

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

AMERICAN AIRLINES, INC.

Plaintiff,

VS.

TRAVELPORT LIMITED, et al.

Defendants.

CIVIL ACTION NO. 4:11-CV-244-Y

**SABRE DEFENDANTS' UNOPPOSED MOTION
TO PERMANENTLY SEAL TOGETHER WITH BRIEF IN SUPPORT**

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By local rule or Court Order, 145 records were filed under seal in this matter. Many of these documents contain Sabre's trade secret, confidential, and proprietary information, as well as similar information of third parties who are Sabre's business partners. Because Local Rule 79.4 states that sealed items will be deemed unsealed 60 days after final disposition of a case, Defendants Sabre, Inc., Sabre Holdings Corporation, and Sabre Travel International Ltd. (collectively, "Sabre") request that the Court enter an Order permanently sealing the documents listed in Exhibit A to this motion. In support thereof, Sabre would show the following:

Background

Prior to the commencement of discovery in this antitrust case, the parties recognized that trade secret and other similar highly confidential and commercially-sensitive business information would be the subject of discovery and testimony in this litigation. To assure protection of those materials, the parties jointly moved for the entry of a stipulated protective order on August 10, 2011 (Doc. No. 127). The Court entered the Stipulated Protective Order as

an order of the Court on August 15, 2011 (Doc. No. 130). Throughout the pendency of the action, the protective order was supplemented and amended numerous times with the Second Amended Stipulated Protective Order (Doc. No. 374) being entered on July 16, 2012. Among other things, each of the protective orders incorporated this Court's June 9, 2011 Order Granting Leave to File Under Seal (Doc. No. 69) allowing the parties (and others) permission to file under seal any papers that contained or disclosed material that any party (or third-party) had designated as confidential material pursuant to the protective order.

During the course of the litigation, the parties (and a number of third-parties) produced extensive documents under the Court's Protective Order, including numerous confidential contracts, highly confidential financial information, technology development research and plans, and documents disclosing strategic negotiating positions and business strategies. Depositions revealing this same kind of information were taken of all parties and some third parties. The parties (and third parties) marked or designated such material as confidential under the Court's Protective Order.

Many of the parties' (and third parties') confidential documents were attached to, or otherwise disclosed in filings with the Court. In accordance with the Protective Order and the Court's June 9, 2011 Order Granting Leave to File Under Seal, such filings were under seal.

This matter has now been finally disposed with the claims between American and Sabre dismissed on January 9, 2013 (Doc. No. 419), the claims between American and Orbitz Worldwide LLC dismissed on May 13, 2013 (Doc. No. 480), and the claims between American and Travelport dismissed on August 16, 2013 (Doc. No. 484). Final Judgment was rendered in this matter on August 16, 2013 (Doc. No. 485). Under Local Rule 79.4 and the Court's Order

Granting Leave to File Under Seal, unless the Court otherwise directs, all sealed documents will be deemed unsealed 60 days after final disposition of the case.

As shown more fully below, public disclosure of Sabre's trade secret and other highly confidential proprietary business information would significantly damage Sabre's business interest. Accordingly, Sabre asks that the Court permanently seal the filings identified in Exhibit A to this motion.¹

Argument

Though the courts of the United States recognize a general right to inspect and copy public records and documents, this right is not absolute. *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597–98 (1978); *SEC v. Van Waeyenberghe*, 990 F.2d 845, 848 (5th Cir. 1993). A court may deny public access to judicial records where the court's files might contain "sources of business information that might harm a litigant's competitive standing." *Warner Communications*, 435 U.S. at 598.

When determining whether to limit public access to a court record, the court must balance the presumption of public access against the interests favoring secrecy or nondisclosure. *Warner Communications*, 435 U.S. at 599, 602; *Van Waeyenberghe*, 990 F.2d at 848. The balance of factors must be struck "in light of the relevant facts and circumstances of the particular case." *Warner Communications*, 435 U.S. at 599. *See Van Waeyenberghe*, 990 F.2d at 848 & n.4 (declining to adopt a "strong" presumption in favor of right of access, and noting that public access is only one of the interests to be balanced).

¹ While many of the sealed filings contain material designated confidential by American, Orbitz, Travelport, and many third parties, Sabre does not move to permanently seal these filings given that Sabre cannot provide the factual basis to support the confidential designations made by other parties.

Federal courts recognize a particular interest in protecting a business's trade secrets from harmful disclosure. *See, e.g., Warner Communications*, 435 U.S. at 598 (recognizing that courts should not serve as sources of business information that might harm a litigant's competitive standing); *E. I. du Pont de Nemours Powder Co. v. Masland*, 244 U.S. 100, 101-103 (1917) (discussing legitimate purpose of protecting a litigant's trade secrets from disclosure during course of litigation); *Walker Sys. v. Hubbell Inc.*, 188 F.R.D. 428, 429-430 (S.D. W. Va. 1999) (granting motion to seal documents containing trade secrets after balancing private and public interests); FED. R. CIV. P. 26(c)(1)(G) (permitting court to issue orders "requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way").

For example, the court in *In re Iowa Freedom of Information Council*, 724 F.2d 658, 664 (8th Cir. 1983), considered whether the trial court properly sealed documents that contained a party's marketing and distribution plans. The court observed that there was evidence the information could have been of substantial use to competitors anxious to learn the party's future business plans. *Id.* Noting that trade secrets are a form of property, the value of which is completely destroyed by disclosure, the appeals court affirmed the trial court's finding that the public revelation of those documents would have done considerable damage to the party's business and property, thereby justifying protection from public disclosure. *Id.* Likewise, documents reflecting confidential business plans, trade secrets, or details regarding a company's relationships with its suppliers or customers, are all appropriately restricted from public access. *See, e.g., Olendorff Carriers GmbH & Co., KG v. Grand China Shipping Co.*, 2013 WL 1867604, at *4 (S.D. Tex. Apr. 22, 2013) (sealing confidential financial agreements, board minutes and communications, and deposition testimony disclosing proprietary internal

operations); *Gate Guard Services L.P. v. Solis*, 2012 WL 4625679, at *2-3 (S.D. Tex. Sept. 30, 2012) (agreeing to seal client lists and deposition testimony revealing marketing strategies); *In re High-Tech Emp. Antitrust Litig.*, 2013 WL 163779, at *4, 8, (N.D. Cal. Jan. 15, 2013) (sealing documents containing confidential compensation and recruiting strategies, policies, procedures, competitive positions and business operations).

In sum, federal law favors sealing documents where it has been shown that the information they contain constitutes trade secret or other sensitive commercial information, the disclosure of which would cause injury, and where the balance of interests sought to be protected by sealing outweigh public interests in access, if any.

A. The Information Involved is Sabre's Confidential and Trade Secret Information, the Disclosure of Which Would Cause Injury or Harm to Sabre

A trade secret is defined as any formula, pattern, device or compilation of information which is used in one's business and presents an opportunity to obtain an advantage over competitors who do not know or use it. RESTATEMENT (FIRST) OF TORTS § 757, comment b.; *C.Q. Inc. v. TXU Mining Co. LP*, 565 F.3d 268, 274 (5th Cir. 2009) (citing *Computer Assocs. Int'l, Inc. v. Altai, Inc.*, 918 S.W.2d 453, 455 (Tex. 1996) and the Restatement).

In determining whether something is a trade secret, Texas courts examine six relevant but nonexclusive criteria: (1) the extent to which the information is known outside the business; (2) the extent to which it is known by employees and others involved in the business; (3) the extent of measures taken to safeguard the secrecy of the information; (4) the value of the information to the business and to its competitors; (5) the amount of effort or money expended in developing the information; and (6) the ease or difficulty with which the information could be properly acquired or duplicated by others. *General Universal Sys. v. Lee*, 379 F.3d 131, 150 (5th Cir. 2004) (citing *In re Bass*, 113 S.W.3d 735, 739–40 (Tex. 2003)). A party claiming a trade secret

“should not be required to satisfy all six factors because trade secrets do not fit neatly into each factor every time,” and a determination of whether an item is a trade secret is a contextual inquiry. *Id.* (citing *In re Bass*, 113 S.W.3d at 740).

The highly confidential information the parties have filed with the court includes Sabre’s proprietary, trade secret, and confidential information and in some instances, also contains confidential or trade secret information of non-parties who do business with Sabre.

The declaration of Camille Penniman, Associate General Counsel for Sabre, establishes that the items Sabre asks to seal contain confidential or trade secret information worthy of protection and that public disclosure of this information would cause injury to Sabre and to certain non-party business partners of Sabre.²

1. Confidential Contract Pricing and Terms

Many of the documents and transcripts filed under seal disclose the terms and conditions of private commercial relationships between Sabre and third parties, the disclosure of which would benefit competitors of both Sabre and the third parties.³ These contracts contain confidential provisions, including pricing terms, separately negotiated between Sabre and its customers.⁴ These customers include travel agencies and airlines. Significantly, no two major airlines have the same terms and conditions in their contracts with Sabre. The terms of these contracts are highly confidential as they relate to how Sabre operates its business.⁵ This information is not generally known outside Sabre, and access to this information is controlled

² Appx. 001-002, 016-017: Penniman Dec. at ¶¶ 1-3, 8-9.

³ Appx. 002: Penniman Dec. at ¶ 4.

⁴ Appx. 002: Penniman Dec. at ¶ 4.

⁵ Appx. 002: Penniman Dec. at ¶ 4.

even within Sabre.⁶ Disclosure of this information could be used by Sabre's competitors and customers to understand Sabre's proprietary confidential business strategies, highly confidential negotiating positions, and Sabre's relationship with its customers and thus threaten Sabre's competitive position both with its customers and its competitors.⁷ Disclosure of this information would also allow competitors of Sabre's customers to get a window into the strategies of those customers.⁸

As shown in the declaration of Camille Penniman, the following documents contain confidential contract terms and should be sealed:

- (a) *Appendix in Support of Sabre Motion to Dismiss* (Doc. 99) (filed July 13, 2011);⁹
- (b) *Appendix in Support of Travelport's Response in Opposition to Plaintiff American Airlines, Inc.'s Motion for Reconsideration* (Doc. 183) (filed January 9, 2012);¹⁰
- (c) *Appendix in Support of American Airlines Inc.'s Reply to Travelport's Response in Opposition to American's Motion for Reconsideration of the Court's November 21, 2011 Order* (Doc. 203) (filed January 23, 2012);¹¹
- (d) *Appendix in Support of Orbitz' Motion for Order Permitting it to Share Certain Documents* (Doc. 225) (filed February 9, 2012);¹²
- (e) *Appendix in Support of American Airlines' Motion to Compel Deposition of Sabre Witnesses and Motion for Expedited Treatment* (Doc. 378) (filed July 25, 2012);¹³
- (f) *Appendix of Exhibits in Support of Sabre Defendants' Response to American's Motion to Compel the Second Deposition of Sabre Witnesses & Motion for Protection* (Doc. 384) (filed August 15, 2012);¹⁴

⁶ Appx. 002: Penniman Dec. at ¶ 4.

⁷ Appx. 002: Penniman Dec. at ¶ 4.

⁸ Appx. 002: Penniman Dec. at ¶ 4.

⁹ Appx. 002-003: Penniman Dec. at ¶ 4(a).

¹⁰ Appx. 003: Penniman Dec. at ¶ 4(b).

¹¹ Appx. 003: Penniman Dec. at ¶ 4(c).

¹² Appx. 003-004: Penniman Dec. at ¶ 4(d).

¹³ Appx. 004: Penniman Dec. at ¶ 4(e).

- (g) *American Airlines, Inc.’s Combined Emergency Motion to Lift the Stay for the Limited Purpose of Determining Whether American Can Use O’Hara Deposition Testimony in the Tarrant County Case and Motion for Expedited Treatment and Memorandum in Support Thereof* (Doc. 414) (filed October 15, 2012);¹⁵ and,
- (h) *Appendix in Support of Plaintiff American Airlines, Inc.’s Motion to Authorize Deposit Into Court Registry and for Expedited Trial* (Doc. 456) (filed February 25, 2013).¹⁶

2. Confidential Negotiating Communications and Strategies

Certain of the sealed documents also contain details of Sabre’s contract negotiations between Sabre and its customers.¹⁷ These customers include travel agencies and airlines. The details of these negotiations are highly sensitive and are not disclosed outside the company.¹⁸ In many cases, these negotiations reveal the material terms that are contained in the consummated confidential contracts.¹⁹ This information is not generally known outside Sabre, and access to this information is controlled even within Sabre.²⁰ Disclosure of this information could be used by Sabre’s competitors and customers to understand Sabre’s proprietary confidential business strategies, highly confidential negotiating positions, and Sabre’s relationship with its customers and thus threaten Sabre’s competitive position both with its customers and its competitors.²¹ Disclosure of this information would also allow competitors of Sabre’s customers to learn the confidential business strategies of those customers.²²

¹⁴ Appx. 004: Penniman Dec. at ¶ 4(f).

¹⁵ Appx. 004-005: Penniman Dec. at ¶ 4(g).

¹⁶ Appx. 005: Penniman Dec. at ¶ 4(h).

¹⁷ Appx. 005: Penniman Dec. at ¶ 5.

¹⁸ Appx. 005: Penniman Dec. at ¶ 5.

¹⁹ Appx. 005: Penniman Dec. at ¶ 5.

²⁰ Appx. 005: Penniman Dec. at ¶ 5.

²¹ Appx. 005-006: Penniman Dec. at ¶ 5.

²² Appx. 006: Penniman Dec. at ¶ 5.

As shown in the declaration of Camille Penniman, the following documents contain confidential negotiating communications and strategies and should be sealed:

- (a) *American Airlines Inc.'s Motion for Leave to File Under Seal* (Doc. 52) (filed June 1, 2011);²³
- (b) *First Amended Complaint* (Doc. 70) (filed June 9, 2011);²⁴
- (c) *Appendix in Support of American Airlines Inc.'s Response to Travelport's September 9, 2011 Letter* (Doc. 139) (filed September 16, 2011);²⁵
- (d) *American Airlines Inc.'s Motion for Leave to File Second Amended Complaint and Brief in Support* (Doc. 148) (filed October 20, 2011);²⁶
- (e) *Second Amended Complaint* (Doc. 159) (filed December 5, 2011);²⁷
- (f) *Appendix of Exhibits to Travelport's Memorandum in Support of Travelport's Rule 12(b)(6) Motion to Dismiss the Third Through Sixth Claims for Relief in Plaintiff's Second Amended Complaint* (Doc. 171) (filed December 22, 2011);²⁸
- (g) *Appendix in Support of American Airlines Inc.'s Reply to Travelport's Response in Opposition to American's Motion for Reconsideration of the Court's November 21, 2011 Order* (Doc. 203) (filed January 23, 2012);²⁹
- (h) *Appendix in Support of American Airlines Inc.'s Motion to Compel Travelport's Production of Documents in Response to American Airlines Inc.'s Third, Fourth, and Fifth Requests for Production of Documents, and Memorandum in Support Thereof* (Doc. 281) (filed April 2, 2012);³⁰ and,
- (i) *American Airlines, Inc.'s Combined Emergency Motion to Lift the Stay for the Limited Purpose of Determining Whether American Can Use O'Hara Deposition*

²³ Appx. 006: Penniman Dec. at ¶ 5(a).

²⁴ Appx. 006: Penniman Dec. at ¶ 5(b).

²⁵ Appx. 006-007: Penniman Dec. at ¶ 5(c).

²⁶ Appx. 007: Penniman Dec. at ¶ 5(d).

²⁷ Appx. 007: Penniman Dec. at ¶ 5(e).

²⁸ Appx. 007: Penniman Dec. at ¶ 5(f).

²⁹ Appx. 008: Penniman Dec. at ¶ 5(g).

³⁰ Appx. 008: Penniman Dec. at ¶ 5(h).

Testimony in the Tarrant County Case and Motion for Expedited Treatment and Memorandum in Support Thereof (Doc. 414) (filed October 15, 2012).³¹

3. Confidential Internal Business Planning, Strategic Analysis, and Financial Information

A number of the documents currently filed under seal also disclose confidential financial information and other proprietary, non-public data of Sabre. Such documents reveal recent non-public strategic analysis and financial information relating to Sabre—a privately-held company—as well as highly confidential financial information that relates to Sabre’s customers.³² This information is highly sensitive, not generally known outside Sabre, and access to this information is controlled even within Sabre.³³ Disclosure of this information could be used by Sabre’s competitors and customers to understand Sabre’s proprietary confidential business strategies and financial standing and status, and thus threaten Sabre’s competitive position both with its customers and its competitors.³⁴ Disclosure of this information would also allow competitors of Sabre’s customers to get a window into the strategies of those customers.³⁵

As shown in the declaration of Camille Penniman, the following documents contain confidential strategic planning or financial information and should be sealed:

- (a) *American Airlines Inc.’s Response in Opposition to Sabre’s Motion to Dismiss Pursuant to Rule 12(b)(6)* (Doc. 124) (filed August 3, 2011);³⁶
- (b) *American Airlines Inc.’s Response to Travelport’s September 9, 2011 Letter* (Doc. 138) (filed September 16, 2011);³⁷

³¹ Appx. 008: Penniman Dec. at ¶ 5(i).

³² Appx. 009: Penniman Dec. at ¶ 6.

³³ Appx. 009: Penniman Dec. at ¶ 6.

³⁴ Appx. 009: Penniman Dec. at ¶ 6.

³⁵ Appx. 009: Penniman Dec. at ¶ 6.

³⁶ Appx. 009: Penniman Dec. at ¶ 6(a).

³⁷ Appx. 009: Penniman Dec. at ¶ 6(b).

- (c) *Appendix in Support of American Airlines Inc.'s Response to Travelport's September 9, 2011 Letter* (Doc. 139) (filed September 16, 2011);³⁸
- (d) *American Airlines Inc.'s Response to Travelport's September 23 Filing and Sabre's September 26 Filing* (Doc. 143) (filed September 30, 2011);³⁹
- (e) *American Airlines Inc.'s Motion for Leave to File Second Amended Complaint and Brief in Support* (Doc. 148) (filed October 20, 2011);⁴⁰
- (f) *Second Amended Complaint* (Doc. 159) (filed December 5, 2011);⁴¹
- (g) *Appendix of Exhibits to Travelport's Opposition to Plaintiff American Airlines, Inc.'s Motion for Protective Order with Respect to Travelport's Request for Admissions and Interrogatories* (Doc. 175) (filed December 28, 2011);⁴²
- (h) *Appendix in Support of Travelport's Response in Opposition to Plaintiff American Airlines, Inc.'s Motion for Reconsideration* (Doc. 183) (filed January 9, 2012);⁴³
- (i) *Appendix of Exhibits to Travelport's Response in Opposition to Plaintiff American Airlines, Inc.'s Motion to Extend Scheduling Order Deadlines* (Doc. 185) (filed January 10, 2012);⁴⁴
- (j) *Appendix in Support of Sabre's Response to American Airlines' Motion to Extend Scheduling Order Deadlines* (Doc. 190) (filed January 12, 2012);⁴⁵
- (k) *Appendix in Support of American Airlines Inc.'s Reply to Travelport's Response in Opposition to American's Motion for Reconsideration of the Court's November 21, 2011 Order* (Doc. 203) (filed January 23, 2012);⁴⁶
- (l) *Travelport's Response to Plaintiff's Motion to File Supplemental Brief in Support of its Motion to Extend Scheduling Order Deadlines* (Doc. 223) (filed February 7, 2012);⁴⁷

³⁸ Appx. 009-010: Penniman Dec. at ¶ 6(c).

³⁹ Appx. 010: Penniman Dec. at ¶ 6(d).

⁴⁰ Appx. 010: Penniman Dec. at ¶ 6(e).

⁴¹ Appx. 010-011: Penniman Dec. at ¶ 6(f).

⁴² Appx. 011: Penniman Dec. at ¶ 6(g).

⁴³ Appx. 011-012: Penniman Dec. at ¶ 6(h).

⁴⁴ Appx. 012: Penniman Dec. at ¶ 6(i).

⁴⁵ Appx. 012: Penniman Dec. at ¶ 6(j).

⁴⁶ Appx. 012: Penniman Dec. at ¶ 6(k).

⁴⁷ Appx. 013: Penniman Dec. at ¶ 6(l).

- (m) *Appendix in Support of Defendant Orbitz Worldwide LLC's Motion for an Order Permitting it to Share Certain Documents with In-House Counsel Pursuant to the Protective Order* (Doc. 225) (filed February 9, 2012);⁴⁸
- (n) *Appendix to Motion by the Travelport Defendants to Compel Discovery and for Sanctions* (Doc. 231) (filed February 14, 2012);⁴⁹
- (o) *Appendix to Motion by Defendants Travelport and Orbitz (A) for Leave to Take Up to Twenty-Five Fact Depositions and (B) for Expedited Treatment* (Doc. 327) (filed May 16, 2013);⁵⁰
- (p) *Appendix in Support of American Airlines' Motion to Compel Deposition of Sabre Witnesses and Motion for Expedited Treatment* (Doc. 378) (filed July 25, 2012);⁵¹
- (q) *Appendix of Exhibits in Support of Sabre Defendants' Response to American's Motion to Compel the Second Deposition of Sabre Witnesses & Motion for Protection* (Doc. 384) (filed August 15, 2012);⁵²
- (r) *American Airlines, Inc.'s Combined Emergency Motion to Lift the Stay for the Limited Purpose of Determining Whether American Can Use O'Hara Deposition Testimony in the Tarrant County Case and Motion for Expedited Treatment and Memorandum in Support Thereof* (Doc. 414) (filed October 15, 2012);⁵³ and,
- (s) *Appendix in Support of Plaintiff American Airlines, Inc.'s Motion to Authorize Deposit Into Court Registry and for Expedited Trial* (Doc. 456) (filed February 25, 2013).⁵⁴

4. Non-public and Proprietary Information Concerning Current or New Technology, Products, or Enhancements

Sabre also seeks to permanently seal the *Appendix in Support of American Airlines' Motion to Compel Deposition of Sabre Witnesses and Motion for Expedited Treatment* (Doc. 378) (filed July 25, 2012) which contains Sabre's confidential and proprietary product information and other proprietary, non-public data that relates to highly confidential and

⁴⁸ Appx. 013: Penniman Dec. at ¶ 6(m).

⁴⁹ Appx. 013: Penniman Dec. at ¶ 6(n).

⁵⁰ Appx. 013-014: Penniman Dec. at ¶ 6(o).

⁵¹ Appx. 014: Penniman Dec. at ¶ 6(p).

⁵² Appx. 014: Penniman Dec. at ¶ 6(q).

⁵³ Appx. 014-015: Penniman Dec. at ¶ 6(r).

⁵⁴ Appx. 015: Penniman Dec. at ¶ 6(s).

proprietary information concerning new products, product enhancements, non-public Sabre technology, and Sabre technology under development at Sabre.⁵⁵ This information is highly sensitive and not generally known outside Sabre, and access to this information is controlled even within Sabre.⁵⁶ Moreover, these new product enhancements and technologies are developed and prepared at substantial expense to Sabre, are extremely valuable to Sabre, and could not be easily or inexpensively acquired or duplicated by Sabre's competitors.⁵⁷ Disclosure of this information could be used by Sabre's competitors and customers to understand Sabre's proprietary confidential business strategies and thus threaten Sabre's competitive position both with its customers and its competitors.⁵⁸

B. Sabre's Interest in Protecting Confidential and Competitive Trade Secret Information Outweighs Any Public Interests

This suit involved private commercial conduct that does not implicate any important political or governmental issue, and Sabre's proprietary interests in protecting its valuable trade secret information substantially outweighs any perceivable public interest that might exist in access to the information. In similar circumstances, the Fifth Circuit has expressly declined to recognize a "strong presumption" in favor of the public's right of access to court records, and has instead held the presumption of public access is simply "one of the interests to be weighed." *Van Waeyenberghe*, 990 F.2d at 848 n.4 (quoting *Belo Broadcasting Corp. v. Clark*, 654 F.2d 423, 434 (5th Cir.1981)).

⁵⁵ Appx. 015: Penniman Dec. at ¶ 7.

⁵⁶ Appx. 016: Penniman Dec. at ¶ 7.

⁵⁷ Appx. 016: Penniman Dec. at ¶ 7.

⁵⁸ Appx. 016: Penniman Dec. at ¶ 7.

When balancing the public interest in access with the interests threatened by disclosure, several courts have permitted documents to be sealed where there is little or no public interest in the issues and where there are strong reasons to protect the secrecy of competitive business information. *See Apple Inc. v. Samsung Electronics Co.*, 2013 WL 4487610, *9-10 and *11-12 (Fed. Cir. Aug. 23, 2013) (finding that the competitive harm Apple and Samsung would suffer outweighed general public interest in the companies' financial information and market research especially where that information was never introduced into evidence or essential to the district court's rulings on pre-trial motions); *In re Iowa Freedom of Information Council*, 724 F.2d at 664 (finding proprietary interest in trade secrets outweighed public interests where the case involved private commercial conduct and no important governmental or political question); *Jadael Inc. v. Elliott*, 2006 U.S. Dist. LEXIS 71055, at *6 (M.D. Fla. Sept. 29, 2006) (finding that party's interest in protecting trade secrets outweighed public interest where there was no evidence of any actual public interest in the contents of the documents); *Walker Sys. v. Hubbell Inc.*, 188 F.R.D. 428, 430 (S.D. W. Va. 1999) (granting motion to seal documents containing trade secrets after balancing private and public interests).

As in *In re Iowa Freedom of Information Council*, this case solely involved commercial conduct between private entities. 724 F.2d at 664 (law favors protecting information where only private commercial interest or damage are involved). Though, as with any law, the law of antitrust is important to the public at large, the particular matters Sabre seeks to protect do not implicate any public interest in any governmental agency, public official, law enforcement, or other particular issue of public importance. Rather, the subject documents implicate only Sabre's business interests in protecting valuable trade secret, confidential, and proprietary information from disclosure and misuse by Sabre's competitors or customers. Accordingly, any

public interests are substantially outweighed by the competitive and proprietary interests at stake.

As the Federal Circuit recently stated:

We recognize the importance of protecting the public's interest in judicial proceedings and of facilitating its understanding of those proceedings. That interest, however, does not extend to mere curiosity about the parties' confidential information where that information is not central to a decision on the merits. While protecting the public's interest in access to the courts, we must remain mindful of the parties' right to access those same courts upon terms which will not unduly harm their competitive interest.

Apple, 2013 WL 4487610 at *12.

Prayer

For the reasons stated above and in the accompanying declaration, Sabre respectfully requests that this motion be granted and the Court enter an order permanently sealing the records identified in this motion and Exhibit A.

Dated: October 14, 2013

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

I hereby certify that I have conferred with Daniel Klein and Robert Berezin (counsel for American), Christian Tucker and Justin Pentz (counsel for Travelport), and John Little (counsel for Orbitz) concerning the relief requested herein. Each stated that their respective clients do not oppose this motion.

/s/ Scott A. Fredricks

Scott A. Fredricks

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of the foregoing document via the Court's CM/ECF system pursuant to the Court's Local Rule 5.1(d) on October 14, 2013.

/s/ Scott A. Fredricks

Scott A. Fredricks