

**Diamond Films Netherlands Cooperatief U.A. v
TV Azteca S.A.B. de C.V.**

2022 NY Slip Op 34120(U)

December 4, 2022

Supreme Court, New York County

Docket Number: Index No. 655384/2020

Judge: Andrea Masley

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SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

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DIAMOND FILMS NETHERLANDS COOPERATIEF U.A.,	INDEX NO.	<u>655384/2020</u>
Plaintiff,	MOTION DATE	_____
- v -	MOTION SEQ. NO.	<u>008</u>
TV AZTECA S.A.B. DE C.V.,		
Defendant.	DECISION + ORDER ON MOTION	

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HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 008) 172, 173, 174, 175, 176, 177, 178

were read on this motion to/for _____ SEAL _____.

Upon the foregoing documents, it is

In motion sequence number 008, plaintiff Diamond Films Netherlands Cooperatief U.A. moves, by order to show cause, to redact portions of NYSCEF Docs. No. (NYSCEF) 156 and 159¹ pursuant to Section 216.1 of the Uniform Rules for New York State Trial Courts on the grounds that the documents contain highly sensitive business information of nonparty HC2 Network Inc. (HC2). The motion is unopposed. There is no indication that the press or public have an interest in this matter.

NYSCEF 156 is a copy of the responses, dated August 5, 2022, of HC2 to an information subpoena dated July 26, 2022. Plaintiff seeks to redact response number

¹ Plaintiff also filed additional copies of each of these documents under seal with its motion. (NYSCEF 175, 176.) Plaintiff did not file publicly redacted copies of NYSCEF 156 and 159 in accordance with the Part 48 Procedures. The court will nonetheless evaluate plaintiff's proposed highlighted redactions.

17, which describes the payment terms of business dealings between HC2 and defendant, TV Azteca S.A.B. de C.V. (Azteca).

NYSCEF 159 is a spreadsheet of payments between HC2 and Azteca since April of 2019. Plaintiff seeks to redact the columns containing the reference number of each payment, the date, the post period, the status, the original amount, the vendor invoice number/payment number, and the description.

Section 216.1(a) of the Uniform Rules for Trial Courts empowers courts to seal documents upon a written finding of good cause. It provides:

“(a) Except where otherwise provided by statute or rule, a court shall not enter an order in any action or proceeding sealing the court records, whether in whole or in part, except 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. Where it appears necessary or desirable, the court may prescribe appropriate notice and opportunity to be heard.”

“Under New York law, 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] [citations omitted].) The “party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access” to the documents. (*Id.* at 349 [citations omitted].) Good cause must “rest on a sound basis or legitimate need to take judicial action.” (*Danco Lab, Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 8 [1st Dept 2000] [internal quotations and citations omitted].)

In the business context, courts have sealed records where the disclosure of documents “could threaten a business's competitive advantage.” (*Mosallem*, 76 AD3d at 350 [citations omitted].) Records concerning financial information may be sealed

where there has not been a showing of relevant public interest in the disclosure of that information. (See *Dawson v White & Case*, 184 AD2d 246, 247 [1st Dept 1992].) A party “ought not to be required to make their private financial information public ... where no substantial public interest would be furthered by public access to that information.” (*D'Amour v Ohrenstein & Brown*, 17 Misc.3d 1130[A], 2007 NY Slip Op 52207[U], *20 [Sup Ct, NY County 2007] [citations omitted].)

Defendant has demonstrated good cause to keep confidential the business terms and payment information contained in NYSCEF 156 and 159. The documents reveal confidential terms from a contract between defendant and a nonparty, which if disclosed, could put HC2 at a competitive disadvantage. (NYSCEF 174, Wallach Aff ¶ 7; NYSCEF 177, chart identifying documents; see *Mosallem*, 76 AD3d at 350-351 [internal citations omitted].) Moreover, there has been no showing of legitimate public concern in the terms of these business dealings (see *Dawson*, 184 AD2d at 247 [1st Dept 1992]), and the requested redactions are narrowly tailored to protect the business terms and payment information. (See *Danco Lab, Ltd.*, 274 AD2d at 6.)

Accordingly, it is hereby

ORDERED that motion sequence number 008 is granted; and it is further

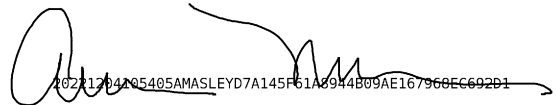
ORDERED, that the New York County Clerk, upon service to him of this order, shall permanently seal NYSCEF 156, 159, 175 and 176; and it is further

ORDERED, that plaintiff shall file publicly redacted copies of NYSCEF 156 and 159 with redactions over the information highlighted in those documents; and it is further

ORDERED the New York County Clerk shall restrict access to the sealed documents with access to be granted only to authorized court personnel and designees,

the parties and counsel of record in the above-captioned action, and any representative of a party or of counsel of record upon presentation to the County Clerk of written authorization from counsel; and it is further

ORDERED that this order does not authorize sealing or redacting for purposes of trial.



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12/4/2022
DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE