

Guyana Tel. & Tel. Co. Ltd. v E-Networks Inc.

2022 NY Slip Op 30586(U)

February 23, 2022

Supreme Court, New York County

Docket Number: Index No. 152604/2020

Judge: Andrea Masley

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SUPREME COURT OF THE STATE OF NEW YORK
 COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 48

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GUYANA TELEPHONE AND TELEGRAPH COMPANY LIMITED, <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">- v -</p> E-NETWORKS INC., <p style="text-align: center;">Defendant.</p>	<table border="0"> <tr> <td style="width: 150px;">INDEX NO.</td> <td style="border-bottom: 1px solid black;">152604/2020</td> </tr> <tr> <td>MOTION DATE</td> <td style="border-bottom: 1px solid black;">N/A</td> </tr> <tr> <td>MOTION SEQ. NO.</td> <td style="border-bottom: 1px solid black;">006</td> </tr> </table> <p style="text-align: center;">DECISION + ORDER ON MOTION</p>	INDEX NO.	152604/2020	MOTION DATE	N/A	MOTION SEQ. NO.	006
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HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 006) 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 133, 134 were read on this motion to/for SEAL.

Upon the foregoing documents, it is

In motion sequence number 006, plaintiff Guyana Telephone and Telegraph Company Limited, (Guyana) moves, by Order to Show Cause, to seal NYSCEF Doc. Nos. [NYSCEF] 100, 101, 102, 103, 104, 105¹, 106, 107, 108, 109, 110, and 111² on the grounds that they contain pricing and business information. NYSCEF 90, 91, 92, 93, 94, and 95 are defendant's documents in support of defendant's motion for summary judgment (motion sequence 005).

NYSCEF 100 (and 90) is a services agreement between the parties which includes pricing, rates, and financial terms. NYSCEF 101 (and 91) is a services agreement between the parties which includes pricing, rates, and financial terms.

¹ NYSCEF 100-105 are also filed at NYSCEF 90-95.

² NYSCEF 106-111 are also filed in redacted versions at NYSCEF 124-127 and 130-131.

NYSCEF 102 (and 92) is a services agreement between the parties which includes pricing and rates, which includes pricing, rates, and financial terms already subject to a sealing order in this action. (*See* NYSCEF 26, Decision and Order.) NYSCEF 103 (and 93) is a service order between the parties which includes pricing, rates, and financial information. NYSCEF 104 (and 94) is a termination letter between the parties which includes pricing, rates, and financial terms. NYSCEF 105 (and 95) is an invoice between the parties which includes pricing, rates, and financial terms already subject to a sealing order in this action. (*See Id.*)

NYSCEF 106 (and 124) is an email between the parties which includes pricing, rates, and financial terms. NYSCEF 107 (and 125) is an email between the parties which includes pricing, rates, and financial terms. NYSCEF 108 (and 126) is an email between the parties which includes pricing, rates, and financial terms. NYSCEF 109 (and 127) is an email between the parties containing a customer service order form between the parties which includes pricing, rates, and financial terms. NYSCEF 110 (and 130) are invoices which includes pricing, rates, and financial terms. NYSCEF 111 (and 131) is a customer service order form between the parties which includes pricing, rates, and financial terms. Guyana filed NYSCEF 106, 107, 108, 109, 110, and 111 with proposed redactions.

Guyana argues that the documents contain pricing and other terms that if disclosed, would impair plaintiff's competitive advantage by allowing competitors to gain access to pricing and rates it offers customers and undermine relationships with existing and prospective customers.

The motion is unopposed. There is no indication in the record that the press or public are interested in this action.

Section 216.1(a) of the Uniform Rules for Trial Courts empowers courts to seal documents upon a written finding of good cause. It provides:

“(a) [e]xcept where otherwise provided by statute or rule, a court shall not enter an order in any action or proceeding sealing the court records, whether in whole or in part, except upon a written finding of good cause, which shall specify the grounds thereof. In determining whether good cause has been shown, the court shall consider the interests of the public as well as the parties. Where it appears necessary or desirable, the court may prescribe appropriate notice and an opportunity to be heard.

(b) For purposes of this rule, ‘court records’ shall include all documents and records of any nature filed with the clerk in connection with the action. Documents obtained through disclosure and not filed with the clerk shall remain subject to protective orders as set forth in CPLR 3103 (a).”

Judiciary Law § 4 provides that judicial proceedings shall be public. “The public needs to know that all who seek the court’s protection will be treated evenhandedly,” and “[t]here is an important societal interest in conducting any court proceeding in an open forum.” (*Baidzar Arkun v Farman-Farma*, 2006 NY Slip Op 30724[U], *2 [Sup Ct, NY County 2006] [citation omitted].) The public right of access, however, is not absolute. (*See Danco Lab, Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 8 [1st Dept 2000].) The “party seeking to seal court records bears the burden of demonstrating compelling circumstances to justify restricting public access” to the documents. (*Mosallem v Berenson*, 76 AD3d 345, 348-349 [1st Dept 2010] [citations omitted].) Good cause must “rest on a sound basis or legitimate need to take judicial action.” (*Danco Labs.*, 274 AD2d at 9.)

In the business context, courts have sealed records where trade secrets are involved or where the disclosure of documents “could threaten a business’s competitive advantage.” (*Mosallem*, 76 AD3d at 350-351 [citations omitted].) Additionally, the First Department has affirmed the sealing of records concerning financial information where

there has not been a showing of relevant public interest in disclosure of the financing. (See *Dawson v White & Case*, 184 AD2d 246, 247 [1st Dept 1992].) For instance, in *Dawson v White & Case*, the First Department stated that the plaintiff-appellant failed to show “any legitimate public concern, as opposed to mere curiosity, to counter-balance the interest of defendant’s partners and clients in keeping their financial arrangement private.” (*Id.* [internal quotation marks and citation omitted].)

To the extent that NYSCEF 100, 101, 102, 104, and 105 as well as the duplicate documents at NYSCEF 90, 91, 92, 94 and 95 contain information that was permitted to be redacted in a prior order, those shall also be redacted here. Good cause also exists to redact the pricing, rates, and financial terms as proposed by Guyana from NYSCEF 103 and its duplicate document at 93, as well that information from NYSCEF 106, 107, 108, 109, 110 and 111.

Accordingly, it is

ORDERED that the motion is granted. Movant is to file publicly redacted versions of NYSCEF 90, 91, 92, 93, 94, and 95 in accordance with this decision and the prior order. Movant does not have to file publicly redacted versions of 106-111 as they have already done so; and it is further

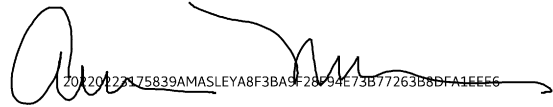
ORDERED that the County Clerk, upon service to him of this order, shall seal NYSCEF Doc. Nos. 90, 91, 92, 93, 94, 95, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, and 111; and it is further

ORDERED the New York County Clerk shall restrict access to the sealed documents with access to be granted only to authorized court personnel and designees, the parties and counsel of record in the above-captioned action, and any representative

of a party or of counsel of record upon presentation to the County Clerk of written authorization from counsel; and it is further

ORDERED that plaintiff is to serve a copy of this order on the County Clerk in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases (accessible at the "E-filing" page on the court's website - www.nycourts.gov/supctmanh); and it is further

ORDERED that this order does not authorize sealing or redacting for purposes of trial.



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2/23/2022

DATE

ANDREA MASLEY, J.S.C.

CHECK ONE:

CASE DISPOSED

NON-FINAL DISPOSITION

GRANTED

DENIED

GRANTED IN PART

OTHER

APPLICATION:

SETTLE ORDER

SUBMIT ORDER

CHECK IF APPROPRIATE:

INCLUDES TRANSFER/REASSIGN

FIDUCIARY APPOINTMENT

REFERENCE