption can be overcome where a party demonstrates "compelling reasons" to seal judicial records. *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006). Compelling reasons arise when judicial records can serve as "a vehicle for improper purposes" such as "harm[ing] a litigant's competitive standing." *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589,

598 (1978). Examples of compelling reasons to seal records include the potential release of business information that might harm a party's competitive strategy, pricing, profits, and customer usage information kept confidential by a company that could be used to the company's competitive disadvantage. *See Apple Inc. v. Samsung Elecs. Co.*, 727 F.3d 1214, 1225-29 (Fed. Cir. 2013) (clarifying that litigants have the "right to access [the] courts upon terms which will not unduly harm their competitive interest"); *In re Elec. Arts, Inc.*, 298 F.App'x 568, 569 (9th Cir. 2008) (noting "'the common-law right of inspection has bowed before the power of a court to insure that its records are not used ... as sources of business information that might harm a litigant's competitive standing'"') (quoting *Nixon*, 435 U.S. at 598).

Here, Appellees seek to maintain under seal the ten identified documents which the lower court previously ordered sealed due to "compelling overriding confidentiality interests that have overcome the right of public access to the record". Declaration of Jeffrey M. Ratinoff in support of Joint Motion ("Ratinoff Sealing Decl."), ¶ 2, Exh. 1. There continues to be a compelling basis to seal these documents because they contain proprietary business information that is still highly confidential. Disclosure could cause substantial and irreparable competitive harm to Appellees. *See Apple Inc.*, 727 F.3d at 1225 (recognizing that parties could suffer competitive harm if confidential product-specific financial

information was disclosed); *In re Elec. Arts, Inc.*, 298 F. App'x at 570 (explaining that disclosure of petitioner's "pricing terms, royalty rates, and guaranteed minimum payment terms" could cause irreparable damage because it was "not correctable on appeal").

In particular, Appellees are seeking to maintain under seal **Exhibits 6, 7, 27 and 126** to the Declaration of Jeffrey M. Ratinoff in support of Plaintiffs' Motion for Summary Judgment, which are located at 10-ER-2350-2352, 10-ER-2353-2357, 2-ER-294-300 (public version)/10-ER-2358-2364 (provisionally sealed version) and 10-ER-2371-2374. Appellees also seek to redact from the public filings the following portions of Plaintiffs' Memorandum of Points and Authorities in support of its Motion for Summary Judgment that pull from these documents: (a) **Page 6, Lines 9-11** (citing Exhibit 6) and (b) **Page 6, Lines 14-15** (citing Exhibit 7). The redacted, public, version of this document is located at 2-ER-126-161 and the un-redacted version (portions of which should remain sealed) is found at 10-ER-2191-2248.

As detailed in the Declaration of Philip Rathle ("Rathle Sealing Decl.") in support of this Joint Motion, these materials contain Appellees' highly confidential and commercially sensitive information regarding Neo4j, Inc.'s pricing, business model and strategy for securing customer contracts and confidential details of customer relationships and preferences. Rathle Sealing Decl., ¶¶ 3(a)-(d). The

disclosure of this confidential information would substantially and irreparably harm Neo4j, Inc.'s competitive standing in the marketplace, provide competitors with information that could be used to obtain a competitive advantage over Neo4j, Inc. and damage its customer relationships. *Id.*

Appellees also seek to maintain under seal **Exhibits 12 and 13** to the Declaration of John Broad in support of Plaintiffs' Motion for Summary Judgment, which are located at 10-ER-2249-2256 and 10-ER-2257-2259. These exhibits contain commercially sensitive and highly confidential information regarding the structure and amount of licensing and subscription fees for Neo4j® Enterprise Edition, as well as pricing and discounting information. Rathle Sealing Decl., ¶¶ 4(a)-(b). They also reveal specific and detailed proprietary information concerning Appellees' software features, subscription models, professional service offerings and marketing strategy. *Id.* Appellees consider this information to be highly confidential, competitively sensitive, and take significant precautions to ensure that this type of information is not publicly disclosed. *Id.*, ¶ 6. The disclosure of this information would expose Neo4j, Inc. to substantial and irreparable competitive harm by providing competitors, including Appellants, with information that could be used to obtain a competitive advantage over Neo4j, Inc. and potentially damage its actual and potential customer relationships. *Id.*, ¶¶ 4(a)-(b).

Appellees also seek to maintain under seal **Exhibits 1, 2 and 7** to the

Declaration of Adron Beene in support of Defendants' Consolidated Opposition and Motion for Summary Judgment, which are located at 11-ER-2413-2428, 11-ER-2429 and 11-ER-2430. The reasons for each are analyzed below:

Exhibit 1 is a highly confidential Amended and Restated License Agreement between Neo4j, Inc. and Neo4j Sweden AB. This intercompany agreement contains proprietary information and non-public royalty rate information relating to the business and financial relationship between Neo4j, Inc., and its wholly-owned subsidiary, Neo4j Sweden AB. Rathle Sealing Decl., ¶ 5(a).

Exhibit 2 is a highly confidential report of royalties paid by Neo4j, Inc. to Neo4j Sweden AB under the aforementioned Amended and Restated License Agreement. This report contains non-public proprietary financial information, including the cost of goods and royalty payments. Rathle Sealing Decl., ¶ 5(b).

Exhibit 7 is an email exchange between Neo4j, Inc. employees. It includes confidential and proprietary information that relates to Neo4j, Inc.'s business model and licensing strategy for government contracts for the Neo4j® Platform for which they compete against Appellants. Rathle Sealing Decl., ¶ 5(c).

Public disclosure of **Exhibits 1, 2 and 7** would substantially and irreparably harm Appellees' competitive standing in the marketplace by providing competitors with information that could be used to obtain a competitive advantage over Neo4j, Inc. Enabling Appellees' competitors to gain insight into their finances and

profitability could potentially damage its relationships with actual and potential customers. *See, e.g., In re Elec. Arts, Inc.*, 298 F. App'x at 569 (granting petition to seal documents containing “pricing terms, royalty rates, and guaranteed minimum payment terms”); Rathle Sealing Decl., ¶ 5(a)-(c).

Finally, this Joint Motion represents the least restrictive scope of sealing possible: Appellees have taken steps to minimize the number of sealed and redacted Excerpts of Record, which consists of Appellees’ highly confidential and competitively sensitive information. Therefore, Appellees are only seeking to seal their information that was sealed by the trial court, which makes up a small fraction of the entire record on appeal, and to redact only five lines of Plaintiffs’ Memorandum of Points and Authorities in support of its Motion for Summary Judgment filed in the lower court. 2-ER-126-161 (public version)/10-ER-2191-2248 (provisionally sealed version); Ratinoff Sealing Decl., ¶ 3. As a result, Plaintiffs’ request is narrowly tailored to seek sealing only of relevant and sealable material, and is the least restrictive means of preserving the confidentiality of the foregoing and preventing substantial competitive harm to Neo4j, Inc. while balancing the public’s right of access to the Court’s records. *Id.* For these reasons, Appellees respectfully request the Court grant the pending Motion to File Portions of The Excerpts of Record Under Seal as to these ten documents.

In sum, because these documents can serve as potential vehicles for

improper purposes that could cause irreparable harm to Appellees, compelling reasons exist to seal each of the 10 identified documents. *See In re Elec. Arts, Inc.*, 298 F. App'x at 570 (ordering the lower court to seal documents that might harm a litigant's competitive standing because disclosure could create a vehicle for improper purposes); *Apple Inc.*, 727 F.3d at 1225-29 (finding that the district court abused its discretion by refusing to seal confidential marketing and financial information).

CONCLUSION

Accordingly, Appellees respectfully request that the Court grant the pending Motion to File Portions of The Excerpts of Record Under Seal with respect to the ten identified documents because compelling reasons justify the continued sealing of those documents. Appellees take no position with respect to the balance of the provisionally sealed documents.

Respectfully Submitted,

HOPKINS & CARLEY,
A Law Corporation

Dated: August 26, 2021

/s/ Jeffrey M. Ratinoff

Allonn E. Levy Eq.
Jeffrey M. Ratinoff, Esq.

Attorneys for Appellees
Neo4j, Inc. and Neo4j Sweden AB

CERTIFICATE OF COMPLIANCE

I hereby certify that this motion complies with the type-volume limitations of FED. R. APP. P. 27(d)(2)(A) because this motion contains 1,675 words, excluding the parts of the motion exempted by FED. R. APP. P. 32(f).

This motion complies with the typeface requirements of FED. R. APP. P. 32(a)(5) and the type style requirements of FED. R. APP. P. 32(a)(6) because this motion has been prepared in a proportionately spaced typeface using Microsoft Word in 14-point Times New Roman font.

Date: August 26, 2021

HOPKINS & CARLEY
A Law Corporation

/s/ Jeffrey M. Ratinoff

Allonn E. Levy, Esq.
Jeffrey M. Ratinoff, Esq.

Attorneys for Appellee
Neo4j, Inc. and Neo4j Sweden AB

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on August 26, 2021. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Date: August 26, 2021

HOPKINS & CARLEY
A Law Corporation

/s/ Jeffrey M. Ratinoff

Allonn E. Levy, Esq.
Jeffrey M. Ratinoff, Esq.

Attorneys for Appellee
Neo4j, Inc. and Neo4j Sweden AB

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NEO4J, INC., NEO4J SWEDEN AB,

Plaintiffs-Appellees,

v.

PURETHINK, LLC, iGOV, INC., JOHN MARK SUHY,

Defendants-Appellants.

On Appeal from the United States District Court
For the Northern District of California

No. 5:18-cv-07182-EJD

Hon. Edward J. Davila

**DECLARATION OF JEFFREY M. RATINOFF IN SUPPORT OF
APPELLEES' JOINDER IN APPELLANT'S MOTION TO FILE
PORTIONS OF THEIR EXCERPTS OF RECORD UNDER SEAL**

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Attorneys for Appellees
Neo4j, Inc. and Neo4j Sweden AB

I, Jeffrey M. Ratinoff, declare as follows:

1. I am an attorney at law, duly licensed to practice before all courts of the State of California and am admitted in the United States Court of Appeals for the Ninth Circuit. I am of counsel at Hopkins & Carley, a Law Corporation, attorneys of record for Neo4j, Inc. and Neo4j Sweden AB (collectively “Appellees”) in the above-captioned matter. I make this declaration in Support of Appellees’ Joinder in Appellants’ Motion to File Portions of Their Excerpts of Record Under Seal.

2. On May 18, 2021, during the judicial proceedings of the trial court, the Honorable Edward J. Davila granted Plaintiffs’ Administrative Motion to File Portions of Plaintiffs’ Motion for Summary Judgment and Exhibits to Supporting Declarations Under Seal, which covered the documents that Appellees are seeking to maintain under seal with this Court. Attached hereto as **Exhibit 1** is a true and correct copy of Judge Davila’s Order.

3. Appellees have taken affirmative steps to minimize the number of sealed and redacted Excerpts of Record, which consists of their highly confidential and competitively sensitive information. Therefore, Appellees are only seeking to seal their information that was sealed by the trial court, which makes up a small fraction of the entire record on appeal, and to redact only five lines of Plaintiffs’ Memorandum of Points and Authorities in support of its Motion for Summary

Judgment filed in the lower court (2-ER-126-161). I believe that this request is narrowly tailored to only seek the sealing of confidential and proprietary material that must be sealed to prevent substantial competitive harm to Appellees, while at the same time taking into account the public's right of access to the Court's records.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on this 26th day of August 2021, at San Jose, California.

/s/ Jeffrey M. Ratinoff

Jeffrey M. Ratinoff

EXHIBIT 1

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9 Attorneys for Plaintiffs and Counter-Defendants
NEO4J, INC. and NEO4J SWEDEN AB

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

12 NEO4J, INC., a Delaware corporation, and
13 NEO4J SWEDEN AB, a Swedish
corporation,

14 | Plaintiffs,

15 || v.

16 PURETHINK LLC, a Delaware limited
17 liability company, IGOV INC., a Virginia
corporation, and JOHN MARK SUHY, an
individual,

Defendants.

20 AND RELATED COUNTERCLAIM.

21 NEO4J, INC., a Delaware corporation, and
22 NEO4J SWEDEN AB, a Swedish
corporation,

25 Plaintiffs,

24

25 GRAPH FOUNDATION, INC., an Ohio
26 corporation, GRAPHGRID, INC., an Ohio
27 corporation, and ATOMRAIN INC., a
Nevada corporation.

28 Defendants.

CASE NO. 5:18-CV-07182-EJD

[PROPOSED] ORDER RE PLAINTIFFS' ADMINISTRATIVE MOTION TO FILE PORTIONS OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND EXHIBITS TO SUPPORTING DECLARATIONS UNDER SEAL

CASE NO. 5:19-CV-06226-EJD

Now before the Court is Plaintiffs Neo4j, Inc. and Neo4j Sweden AB's (collectively "Plaintiffs") Administrative Motion to File Portions of and Exhibits to Plaintiffs' Motion for Summary Judgment and Supporting Declarations Under Seal ("Administrative Motion"). Having considered the Administrative Motion and all papers submitted by Plaintiffs in support of the Administrative Motion and good cause appearing, the Court finds that:

1. There exists a compelling overriding confidentiality interests that have overcome the right of public access to the record of the following documents, and there is therefore good cause to file the documents under seal:

2.

Identification of Materials to be Sealed	Designating Party Information
Redactions to Plaintiffs' Memorandum of Points and Authorities in support of Consolidated Motion for Summary Judgment at 6:9-11 and 6:14-15.	Neo4j, Inc. and Neo4j Sweden AB's (collectively "Plaintiffs") containing confidential information drawn from Exhibits 6 and 7 to the Ratinoff MSJ Decl.
Declaration of Jeffrey M. Ratinoff in Support of Plaintiffs' Consolidated Motion for Summary Judgment ("Ratinoff MSJ Decl.") at ¶ 8, Exhibit 6 in its entirety.	Plaintiffs' private, confidential, and commercially sensitive business information
Ratinoff MSJ Decl. at ¶ 9, Exhibit 7 in its entirety.	Plaintiffs' private, confidential, and commercially sensitive business information
Ratinoff MSJ Decl. at ¶ 29, portions of Exhibit 27 from Bates stamp IGOV00000298.0002-IGOV00000298.0006	Plaintiffs' private, confidential, and commercially sensitive business information
Ratinoff MSJ Decl. at ¶ 128, Exhibit 126 in its entirety.	Plaintiffs' private, confidential, and commercially sensitive business information
Declaration of John Broad in Support of Plaintiff's Consolidated Motion for Summary Judgment ("Broad MSJ Decl.") at ¶ 8, Exhibit 3 in its entirety.	Plaintiffs' contractual obligation owed to third party copyright holder

1	Broad MSJ Decl. at ¶ 22, Exhibit 12 in its entirety.	Plaintiffs' private, confidential, and commercially sensitive business information
4	Broad MSJ Decl. at ¶ 23, Exhibit 13 in its entirety.	Plaintiffs' private, confidential, and commercially sensitive business information

7 3. A substantial probability exists that overriding confidentiality interests will be
8 prejudiced if the record is not sealed;
9 4. The proposed sealing is narrowly tailored; and
10 5. No less restrictive means exist to achieve these overriding interests.

11 IT IS THEREFORE ORDERED that Plaintiffs' Administrative Motion is GRANTED
12 with respect to the documents set forth above.

13 **IT IS SO ORDERED.**

14
15 Dated: May 18, 2021



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Honorable Edward J. Davila

No. 21-16029

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PURETHINK, LLC, iGOV, INC., JOHN MARK SUHY,

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**DECLARATION OF PHILIP RATHLE IN SUPPORT OF APPELLEES'
JOINDER IN APPELLANTS' MOTION TO FILE PORTIONS OF THEIR
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Attorneys for Appellees
Neo4j, Inc. and Neo4j Sweden AB

I, Philip Rathle, declare as follows:

1. I am the Vice President of Products at Neo4j, Inc. (“Neo4j USA”). I have held that position since December 2013; and prior to that, worked in a similar position as Senior Director of Products at Neo4j USA, beginning May 2012. I am responsible for product management of the Neo4j product portfolio, which includes the Neo4j® graph database platform (“Neo4j® Platform”). My responsibilities include product strategy and product roadmap, including specifying what features are to be built in successive versions of the Neo4j® Platform, as well as the design and behaviors of those features. I and my team work closely the Neo4j Product Engineering team, who are responsible for building and testing each successive version of the Neo4j® Platform, and who comprise of over 100 engineers primarily employed by Neo4j Sweden AB.

2. I submit this declaration in support of Neo4j, Inc. and Neo4j Sweden AB’s (collectively “Appellees”) Joinder in Appellants’ Motion to File Portions of Their Excerpts of Record Under Seal. The facts stated herein are based on my personal knowledge, except with respect to those matters stated to be on information and belief, and as to those matters, I continue to believe them to be true. If called upon to testify as a witness in this matter, I could and would do so competently.

