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VIA ECF

Hon. Analisa Torres
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

SEC v. Ripple Labs Inc., et al., No. 20-cv-10832 (AT) (SN) (S.D.N.Y.)

Dear Judge Torres:

Pursuant to Section IV(A)(ii) of this Court's Individual Practices, we write on behalf of Defendants Ripple Labs Inc. ("Ripple"), Bradley Garlinghouse, and Christian A. Larsen to propose narrowly-tailored redactions to a limited number of exhibits to the briefs filed by the parties in opposition to the motions to exclude expert testimony. *See* ECF Nos. 589-598 ("*Daubert Responses*"). Copies of these exhibits with the proposed redactions highlighted have been submitted under seal along with this Letter-Motion.¹ *See* Exs. A-I. The limited redactions that Defendants request are narrowly tailored to protect the legitimate privacy interests of third parties.

I. Legal Standard

The presumption of public access to judicial documents in the context of non-dispositive motions is "generally somewhat lower than the presumption applied to material introduced at trial, or in connection with dispositive motions such as motions for dismissal or summary judgment." *Brown v. Maxwell*, 929 F.3d 41, 50 (2d Cir. 2019). When balancing competing considerations against this presumption, "[f]oremost among the competing concerns . . . is 'the privacy interest of the person resisting disclosure.'" *Mirlis v. Greer*, 952 F.3d 51, 61 (2d Cir. 2020) (quoting *U.S. v. Amodeo*, 71 F.3d 1044, 1050 (2d Cir. 1995)).

¹ Many of the exhibits to the *Daubert Responses* are duplicates of exhibits to the parties' *Daubert* motions. Redactions proposed by Defendants in connection with their July 22 sealing motion would apply to these duplicate exhibits and are not separately addressed in this Letter-Motion. *See* ECF No. 562. These exhibits are identified in Appendix A.

II. Defendants' Proposed Redactions

A. Identities of Non-Parties

Defendants seek to protect the identities of certain non-party entities—including, among others, digital asset market participants and Ripple's business partners—whose privacy interests “should weigh heavily in a court's balancing equation.”² *Amodeo*, 71 F.3d at 1050 (citations omitted); *see also* ECF No. 561-2 at ¶ 13. Many of the affected third parties have expressed to Defendants their strong desire for such redactions to protect their privacy interests.³

The Court should grant these redactions for all of the reasons articulated by Defendants in their July 22 sealing motion, which sought similar redactions. *See* ECF No. 561 at 4-5. Those arguments apply with equal force here. *First*, the identities of these non-parties have no bearing at all on the *Daubert* Responses. *Second*, disclosure would be detrimental to these non-parties' legitimate privacy interests and Ripple's commercial relationships with them. *See* ECF No. 561-2 ¶¶ 10, 13. *Third*, the proposed redactions are consistent with prior rulings in this case. *See, e.g.*, Order, ECF No. 554 (Torres, J.). *Finally*, though not a dispositive factor, the SEC has previously indicated that it does not oppose the redaction of non-party names. *See* ECF Nos. 565 at 2; 570 at 1.

B. Identities of Certain Ripple Employees

For the same reasons set forth in Defendants' July 22 sealing motion, *see* ECF No. 561 at 5, Defendants seek to redact the names and contact information of certain Ripple employees that appear in the *Daubert* Responses.⁴ *First*, these employees' identities are not relevant to the *Daubert* Responses and any public interest in the disclosure of their identities is therefore minimal. *Second*, these employees are not parties to this suit and therefore have significant privacy interests and are entitled to a greater level of protection to prevent unnecessary disclosure of their identities. *Third*, the Court has previously granted Defendants' requests to redact the identities of non-party Ripple employees. *See, e.g.*, Order, ECF No. 554 (Torres, J.). *Finally*, the SEC has previously indicated that it does not oppose the redaction of Ripple employee names. *See* ECF No. 570 at 1.

² The proposed redactions appear in Ex. A (ECF No. 598-6), Ex. B (ECF No. 597), Ex. C (ECF No. 592), Ex. D (ECF No. 592-1), Ex. E (ECF No. 592-2), Ex. F (ECF No. 592-3), Ex. G (ECF No. 592-4), Ex. H (ECF No. 592-5), Ex. I (ECF No. 592-6).

³ Defendants' proposed redactions include redactions of the identity of Third-Party A consistent with the sealing motion filed by Third-Party A on July 28, 2022 (ECF No. 581), which Defendants did not oppose, and after meeting and conferring with Third-Party A.

⁴ The proposed redactions appear in Ex. A (ECF No. 598-6), Ex. B (ECF No. 597), Ex. C (ECF No. 592), Ex. D (ECF No. 592-1), Ex. E (ECF No. 592-2), Ex. F (ECF No. 592-3), Ex. G (ECF No. 592-4), Ex. H (ECF No. 592-5), Ex. I (ECF No. 592-6).

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C. Personal Financial Information

Defendants also seek narrow redactions of information pertaining to the personal financial holdings of a Ripple employee. *See* Ex. D (ECF No. 592-1). Such information is not relevant to the *Daubert* Responses, pertains to private holdings apart from that individual’s Ripple compensation, and implicates significant privacy interests. *See, e.g., City of Almaty, Kazakhstan v. Ablyazov*, No. 15 Civ. 5345, 2021 WL 1177737, at *1 (S.D.N.Y. Mar. 29, 2021) (allowing redaction of third parties’ personal financial information when such information was “essentially irrelevant to the summary judgment motion”).

Respectfully submitted,

/s/ Andrew J. Ceresney

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cc: All Counsel of Record (via ECF)

Appendix A**Proposed Redactions to Duplicate Exhibits to *Daubert* Responses**

<i>Daubert</i> Response Exhibit	Defendants' Proposed Redactions to Duplicate Exhibit
598-1	562-2
598-2	562-3
598-4	562-7
598-5	562-10
598-7	562-16
598-8	562-11
598-9	562-12
598-11	562-8
598-12	562-13
598-13	562-9
598-22	562-4
598-23	562-6
598-24	562-5