

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ELECTRONIC FRONTIER
FOUNDATION,

Plaintiff,

v.

BLUE SPIKE, LLC

Defendant.

Civil Action No. 6:16-mc-022

CONSENT ORDER

On March 29, 2016, Electronic Frontier Foundation ("EFF") filed a motion to intervene in Case No. 615cv584 between Audible Magic and Blue Spike to unseal documents. Blue Spike opposed the motion.

On April 18, 2016, the Court granted EFF's motion to intervene.

On May 17, 2016, the Court granted EFF's motion to unseal certain documents with modifications.

On June 27, 2016, EFF filed a motion for sanctions pursuant to Title 28 U.S.C. §1927 against Blue Spike and its attorneys, Garteiser Honea P.C. ("Garteiser Honea"), for having to file the motion to intervene and unseal.

On July 5, 2016, the Court severed EFF's motion for sanctions into the above miscellaneous cause number.

On October 6, 2016, the parties filed a Joint Motion to Dismiss and Request for Entry of Consent Order (Dkt. No. 14). The motion is **GRANTED** as follows.

Having resolved their dispute, Blue Spike and Garteiser Honea (each individually, "Defendant") agree to be bound, both separately and jointly, by the following Consent Order;

IT IS HEREBY ORDERED THAT:

1. Beginning on the date this Consent Order is entered by the court, Defendant will within 7 days of filing documents under seal in any court, file redacted versions of these documents, redacting only such information that is legitimately confidential as determined with reference to case law surrounding the sealing of information, unless Defendant can show good cause as to why such redacted documents cannot be filed.

a. For the avoidance of doubt, a protective order allowing Defendant to file under seal without filing redacted versions is not considered good cause.

b. For further avoidance of doubt, Defendant shall bear the burden of demonstrating good cause if they seek to redact or fully seal any documents.

2. Defendant will not object to the intervention of any third party (a "Third Party," which includes, without limitation, EFF) in order to unseal documents that were filed under seal, unless such objection is with good cause, as determined upon request by any party by the court hearing any such request for intervention;

3. Defendant will not object to the unsealing of any documents or information, unless such objection is with good cause, as determined upon request by any party by the court presiding over the matter in which the documents were filed;

4. Going forward, Defendant will not object to the unsealing of any information that is not alleged to be Blue Spike's confidential information, in the case of a matter relating to Blue Spike, or a the confidential information of a party represented by Garteiser Honea, in the case of a matter relating to a party represented by Garteiser Honea.

5. In the event a court of competent jurisdiction determines that a Defendant objected without good cause to either (i) the intervention by a Third Party for purpose of

unsealing documents filed under seal or (ii) a request by a Third Party for the unsealing of information filed under seal, Defendant shall be liable to the Third Party's attorneys' fees and costs in moving to intervene and/or unseal.

6. This Consent Order will bind each Defendant's successors and assigns.

7. This Consent Order will be enforceable by any Third Party in either this Court or in the court in which intervention and/or unsealing was sought.

IN WITNESS WHEREOF, the Parties have executed this Consent Order:

BLUE SPIKE, LLC

/s/ Jerry Goldstein (with permission)

By: Jerry Goldstein
Its: General Counsel
Dated: October 4, 2016

GARTEISER HONEA, PLLC

/s/ **Randall Garteiser**

By: Randall Garteiser
Its: Member-Manager Garteiser Honea
Dated: October 4, 2016

ELECTRONIC FRONTIER FOUNDATION

/s/ Vera Ranieri (with permission)

By: Vera Ranieri
Its: Staff Attorney
Dated: October 5, 2016

The Clerk of the Court is directed to **CLOSE** this civil action.

IT IS SO ORDERED.

SIGNED this 1st day of November, 2016.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE