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FIRST CIRCUIT
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IN THE TAX APPEAL COURT OF THE
STATE OF HAWAII

IN THE MATTER OF THE TAX APPEAL

of

BOOKING.COM B.V.,

Taxpayer-Appellant.

Case No. 1CTX-21-0001613

APPELLEE DIRECTOR OF TAXATION,
STATE OF HAWAII'S RESPONSE TO
TAXPAYER-APPELLANT BOOKING.COM
B.V.'S MOTION TO SEAL TRANSCRIPTS
FILED ON JUNE 18, 2025; CERTIFICATE OF
SERVICE

HEARING MOTION:

DATE: August 11, 2025

TIME: 1:30 p.m.

JUDGE: The Honorable KEVIN T. MORIKONE

Trial Date: June 15, 2026

APPELLEE DIRECTOR OF TAXATION, STATE OF HAWAII'S
RESPONSE TO TAXPAYER-APPELLANT BOOKING.COM B.V.'S
MOTION TO SEAL TRANSCRIPTS FILED ON JUNE 18, 2025

Appellee Director of Taxation, State of Hawaii (“Director”), responds to TAXPAYER-APPELLANT BOOKING.COM B.V.’S (“Booking.com”) MOTION TO SEAL TRANSCRIPTS filed on June 18, 2025 as follows:

On May 23, 2025, Public First Law Center (“Public First”), a non-party to this case, filed a petition for writ of prohibition and writ of mandamus with the Hawaii Supreme Court regarding this Court’s decision to seal certain documents in this tax appeal. *Public First Law Center v. Morikone*, Haw. Sup. Ct. Case No. SCPW-25-0000419. Public First additionally requested transcripts of several hearings from this tax appeal. Sup. Ct. Dkt. Nos. 6, 7.

Transcripts, including those of the April 10, 2023 and May 6, 2024 hearings, were entered into the Supreme Court docket on May 28, 2025. Sup. Ct. Dkt. Nos. 11, 15. These transcripts are not on the docket in this tax appeal.

On June 18, 2025, Booking.com filed the present motion to seal portions of the April 10, 2023 and May 6, 2024 hearing transcripts located on the Supreme Court docket. There is no dispute that the transcripts that Booking.com wants this Court to seal have never been filed on the public docket in this tax appeal; they are only on the docket in the Supreme Court case. Booking.com acknowledges as much in its motion. Booking.com’s Memorandum in Support of Motion to Seal at 3 (“While both Taxpayer and the Director requested transcripts of the April 2023 Hearing and the May 2024 Hearing from this Court, neither party filed them in the public record At no time were the Hearing Transcripts ever part of the public record.”). Booking.com nonetheless asks this Court—the Tax Appeal Court—to seal documents in the docket of a reviewing court—the Hawaii Supreme Court.

This Court lacks the authority to control the docket of another court. Although “courts have inherent power to control their dockets,” *U.S. v. W.R. Grace*, 526 F.3d 499, 509 (9th Cir. 2008), they lack the same authority over other courts’ dockets. Booking.com’s motion should be denied because this Court cannot grant the relief Booking.com seeks.

Booking.com makes its motion under Hawaii Court Records Rules (“HCRR”) 3.3 and 10.4, but neither rule gives this Court the authority to seal portions of documents in a Hawaii Supreme Court case. HCRR 3.3 allows the Clerk of the Court to “temporarily seal any document . . . pending review and a determination of accessibility by the court for which the record is maintained or by the Hawaii Supreme Court.” This rule simply allows the clerk to temporarily seal a document while the reviewing court makes a final determination on whether to seal. Moreover, this rule explicitly states that the final determination is made “by the court *for which the record is maintained*.” HCRR 3.3 (emphasis added). The records at issue—the April 10, 2023 and May 6, 2024 hearing transcripts—are maintained with the Hawaii Supreme Court. Therefore, the Hawaii Supreme Court—not the Tax Appeal Court—must make this final determination.

Similarly, HCRR 10.4 does not allow this Court to grant the relief that Booking.com seeks. HCRR 10.4 restricts who can access confidential documents unless “otherwise provided by . . . the court that has jurisdiction over a court case, . . . the court that has jurisdiction over an appeal from a court . . . or the supreme court.” HCRR 10.4. As discussed, this Court does not have jurisdiction to decide whether documents maintained with the Hawaii Supreme Court should be sealed. Booking.com points to no authority suggesting otherwise. Because this Court cannot grant the relief Booking.com seeks, the Director therefore respectfully requests that this Court deny Booking.com’s motion to seal.

DATED: Honolulu, Hawaii, July 31, 2025.

/s/ Kacyn H. Fujii
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CERTIFICATE OF SERVICE

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I hereby certify that, on the date set forth below, a copy of the foregoing was duly served
on the following via the Hawaii State Judiciary Electronic Filing and Service System:

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DATED: Honolulu, Hawaii, July 31, 2025.

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