

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Hunter W. May, III,)	
)	C.A. No.: 6:05-794-HMH
Plaintiff,)	
)	OPINION & ORDER
vs.)	
)	
Medtronic Inc. a/k/a Medtronic)	
Neurological,)	
)	
Defendant.)	

The matter is before the court on Medtronic Inc. a/k/a Medtronic Neurological’s (“Medtronic”) motion to seal certain documents pursuant to Local Civil Rule 5.03 DSC. Hunter W. May, III, (“May”) does not object to the sealing of these documents.

This is a product’s liability action in which May alleges claims for strict liability, negligence, and breach of warranty. May claims that he suffered injuries after he was implanted with a defective SynchroMed® EL Pump (“Pump”) to treat spasticity from cerebral palsy. Medtronic seeks to seal traceability records which “trace each step of the manufacturing process for each SynchroMed® EL Pump.” (Def.’s Mot. Seal Ex. A (Decl. William Hooper (“Hooper”) ¶¶ 5-6).)

Medtronic alleges in its motion for summary judgment that, based on the traceability records, the Pump satisfied the Federal Drug Administration (“FDA”) manufacturing requirements. (Id. 5-6.) Medtronic contends that the traceability records contain proprietary information that must be sealed because disclosure would injure Medtronic’s ability to compete and unfairly benefit its competitors. (Id.)

In Ashcraft v. Conoco, Inc., 218 F.3d 288, 302 (4th Cir. 2000), the Fourth Circuit held that a district court “has supervisory power over its own records and may, in its discretion, seal

documents if the public's right of access is outweighed by competing interests." (Internal quotation marks omitted). However, there is a presumption in favor of public access to court records. Id. In order to seal documents, the court must "(1) provide public notice of the request to seal and allow interested parties a reasonable opportunity to object, (2) consider less drastic alternatives to sealing the documents, and (3) provide specific reasons and factual findings supporting its decision to seal the documents and for rejecting the alternatives." Id. Public notice has been satisfied through docketing of Medtronic's motion to seal. See D.S.C. Civ. R. 5.03(D).

With respect to the remaining factors, the court finds that the traceability records should be sealed. The traceability records contain confidential and proprietary information that would damage Medtronic's business if disclosed. Therefore, the court finds that Medtronic's interest in non-disclosure of proprietary information outweighs the public's right to access to these documents. See Emergency Fuel, LLC v. Pennzoil-Quaker State Co., 187 F. Supp. 2d 575, 583 (D. Md. 2002) (sealing confidential commercial information because "public disclosure could unfairly damage the parties' business and financial interests"), aff'd in part, rev'd in part on other grounds, and remanded, No. 02-1391, 2003 WL 21772131, at *1 (Fed. Cir. July 25, 2003) (unpublished). Moreover, the court has considered less drastic alternatives to sealing the documents. However, after a review of the traceability records, the court finds that it is not possible to redact the records because it would render them meaningless. (Def.'s Mot. Seal 4.) Therefore, based on the foregoing, the court grants Medtronic's motion to seal.

It is therefore

ORDERED that Medtronic's motion to seal, docket number 37, is granted.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
United States District Judge

Greenville, South Carolina
May 15, 2006