

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

EOLAS TECHNOLOGIES, INC.

Plaintiff,

vs.

ADOBE SYSTEMS, INC., et al

Defendants.

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**CASE NO. 6:09-CV-446
PATENT CASE**

ORDER

Defendant J.C. Penney (“JCP”) seeks redaction of the transcript from a motion hearing on June 29, 2011 (Docket No. 793). The motion is **DENIED**.

Defendant offers no explanation for why the Court should redact multiple lines of the transcript except the assertion that the transcript contains “certain confidential internal business information of JCP which were designated of ‘CONFIDENTIAL–ATTORNEYS’ EYES ONLY.’” The requests for redaction refer to terms of JCP’s agreement with outside web analytics vendor Coremetrics.

The Eastern District of Texas has procedures in place for attorneys wishing to request transcript redaction. Transcript Procedures for Attorneys (2008)¹; Local Rule CV-5. The procedures protect five limited categories of personal identifiers: social security numbers, financial account numbers, dates of birth, names of minor children, and home addresses. JCP has not identified any information that fits within these limited categories.

¹ <http://www.txed.uscourts.gov/page1.shtml?location=attorney:transcripts>

As courts in this District have already recognized:

[t]he special nature of courtroom proceedings has repeatedly been recognized by the Supreme Court: ‘A trial is a public event. What transpires in the court room is public property. If a transcript of the court proceedings had been published, we suppose none would claim that the judge could punish the publisher for contempt. . . . Those who see and hear what transpired can report it with impunity. There is no special perquisite of the judiciary which enables it, as distinguished from other institutions of democratic government, to suppress, edit, or censor events which transpire in proceedings before it. *Craig v. Harney*, 331 U.S. 367, 374, 67 S.Ct. 1249, 1254 (1947). The parties’ interests in privacy fade when the information involved is already in the public. *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469, 494-95; 95 S.Ct. 1029, 1046 (1975). If a privacy interest is to be protected in judicial proceedings, the parties must utilize means which avoid public documentation or other exposure of private information. *Id.* at 496.

See The Ohio Willow Wood Co. v. Thermo-Ply, Inc., 9:07-CV-274, Docket No. 27 (Clark, J.). All statements made by JCP at the hearing were made in open court and without a request to seal the courtroom. The Court reminds the parties that it is each party’s responsibility to inform the Court, if at all possible, *before* confidential information is disclosed in open court and request a sealed courtroom and record. Accordingly, Defendant’s request for redaction is **DENIED**.

So ORDERED and SIGNED this 12th day of September, 2011.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE