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1900 Mkt. LLC v. Blackfyre S.A.

United States District Court for the Eastern District of Virginia, Alexandria Division

August 4, 2023, Decided; August 4, 2023, Filed

Civil Action No. 1:23-cv-754 (PTG/LRV)

Reporter

2023 U.S. Dist. LEXIS 233367 *; 2023 WL 9197993

1900 MARKET LLC, et al, Plaintiffs, v. BLACKFYRE S.A., et al., Defendants.

Prior History: [1900 Mkt. LLC v. Blackfyre, 2023 U.S. Dist. LEXIS 166127, 2023 WL 5987382 \(E.D. Va., July 31, 2023\)](#)

Core Terms

seal, confidential, memorandum, documents, proprietary information, exhibits, public right of access, reasonable opportunity, requirement of notice, sensitive information, competing interests, interested party, public notice, trade secret, disclosure, outweighed, quotations, asserting

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Judges: Lindsey Robinson Vaala, United States Magistrate Judge.

Opinion by: Lindsey Robinson Vaala

Opinion

ORDER

This matter comes before the Court on Defendants Blackfyre S.A. and Blackfyre USA, Inc.'s Motion to Seal (Dkt. No. 21). As explained in Defendants' memorandum in support of the Motion to [*2] Seal (Dkt. No. 24), Defendants request an order sealing two exhibits attached to the Declaration of Blair Connelly in Support of Defendants' Motion to Dismiss Plaintiffs' Complaint (Dkt. Nos. 25-1 & 25-2, filed under seal at Dkt. Nos. 23-1 & 23-2), as well as quotations thereto in Defendants' Memorandum of Law in Support of Defendants' Motion to Dismiss Plaintiff's Complaint (Dkt. No. 27, filed under seal at Mt. No. 23). Defendants assert that it is appropriate to seal the two exhibits because they are "confidential LLC Agreements that contain sensitive business data, among other non-public, competitively sensitive information." (Dkt. No. 21 at 1.) On July 31, 2023, Plaintiffs timely filed a Memorandum of Law in Opposition to Defendants' Motion to Seal (Dkt. No. 36), asserting that the Court should deny Defendants' Motion to Seal because "[t]he exhibits and quotations Defendants seek to seal contain no confidential, trade secret or commercially sensitive information and Defendants do not explain in any way why the disclosure of the LLC Agreements would harm them." (Mt. No. 36 at 1-2.)

In this District, "[m]otions to file documents under seal are disfavored and discouraged," L. Civ. R. 5(C), and the [*3] Court has authority to seal court documents only "if the public's right of access is outweighed by competing interests." [Ashcraft v. Conoco, Inc., 218 F.3d 288, 302 \(4th Cir. 2000\)](#). Procedurally, a district court may seal court filings if it "(1) provide[s] public notice of

the request to seal and allow[s] interested parties a reasonable opportunity to object, (2) consider[s] less drastic alternatives to sealing the documents, and (3) provide[s] specific reasons and factual findings supporting its decision to seal the documents and for rejecting the alternatives." *Id.* Upon consideration of Defendants' Motion to Seal, the memorandum in support, and Plaintiffs' opposition, the Court will **DENY** Defendants' Motion to Seal.

Although Defendants have met the notice requirement under *Ashcraft*, the Court finds that the LLC agreements do not contain confidential or sensitive proprietary information, trade secrets, or other information that, if publicly disclosed, would "threaten[] to harm the commercial or competitive interests" of Defendants or any non-parties, and Defendants do not specifically point to any such information. (Dkt. No. 24 ¶ 6 (citing *Rxd Media, LLC v. IP Application Dev. LLC, No. 118CV00486LOTGB, 2019 U.S. Dist. LEXIS 228386, 2019 WL 8112894, at *1 (E.D. Va. June 10, 2019)* (sealing "only [the] confidential and proprietary information, including 'Apple's *branding processes, trademark [*4] search strategies, and steps it takes to protect intellectual property*" that would result in "significant competitive advantage" if revealed (emphasis added))). As Plaintiffs point out, other than asserting that "the public has little interest in accessing these documents," Defendants do not explain how they would be harmed by the public filing of the agreements. (*Id.* ¶ 7.) Additionally,

I Defendants have satisfied the notice requirement under *Ashcraft* because they filed the Motion to Seal, memorandum in support, and public notice on July 24, 2023—more than seven days before the issuance of this Order—and interested parties, including Plaintiffs, have been given a reasonable opportunity to object. See L. Civ. R. 5(C); Dkt. Nos. 21, 22, 24, 36. although one of the agreements "requires all disputes concerning the Company to be referred to *confidential arbitration*" (*Id.* ¶ 8 (emphasis added)), neither agreement contains a confidentiality or non-disclosure clause that otherwise prohibits their disclosure to third parties. Further, even if the agreements *did* contain any sensitive proprietary information, the appropriate remedy would be to "redact only the proprietary and confidential information, rather than seal [*5] the entirety" of the agreements. *Adams v. Object Innovation, Inc., 2011 U.S. Dist. LEXIS 151644, 2011 WL 7042224, at *4 (E.D. Va. Dec. 5, 2011), report and recommendation adopted, 2012 U.S. Dist. LEXIS 4925, 2012 WL 135428 (E.D. Va. Jan. 17, 2012)*. Thus, upon consideration of Defendants' Motion to Seal and

Plaintiffs' opposition, as well as a careful review of the agreements, the Court does not find that "the public's right of access is outweighed by competing interests," such that the agreements should be sealed. *Ashcraft, 218 at 302*. Accordingly, it is hereby

ORDERED that Defendants' Motion to Seal (Dkt. No. 21) is **DENIED**. The Clerk is directed to unseal Docket Nos. 23, 23-1, and 23-2.

ENTERED this 4th day of August, 2023.

/s/ Lindsey Robinson Vaala

Lindsey Robinson Vaala

United States Magistrate Judge

Alexandria, Virginia

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