

**Diamond Films Netherlands Cooperatief U.A. v HC2  
Network Inc.**

2024 NY Slip Op 33975(U)

November 8, 2024

Supreme Court, New York County

Docket Number: Index No. 158690/2024

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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DIAMOND FILMS NETHERLANDS COOPERATIEF U.A.,  Plaintiff,  - v -  HC2 NETWORK INC., PARAMOUNT GLOBAL, and TUBI, INC.,  Defendants.	<table border="0"> <tr> <td><b>INDEX NO.</b></td> <td><u>158690/2024</u></td> </tr> <tr> <td><b>MOTION DATE</b></td> <td><u>--</u></td> </tr> <tr> <td><b>MOTION SEQ. NO.</b></td> <td><u>002</u></td> </tr> </table> <p style="text-align: center;"><b>DECISION + ORDER ON MOTION</b></p>	<b>INDEX NO.</b>	<u>158690/2024</u>	<b>MOTION DATE</b>	<u>--</u>	<b>MOTION SEQ. NO.</b>	<u>002</u>
<b>INDEX NO.</b>	<u>158690/2024</u>						
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<b>MOTION SEQ. NO.</b>	<u>002</u>						

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HON. ANDREA MASLEY:

The following e-filed documents, listed by NYSCEF document number (Motion 002) 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 36 were read on this motion to/for SEAL.

In motion sequence number 002, plaintiff Diamond Films Netherlands Cooperatief U.A. (Diamond) moves pursuant to the Uniform Rules of the New York State Trial Courts (22 NYCRR) § 216.1 to redact the following documents:

- A. Skipsey affirmation (NYSCEF Doc. No. [NYSCEF] 2)<sup>1</sup>
- B. HC2 information subpoena response (NYSCEF 6)<sup>2</sup>
- C. Tubi information subpoena response (NYSCEF 11)<sup>3</sup>
- D. Tubi agreement (NYSCEF 12)<sup>4</sup>
- E. Tubi email correspondence (NYSCEF 13)<sup>5</sup>
- F. Petitioner’s memorandum of law in support (NYSCEF 17)<sup>6</sup>

<sup>1</sup> A publicly redacted copy is filed at NYSCEF 30.  
<sup>2</sup> A publicly redacted copy is filed at NYSCEF 24.  
<sup>3</sup> A publicly redacted copy is filed at NYSCEF 25.  
<sup>4</sup> A publicly redacted copy is filed at NYSCEF 26.  
<sup>5</sup> A publicly redacted copy is filed at NYSCEF 27.  
<sup>6</sup> A publicly redacted copy is filed at NYSCEF 28.

### G. Petition (NYSCEF 29)<sup>7</sup>

The motion is unopposed.

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.”

“Under New York law, 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] [citations omitted].) The “party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access” to the documents. (*Id.* at 349 [citations omitted].) Good cause must “rest on a sound basis or legitimate need to take judicial action.” (*Danco Lab, Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 8 [1st Dept 2000] [internal quotations omitted].)

In the business context, courts have sealed records where the disclosure of documents “could threaten a business’s competitive advantage.” (*Mosallem*, 76 AD3d at 350 [citations omitted].) Records concerning financial information may be sealed where there has not been a showing of relevant public interest in the disclosure of that information. (See *Dawson v White & Case*, 184 AD2d 246, 247 [1st Dept 1992].) A party “ought not to be required to make their private financial information public ... where no substantial public interest would be furthered by public access to that information.”

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<sup>7</sup> A publicly redacted copy is filed at NYSCEF 1.

(*D'Amour v Ohrenstein & Brown*, 17 Misc.3d 1130[A], 2007 NY Slip Op 52207[U], \*20 [Sup Ct, NY County 2007] [citations omitted].)

Here, Diamond demonstrated good cause to redact Skipsey's affirmation, HC2 information subpoena response, Tubi information subpoena response, Tubi agreement, Tubi email correspondence, petitioner's memorandum of law in support, and petition. These documents contain commercially sensitive business terms and pricing information that could harm their business advantage if made public. There is no indication that the press or public have an interest in this matter. Additionally, this court permitted similar redactions as the redactions sought here in the underlying action. (See Index No. 655384/2020, NYSCEF 199, Decision and Order [mot. Seq. no. 008].)

Accordingly, it is

ORDERED that motion sequence number 002 is granted, and the County Clerk, upon service of this order, shall seal NYSCEF 2, 6, 11, 12, 13, 17, and 29; and it is further

ORDERED that plaintiff shall file a publicly redacted copy of NYSCEF 29 with redactions over the information highlighted in that documents; and it is further

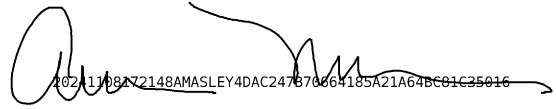
ORDERED the New York County Clerk shall restrict access to the sealed document with access to be granted only to authorized court personnel and designees, the parties and counsel of record in the above-captioned action, and any representative of a party or of counsel of record upon presentation to the County Clerk of written authorization from counsel; and it is further

ORDERED that movant shall serve a copy of this order upon the Clerk of the Court and the Clerk of the General Clerk's Office 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 at the address www.nycourts.gov/supctmanh)]; and it is further

ORDERED that if any party seeks to redact identical information in future filings that the court is permitting to be redacted here, that party shall submit a proposed sealing order to the court (via SFC-Part48@nycourts.gov and NYSCEF) instead of filing another seal motion; and it is further

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



11/8/2024  
DATE

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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