3. I have reviewed the following exhibits originally attached to the Declaration of Jeffrey M. Ratinoff in Support of Plaintiffs’ Consolidated Motion for

Summary Judgment and are now included in Volume 10 of the Excerpts of Record filed by Appellants, which contain Appellees' confidential, commercially sensitive business information:

(a) **Exhibit 6** to the Ratinoff Declaration (**10-ER-2350-2352**) is a July 29, 2015 email from John Mark Suhy to Charles Fischer of Neo4j Inc. This email thread still contains confidential and proprietary information that relates to Neo4j, Inc.'s business model and strategy of obtaining government contracts for the Neo4j® Platform. It also still contains confidential information pertaining to Neo4j, Inc.'s customer relationships and customer usage information. At the time this email was sent, Mr. Suhy was working as a Neo4j Solution Partner through his company PureThink LLC and was subject to confidentiality obligations under the parties' agreement. I continue to believe that the disclosure of this information would substantially harm our competitive standing in the marketplace, provide competitors with information that could be used to obtain a competitive advantage over Neo4j, Inc. and damage Neo4j, Inc.'s actual and potential customer relationships.

(b) **Exhibit 7** to the Ratinoff Declaration (**10-ER-2353-2357**) is an August 16, 2016 email from John Mark Suhy to Ginger Sanfilippo of Neo4j, Inc. This email still contains confidential and proprietary information that relates to Neo4j, Inc.'s business model and strategy of obtaining government contracts for the Neo4j® Platform. It also still contains confidential information pertaining to Neo4j,

Inc.'s customer relationships, and customer preferences and usage information. At the time this email was sent, Mr. Suhy was working as a Neo4j Solution Partner and was subject to confidentiality obligations under the parties' agreement. I believe that the disclosure of this information would substantially harm our competitive standing in the marketplace, provide competitors with information that could be used to obtain a competitive advantage over Neo4j, Inc. and damage Neo4j, Inc.'s actual and potential customer relationships.

(c) **Exhibit 27** to the Ratinoff Declaration (10-ER-2358-2364) is a May 2018 email exchange between Mr. Suhy and myself. The redactions contain confidential and proprietary information that relates to Neo4j, Inc.'s strategy of obtaining government contracts for the Neo4j® Platform. It also continues to contain confidential pricing information pertaining to Neo4j, Inc.'s customer relationships, including the Internal Revenue Service, and customer preferences and usage information. At the time this email was sent, Neo4j, Inc. and Mr. Suhy were trying to resolve a dispute that resulted in Neo4j, Inc. terminating its Neo4j Solution Partner Agreement with PureThink LLC, which contained a continuing confidentiality obligation. Neo4j, Inc. and Mr. Suhy (and his entities PureThink and iGov Inc.) now compete with Neo4j, Inc. for contracts with the IRS. I believe that the disclosure of this information would substantially harm our competitive standing in the marketplace and would wrongly provide competitors

with information that could be used to obtain a competitive advantage over Neo4j, Inc. and damage actual and potential customer relationships, including with the IRS.

(d) **Exhibit 126** to the Ratinoff Declaration (10-ER-2371-2374) is a May 2018 email exchange between Mr. Suhy and Keoni Gaspar of Neo4j, Inc. This email also copies individuals from Johnson Controls Inc., which is still a potential customer of Neo4j, Inc. The company considers the questions raised by Johnson Controls Inc. to contain their confidential information, and amounts to confidential customer preferences and usage information because it could provide a competitor with information that could be used to obtain a competitive advantage over Neo4j, Inc. and potentially damage actual and potential customer relationships, including with Johnson Controls Inc. There are also several false and defamatory statements made by Mr. Suhy that if made public, would substantial harm Neo4j, Inc.'s business reputation and standing in the marketplace, and potentially damage Neo4j, Inc.'s actual and potential customer relationships.

4. I have reviewed the following exhibits to the Declaration of John Broad in Support of Plaintiffs' Consolidated Motion for Summary Judgment:

(a) **Exhibit 12** to the Declaration of John Broad (10-ER-2249-2356) is an April 19, 2019 Neo4j Proposal to the Maryland Procurement Office and Next Century, which still contains commercially sensitive and highly confidential information regarding the structure and amount of licensing and subscription fees

for Neo4j® Enterprise Edition, as well as pricing and discount information. It also still reveals specific and detailed information concerning our software features, subscription models, professional service offerings, and marketing strategy, which Neo4j, Inc. considers to be commercially sensitive and highly confidential. The disclosure of this information would expose Neo4j, Inc. to substantial competitive harm. In particular, it would provide competitors, including the Defendants in the two pending lawsuits, with information that could be used by them to obtain a competitive advantage over Neo4j, Inc. and potentially damage its actual and potential customer relationships.

(b) **Exhibit 13** to the Declaration of John Broad (**10-ER-2257-2259**) is an April 2019 email exchange relating to the Neo4j Proposal to the Maryland Procurement Office, including correspondence with that potential customer. This email still contains commercially sensitive and confidential information relating to that proposal and Neo4j, Inc.’s standing with that customer. I believe that if made public, it could provide a competitor with information that could be used to obtain a competitive advantage over Neo4j, Inc. and potentially damage Neo4J, Inc.’s actual and potential customer relationships and standing in the marketplace.

5. I have reviewed the following exhibits to the Declaration of Adron G. Beene in Support of Defendants Consolidated Opposition and Motion For Summary Judgment (“Beene Declaration”), which either contain Plaintiffs’ highly

confidential, commercially sensitive business information, or confidential, commercially sensitive business information:

(a) **Exhibit 1** to the Beene Declaration (**11-ER-2413-2428**) is a highly confidential Amended and Restated License Agreement between Neo4j, Inc. and Neo4j Sweden AB. This intercompany agreement still contains highly confidential and proprietary information relating to the business and financial relationship between Neo4j, Inc., and its wholly-owned subsidiary, Neo4j Sweden AB. Neo4j Inc. is a privately held company and does not publically disclose its internal financial or business operations information, or in particular this agreement. It also limits access of this agreement and internal business and financial information on a “need-to-know basis” to a small number of high-level employees of Neo4j, Inc. and Neo4j Sweden AB, and limits its disclosure subject to a non-disclosure/confidentiality agreement. I believe that the public disclosure of this information would substantially harm our competitive standing in the marketplace, provide competitors with information that could be used to obtain a competitive advantage over Neo4j, Inc. by obtaining insight into the financial condition of Neo4j, Inc. and Neo4j Sweden AB, as well as the profitability of their software business.

(b) **Exhibit 2** to the Beene Declaration (**11-ER-2429**) is a highly confidential report of royalties paid by Neo4j, Inc. to Neo4j Sweden under the Amended and Restated License Agreement. This report still contains highly

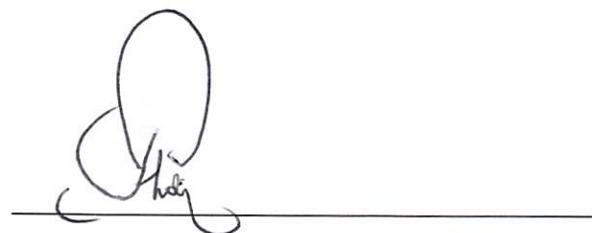
confidential and proprietary financial information relating to the business and financial relationship between Neo4j, Inc., and its wholly-owned subsidiary, Neo4j Sweden AB, including cost of goods and royalty payments based thereon. Neo4j Inc. is a privately held company and does not publically disclose its internal financial information, or in particular the amount of royalties paid or costs of its goods sold. It also limits access of this internal financial information on a “need-to-know basis” to a small number of high-level employees of Neo4j, Inc. and Neo4j Sweden AB, and limits its disclosure subject to a nondisclosure/ confidentiality agreement. I believe that the public disclosure of this information would substantially harm our competitive standing in the marketplace, provide competitors with information that could be used to obtain a competitive advantage over Neo4j, Inc. by obtaining insight into the financial condition of Neo4j, Inc. and Neo4j Sweden AB, as well as the profitability of their software business.

(c) **Exhibit 7** to the Beene Declaration (**11-ER-2430**) is an October 2016 email Exchange between Jason Zagalsky and David Mohr, both employees of Neo4j, Inc. at that time. This email still contains confidential and proprietary information that relates to Neo4j, Inc.’s business model and strategy of obtaining government contracts for the Neo4j® Platform. It also still

contains confidential information pertaining to Neo4j, Inc.'s licensing strategy. I believe that the disclosure of this information would substantially harm our competitive standing in the marketplace, provide competitors with information that could be used to obtain a competitive advantage over Neo4j, Inc. and damage Neo4j, Inc.'s actual and potential customer relationships.

6. All of the documents and excerpts thereof discussed above contain information that remains highly confidential and competitively sensitive. Neo4j, Inc. takes significant precautions to ensure that this type of information is not publicly disclosed, including but not limited to maintain these documents on a "need to know basis" and requiring such persons with access to execute a non-disclosure agreement or confidentiality agreement before obtaining access to such documents.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on this 25th day of August 2021, at San Mateo, California.

A handwritten signature in black ink, appearing to read "Philip Rathle", is written over a horizontal line.

Philip Rathle