

1 **WO**

2  
3  
4  
5  
6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
8

9 PCT International, Inc.,

10 Plaintiff,

11 v.

12 Holland Electronics LLC,

13 Defendant.

No. CV-12-01797-PHX-JAT

**ORDER**

14 Pending before the Court is Plaintiff PCT International, Inc.’s (“PCT”) Motion to  
15 File Under Seal Motion to Modify the Protective Order for Confidential Information  
16 (Doc. 137). The Court now rules on the motion.

17 **I. Background**

18 At a November 7, 2013 hearing, the Court ordered the courtroom, docket, and  
19 transcript sealed “for the limited purpose of dealing with the protective order eyes-only  
20 designation.” (Doc. 108). The present issue arises out of PCT’s filing of its Plaintiff’s  
21 Motion to Modify the Protective Order for Confidential Information (Doc. 138). Because  
22 this motion relies upon a portion of the sealed transcript from the November 7, 2013  
23 hearing, PCT believed the motion should be filed under seal. Accordingly, PCT filed its  
24 redacted version of the motion at Doc. 138 and lodged a sealed version at Doc. 139.

25 PCT then filed a corresponding Motion to File Under Seal Motion to Modify the  
26 Protective Order for Confidential Information (Doc. 137). In this motion, PCT asked to  
27 file the underlying motion under seal because it quoted from the sealed transcript of the  
28 November 7, 2013 hearing. (Doc. 137 at 2). PCT acknowledged, however, that it did “not

1 contend that the transcript meets the criteria for sealing as set out in relevant Ninth  
2 Circuit cases.” (*Id.*)

3 The Court ordered Defendant Holland Electronics, Inc. (“Holland”) to respond to  
4 PCT’s motion and demonstrate why the transcript should remain sealed. Holland filed a  
5 response in which it asked the Court to permit Holland to file a redacted transcript with  
6 only nine lines on one page being sealed but to continue enforcing the protective order  
7 against PCT with respect to the presently sealed information from that hearing. (Doc. 148  
8 at 7).

## 9 **II. Legal Standard**

10 The Ninth Circuit Court of Appeals has recognized “a strong presumption in favor  
11 of access to court records,” *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135  
12 (9th Cir. 2003), and there is a general right of access “to inspect and copy . . . judicial  
13 records and documents.” *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 (1978).  
14 This federal common law right “extends to pretrial documents filed in civil cases.” *Foltz*,  
15 331 F.3d at 1134.

16 “The public policies that support the right of access to dispositive motions, and  
17 related materials, do not apply with equal force to non-dispositive materials.” *Kamakana*  
18 *v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006). In such cases, a  
19 showing of good cause under Federal Rule of Civil Procedure 26(c) is sufficient to  
20 preserve the secrecy of sealed material. *Foltz*, 331 F.3d at 1135. When good cause has  
21 been shown that release of documents will cause competitive harm to a business, sealing  
22 is appropriate. *See Apple Inc. v. Samsung Electronics Co.*, 727 F.3d 1214, 1221-22 (Fed.  
23 Cir. 2013) (applying Ninth Circuit law). A corporation has a significant interest in  
24 preventing confidential information such as profit, cost, and margin data from becoming  
25 public. *See id.* at 1225. Conversely, the public has minimal interest in the detailed  
26 financial information of a corporation that does not assist the public in understanding the  
27 judicial process. *See id.* at 1228.

28 Finally, although good cause may exist to initially seal a transcript, “when the

1 competing interests precipitating hearing closure are no longer viable,” the transcript  
2 must be released. *Phoenix Newspapers, Inc. v. U.S. Dist. Court for the Dist. of Ariz.*, 156  
3 F.3d 940, 948 (9th Cir. 1998).

### 4 **III. Analysis**

5 In this case, Holland acknowledges that most of the sealed transcript does not  
6 disclose confidential information contained within the documents discussed at the  
7 November 7, 2013 hearing. (Doc. 148 at 6). Page 46 of the sealed transcript, however,  
8 discloses confidential pricing information as to Holland connectors. Holland has a  
9 significant interest in protecting this competitive information, and the public has minimal  
10 interest in knowing the particular price of a Holland connector. Accordingly, the Court  
11 finds good cause remains for this portion of the transcript to remain sealed.

12 Holland suggests that the Court allow it to file a redacted version of the transcript  
13 that omits only lines 7-15 on page 46, which provides the least restrictive alternative to  
14 permit public access while protecting the interests of the parties. (*Id.* at 7). The Court  
15 agrees.<sup>1</sup>

### 16 **IV. Conclusion**

17 For the foregoing reasons,

18 **IT IS ORDERED** that PCT’s Motion to File Under Seal Motion to Modify the  
19 Protective Order for Confidential Information (Doc. 137) is denied without prejudice (but  
20 Doc. 139 is to remain under seal as specified below).

21 **IT IS FURTHER ORDERED** that the November 7, 2013 hearing transcript is  
22 unsealed except for lines 7-15 on page 46 (but Doc. 135 is to remain under seal).

23 **IT IS FURTHER ORDERED** that Holland shall within five days file a redacted  
24

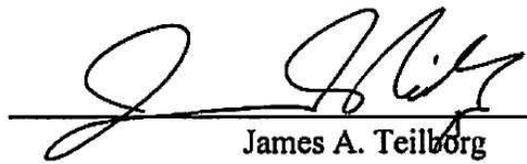
---

25 <sup>1</sup> Holland also proposes that the Court modify the Protective Order to prevent PCT  
26 from using any information unsealed as a result of this Order. (Doc. 148 at 7). The Court  
27 cannot order that PCT is barred from using information that admittedly does not meet the  
28 criteria for sealing. Accordingly, while the Protective Order applies to lines 7-15 on page  
46 as that portion of the hearing transcript will remained sealed, the Court will not order  
that PCT is restricted in its use of the remaining information in the transcript. The Court  
does not imply, however, that PCT is *not* restricted from doing so if the Protective Order  
so requires.

1 copy of the November 7, 2013 hearing transcript that redacts only lines 7-15 on page 46.

2 **IT IS FURTHER ORDERED** that PCT's Motion to Modify the Protective Order  
3 for Confidential Information currently lodged as Doc. 139 is stricken but remains under  
4 seal. PCT may within five days refile its Motion to Modify the Protective Order for  
5 Confidential Information if it believes that either a new redacted or sealed version is  
6 necessary for the Court's ruling.

7 Dated this 30th day of April, 2014.

8  
9  
10   
11 \_\_\_\_\_  
12 James A. Teilborg  
13 Senior United States District Judge  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28