

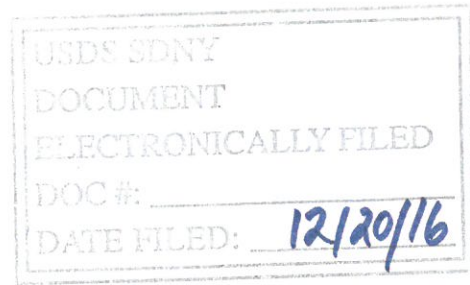
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKCAPITOL RECORDS LLC, *et al.*,

Plaintiffs,

-v-

REDIGI INC., *et al.*,

Defendants.

No. 12-cv-95 (RJS)
ORDERRICHARD J. SULLIVAN, District Judge:

The Court is in receipt of a letter from Defendants-Appellants (“ReDigi”), dated December 9, 2016, requesting that (1) all of the documents originally filed by ReDigi under seal and/or in redacted form be unsealed, (2) ReDigi’s appellate counsel be bound by the Stipulated Protective Order in this action (Doc. No. 38), and (3) Plaintiffs-Appellees’ (“Capitol Records”) counsel be directed to provide unredacted copies of the Capitol Records information currently filed under seal as “Confidential – Attorneys Eyes Only” material under the Protective Order. (Doc. No. 278.) The Court is also in receipt of a response letter from Capitol Records, dated December 13, 2016, objecting to the unsealing of certain documents that contain information designated as confidential by Capitol Records. (Doc. No. 280.) Finally, the Court is in receipt of an email from Capitol Records, dated December 16, 2016, attaching a proposed Second Stipulated Amended Protective Order that adds ReDigi’s appellate counsel as a signatory. For the reasons set forth below, the Court grants all three of ReDigi’s requests, except with respect to the documents objected to in Capitol Records’ letter. For those documents, the Court requires a more detailed response from Capitol Records.

On July 31, 2012 and September 5, 2012, the Court approved the sealing of a number of documents filed by both parties in connection with the parties' cross-motions for summary judgment. (Doc. Nos. 71, 102.) The parties justified their sealing requests under the standard set forth in *Lugosch v. Pyramid Co. of Onondaga*, 425 F.3d 110 (2d Cir. 2006) and in accordance with Rule 3 of the Court's Individual Rules and Practices. (See Doc. Nos. 63–65, 67–69, 96–101.) ReDigi's December 9, 2016 letter now indicates that certain information related to ReDigi's technology and business operations that was confidential in 2012 no longer requires protection against public disclosure. In particular, ReDigi requests that the following documents be unsealed: docket numbers 17, 49, 50, 52, 53, 57 (Exhibits 8, 9, 10, 11), 58, 59, 60, 62, 74, 75, 76, 77, 78, 79, 80, 82, 83, 85, 87, 88, 89, 90, 91, 92, 94, 171 (Exhibit B), and 173 (Exhibit B). Capitol Records responds that although they have no objection to the unsealing of documents that contain ReDigi's own previously designated confidential material, they do object to the unsealing of certain documents that also contain information that Capitol Records designated as confidential. Specifically, Capitol Records objects to the unsealing of the following documents: docket numbers 74 (Exhibit 3), 76, 78, 90, and 91 (Exhibit 1). The basis of Capitol Records' objection appears to be simply that information designated as confidential more than four years ago remains confidential today.

The law in this Circuit is clear: a strong presumption of open records attaches to judicial documents. *Lugosch*, 435 F.3d at 119–20; see also *Joy v. North*, 692 F.2d 880, 893 (2d Cir. 1982) (“[D]ocuments used by parties moving for, or opposing, summary judgment should not remain under seal absent the most compelling reasons.”). The fact that either party previously designated a document as “confidential” is not enough, by itself, to justify indefinite continued sealing. Accordingly, IT IS HEREBY ORDERED THAT, by December 30, 2016, Capitol

Records shall submit a letter that gives a more detailed response to ReDigi's request that the following documents be unsealed: docket numbers 74 (Exhibit 3), 76, 78, 90, and 91 (Exhibit 1). The letter shall not exceed three (3) pages and shall explain why those five documents still meet the standard for sealing set forth in *Lugosch*, 435 F.3d at 119–20.

IT IS FURTHER ORDERED THAT docket numbers 17, 49, 50, 52, 53, 57 (Exhibits 8, 9, 10, 11), 58, 59, 60, 62, 74 (except Exhibit 3), 75, 77, 79, 80, 82, 83, 85, 87, 88, 89, 91 (except Exhibit 1), 92, 94, 171 (Exhibit B), and 173 (Exhibit B) shall be unsealed.


IT IS FURTHER ORDERED THAT ReDigi's appellate counsel, Baker & Hostettler LLP, shall comply with the Second Stipulated Protective Order in this action, which the Court will approve and docket separately, subject to the Court's addendum, which will also be docketed separately.

IT IS FURTHER ORDERED THAT Capitol Records' counsel shall provide to ReDigi's appellate counsel unredacted copies of the Capitol Records information currently filed under seal as "Confidential – Attorneys Eyes Only" material under the Stipulated Protective Order.

The Clerk of the Court is respectfully directed to terminate the motion pending at docket number 278.

SO ORDERED.

Dated: December 20, 2016
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE