

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CAPITOL RECORDS LLC,

Plaintiff,

-v-

REDIGI INC., *et al.*,

Defendants.

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No. 12-cv-95 (RJS)
ORDER

RICHARD J. SULLIVAN, District Judge:

Now before the Court is a motion brought by Defendant ReDigi Inc. (“ReDigi”) to seal portions of the transcript from a conference that took place before the Court on April 4, 2016. (Doc. No. 214) For the reasons set forth below, the motion is granted.

“The common law right of public access to judicial documents is firmly rooted in our nation’s history.” *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006). Without access to such documents, it is impossible for the public to perform their essential role in monitoring judicial proceedings. *Id.* (quoting *United States v. Amodeo*, 71 F.3d 1044, 1048 (2d Cir. 1995)). Nevertheless, courts have long recognized that the right of public access is not unqualified and that the presumption of open records and proceedings may be rebutted under certain circumstances. Accordingly, “[t]he Second Circuit has articulated a three-step process for determining whether documents should be placed under seal.” *Mut. Marine Office, Inc. v. Transfercom Ltd.*, No. 08-cv-10367 (PGG), 2009 WL 1025965, at *4 (S.D.N.Y. Apr. 15, 2009). First, the Court determines whether the relevant document is a “judicial document” – i.e., an “item . . . relevant to the performance of the judicial function and useful in the judicial process” to which the presumption of open records attaches. *Lugosch*, 435 F.3d at 119 (internal quotation

marks omitted). Second, if it is a judicial document, the Court must determine the weight of this presumption. “Generally, the information will fall somewhere on a continuum from matters that directly affect an adjudication to matters that come within a court’s purview solely to insure their irrelevance.” *Id.* (internal quotation marks omitted). And third, the Court must “balance competing considerations.” *Id.* at 120 (internal quotation marks omitted). “Such countervailing factors include but are not limited to the danger of impairing law enforcement or judicial efficiency and the privacy interests of those resisting disclosure.” *Id.* (internal quotation marks omitted). “The burden of demonstrating that a document submitted to a court should be sealed rests on the party seeking such action” *DiRussa v. Dean Witter Reynolds Inc.*, 121 F.3d 818, 826 (2d Cir. 1997).

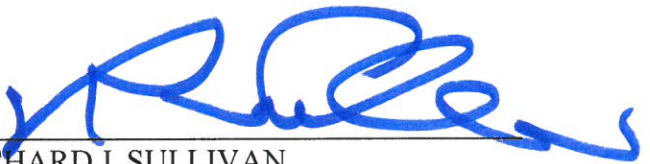
Here, there is no question that the transcript of a court proceeding is a judicial document. However, Defendant ReDigi argues that sealing is necessary because public disclosure of the confidential terms of the settlement agreement (the “Settlement”) might hamper ReDigi’s ability to raise funds to effectuate the Settlement in this action. ReDigi relies on case law in which courts have generally allowed the sealing of financial information where its disclosure might cause a competitive injury. *See, e.g., Gelb v. Am. Tel. & Tel. Co.*, 813 F. Supp. 1022, 1035 (S.D.N.Y. 1993) (finding “assertion that its competitors who do not now have this information could use it to do [the party] competitive injury” sufficient basis to allow sealing). Although this situation is not quite parallel, the Court has no reason to doubt the representation that the disclosure of this information could cause significant harm to all the parties in this action by preventing the consummation of the Settlement. Accordingly, the Court finds that the parties’ interests in resisting disclosure – at least until the Settlement is consummated – outweigh the

public's interest in having access to the redacted portions of the transcript. The Court thus grants Defendant ReDigi's very narrow motion to seal portions of the transcript.

Accordingly, IT IS HEREBY ORDERED THAT Defendant ReDigi's motion to seal is granted. The Clerk of the Court is respectfully directed to terminate the motion located at docket number 214.

SO ORDERED.

DATED: April 18, 2016
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE