



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 6, 2011

Ms. Neera Chatterjee
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701

OR2011-12817

Dear Ms. