

In the United States Court of Federal Claims

No. 19-399C

(Filed May 25, 2021)

NOT FOR PUBLICATION

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AXE MURDERER TOURS GUAM,
INC.,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

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ORDER

As explained at the conclusion of today’s oral argument, the Court finds good cause to issue a protective order protecting certain of plaintiff Axe Murderer Tours Guam, Inc.’s (Axe Murderer’s) confidential commercial information under Rule 26(c)(1)(G) of the Rules of the United States Court of Federal Claims (RCFC). Accordingly, plaintiff’s motion for a protective order, ECF No. 19, as modified by plaintiff’s reply, ECF No. 21, at 6–7, is **GRANTED**.

The Court finds that the information plaintiff seeks to protect---namely income, expenses, profits, and losses attributable to its scuba diving services---is indistinguishable from the information found protectable in *Apple Inc. v. Samsung Elec. Co.*, 727 F.3d 1214, 1218–19 (Fed. Cir. 2013), and in *DNC Parks & Resorts at Yosemite, Inc. v. United States*, 127 Fed. Cl. 435, 437 (2016). As in those cases, Axe Murderer’s detailed financial information is “confidential . . . commercial information” that should “not be revealed or be revealed only in a specified way.” RCFC 26(c)(1)(g). Disclosure of this information would place Axe Murderer at a competitive disadvantage in the geographically-limited market for these services. See *Scheibe Aff.*, ECF No. 19-1 ¶¶ 7, 14–16, 18; see also *DNC Parks*, 127 Fed. Cl. at 440. This specific harm far outweighs any conceivable public interest in access to these materials, which at this stage of the litigation have not been introduced or relied upon in judicial proceedings. See *Apple*, 727 F.3d at 1226.

Therefore, the information in plaintiff’s Profit Reports (Bates Nos. AMTG00244–374) and Base Exchange Sales Reports (AMTG00550–563), Reply at 6

n.4, shall not be disclosed by the government to third parties or used for any purposes outside of this litigation. Similarly protected is any deposition testimony or other documentation making use of or referencing the protected information. The parties shall meet and confer regarding the language of a formal protective order and shall, on or by **Tuesday, June 8, 2021**, file a status report updating the Court on the fruits (or progress) of those discussions.

IT IS SO ORDERED.

s/ Victor J. Wolski
VICTOR J. WOLSKI
Senior Judge