

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

NOVOZYMES A/S and
NOVOZYMES NORTH AMERICA, INC.,

Plaintiffs,

v.

DANISCO A/S,
GENENCOR INTERNATIONAL WISCONSIN, INC.,
DANISCO US INC. and DANISCO USA INC.,

Defendants.

ORDER

10-cv-251-bbc

The parties in this case have filed a number of requests for redaction of trial transcripts in this case. Dkt. ## 843, 851, 856 and 857. In their requests in dkt. ##851 and 857, plaintiffs rely on Fed. R. Civ. P. 5.2(e), which allows the court to redact documents in the record "[f]or good cause." They say that certain passages in the transcripts "contain specific references to customers, competitive strategy, pricing, profit margins, market share, and terms of confidential licensing and other agreements." In their request in dkt. #856, defendants say only that the passage "contain[s] highly confidential business information." In the other request, dkt. #843, they provide no justification.

The parties' conclusory assertions are insufficient to justify redaction of the trial transcripts. "What happens in federal courts is presumptively open to public scrutiny." Hicklin Engineering, L.C. v. Bartell, 439 F.3d 346, 348 (7th Cir. 2006). "People who want secrecy should opt for arbitration. When they call on the courts, they must accept the openness that goes with subsidized dispute resolution by public (and publicly accountable) officials. Judicial proceedings are public rather than private property." Union Oil Co. of California v. Leavell, 220 F.3d 562, 568 (7th Cir. 2000). For these reasons, the Court of Appeals for the Seventh Circuit has imposed a demanding standard on parties that wish to keep trial records private, requiring them to show that a statute, rule or privilege justifies confidentiality. E.g., In re Specht, 622 F.3d 697, 701 (7th Cir. 2010); United States v. Foster, 564 F.3d 852, 853 (7th Cir. 2009); Baxter International, Inc. v. Abbott Laboratories, 297 F.3d 544 (7th Cir. 2002).

Because the parties have not even attempted to satisfy this standard, I cannot conclude that they are entitled to redaction at this time. However, I will give them one more opportunity to make the necessary showing before I unseal the transcripts. In addition to satisfying the standard cited above, the parties should be prepared to explain why, if they believed the testimony elicited was confidential, they did not ask to close the courtroom at the time. Further, if either side still wishes to seek redaction of any transcript, it must accompany its renewed motion with a copy of the transcript that includes the requested

redactions.

Both sides submitted many documents during trial called "notice of intent to request redaction" of various transcripts, but docket ## 843, 851, 856 and 857 represent the only requests the parties actually made. Accordingly, I am directing the clerk of court to unseal immediately all transcripts that are not covered by those four docket entries.

ORDER

IT IS ORDERED that

1. The clerk of court is directed to UNSEAL the following docket entries: 702, 703, 704, 713, 714, 715, 716, 724, 725, 726, 727, 728, 729, 731, 751, 752, 753, 761, 762, 763, 765, 774, 775 and 799.

2. The parties may have until May 18, 2012, to file renewed requests to redact the remaining transcripts (dkt. ##723, 776, 792, 793, 819, 820, 821). If the parties fail to respond by that date or fail to submit a redacted version of the transcript, those transcripts

will be unsealed as well.

Entered this 4th day of May, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge