

Rad v IAC/InterActiveCorp

2022 NY Slip Op 33170(U)

September 20, 2022

Supreme Court, New York County

Docket Number: Index No. 654038/2018

Judge: Joel M. Cohen

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

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SEAN RAD, PAUL CAFARDO, GARETH JOHNSON,
ALEXA MATEEN, JUSTIN MATEEN, RYAN OGLE,

INDEX NO. 654038/2018

Plaintiffs,

MOTION DATE N/A

- v -

MOTION SEQ. NO. 054

IAC/INTERACTIVECORP, MATCH GROUP, INC., MATCH
GROUP, LLC,

DECISION + ORDER ON
MOTION

Defendants.

-----X

HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 054) 1022, 1871, 1872,
1873, 1873, 1874, 1876, 1877, 1878, 1879, 1881, 1882, 1883, 1884, 1887, 1892, 1893, 1894,1904,
1909, 1910, 1911, 1912, 1913, 1914, 1924, 1932, 1934, 1940, 1942, 1945, 1946, 1947, 1948, 1949,
1965, 1980, 1982, 1985, 2006, 2014, 2016, 2022, 2027, 2035, 2038, 2059, 2064, 2071, 2353, 2354,
2356, 2357, 2358, 2359, 2362, 2363, 2376, 2377, 2378, 2380, 2396, 2397, 2405, 2406, 2408, 2409,
2432, 2438, 2448, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2560, 2565,
2618

were read on this motion to SEAL

Defendants IAC/InterActiveCorp, Match Group, Inc., and Match Group, LLC

("Defendants") move for an order sealing and/or redacting certain documents filed in connection
with the parties' pre-trial motions in limine (Mot. Seq. Nos. 044-053).¹ For the following
reasons, the motion is granted in part.

¹ Motion Sequences 19, 20, 23, 27, 28, 29, 30, 31, 35, 36, 37, 38, 39, 41, 42, 43, 54, 55, 56, 57,
58, and 64 initially were referred to the Hon. Eileen Bransten (the "JHO") (see NYSCEF 1803,
2611) but were not finally resolved prior to her unfortunate passing. A jury trial was held in
November 2021 resulting in a settlement among the parties. At the Court's request, the parties
filed a joint letter identifying documents subject to their respective sealing motions that were
admitted at trial and withdrawing certain requests to seal (see NYSCEF 2736 and attached
exhibits).

Pursuant to § 216.1 (a) of the Uniform Rules for Trial Courts, this Court may seal a filing “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 of the parties” (22 NYCRR § 216.1 [a]).

The Appellate Division has emphasized that “there is a broad presumption that the public is entitled to access to judicial proceedings and court records” (*Mosallem v Berenson*, 76 AD3d 345, 348 [1st Dept 2010]). “Since the right [of public access to court proceedings] is of constitutional dimension, any order denying access must be *narrowly tailored to serve compelling objectives*, such as a need for secrecy that outweighs the public's right to access” (*Danco Labs., Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 6 [1st Dept 2000] [emphasis added]; *see also, e.g. Gryphon Dom. VI, LLC v APP Intern. Fin. Co., B.V.*, 28 AD3d 322, 324 [1st Dept 2006]). “Furthermore, because confidentiality is the exception and not the rule, ‘the party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access’” (*Maxim, Inc. v Feifer*, 145 AD3d 516, 517 [1st Dept 2016] [citations omitted]).

The parties have identified documents subject to their respective sealing motions that were admitted at trial and withdrawing certain requests to seal (*see* NYSCEF 2736 and attached exhibits). As relevant here, Defendants withdrew their request to redact/seal NYSCEF Doc. Nos. 1881, 1887, 1909, 1910, 1940, 1942, 1946, 2038, and 2378. The Court has reviewed the remaining documents subject to this sealing motion and finds that they comport with the applicable sealing standards as laid out in *Mosallem*, 76 AD3d at 348–50, and its progeny, in that they contain sensitive non-public financial information of Match and its subsidiaries (NYSCEF 1871, 1872, 1873, 1874, 1876, 1877, 1878, 1879, 1882, 1883, 1892, 1893, 1894, 1904, 1912,

1913, 1932, 1934, 1945, 1947, 1948, 1949, 1985, 2006, 2022, 2035, 2059, 2353, 2354, 2356, 2357, 2358, 2359, 2362, 2363, 2376, 2380, 2405, 2406, 2408, 2409, 2431, and 2448), Tinder's Marketing and Business Initiatives and Strategies (NYSCEF 1914, 1965, 1980, 2006, 2014, 2026, 2027, 2064, 2353, 2356, 2380, and 2397), Tinder's Product Performance Metrics and Product Development Strategies and Engineering (NYSCEF 1883, 1884, 1887, 1911, 2071, 2377, 2380, and 2438), and Tinder's Relationships with Key Counter-Parties (NYSCEF 1924, 1932, 1980, and 2014).

The Court also finds good cause to seal and/or redact documents that relate to the 2016 Tinder Holiday Party (NYSCEF 1980, 1982, 2022, and 2396) as this information was excluded from trial on the grounds that it is irrelevant and unduly prejudicial to Defendants (*see* NYSCEF 1308).

Finally, the Court notes that certain documents were filed under seal, but no party moved to seal and/or redact those documents. Accordingly, the Court will direct the County Clerk to unseal those documents.

Accordingly, it is

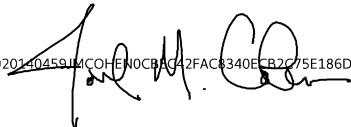
ORDERED that Defendants' motion is **granted**; and it is further

ORDERED that the County Clerk shall maintain NYSCEF Document Numbers 1022, 1871, 1872, 1873, 1873, 1874, 1876, 1877, 1878, 1879, 1882, 1883, 1884, 1892, 1893, 1894, 1904, 1911, 1912, 1913, 1914, 1924, 1932, 1934, 1945, 1947, 1948, 1949, 1965, 1980, 1982, 1985, 2006, 2014, 2016, 2022, 2027, 2035, 2059, 2064, 2071, 2353, 2354, 2356, 2357, 2358, 2359, 2362, 2363, 2376, 2377, 2380, 2396, 2397, 2405, 2406, 2408, 2409, 2432, 2438, 2448, 2473, 2474, 2475, 2476, and 2477 under seal, so that the documents may only be accessible by the parties, their counsel, and authorized court personnel; it is further

ORDERED that the County Clerk unseal NYSCEF Doc. Nos. 1881, 1887, 1909, 1910, 1940, 1942, 1946, 2038, and 2378; and it is further

ORDERED that the County Clerk unseal NYSCEF Doc. Nos. 1964, 1974, 1975, 1976, 1977, 1978, 1979, 1983, 1984, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 2007, 2008, 2009, 2011, 2013, 2017, 2018, 2019, 2020, 2021, 2023, 2024, 2025, 2028, 2065, 2066, 2341, 2068, 2070, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2329, 2346, 2393, 2394, 2395, 2398, 2399, 2400, 2402, 2402, 2441, 2442, 2449, 2450, and 2451, as they are not covered by any sealing motion.

This constitutes the Decision and Order of the Court.

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JOEL M. COHEN, J.S.C.

<u>9/20/2022</u> DATE				
CHECK ONE:	<input checked="" type="checkbox"/> CASE DISPOSED		<input type="checkbox"/> NON-FINAL DISPOSITION	
	<input type="checkbox"/> GRANTED	<input type="checkbox"/> DENIED	<input checked="" type="checkbox"/> GRANTED IN PART	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/> SETTLE ORDER		<input type="checkbox"/> SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/> FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE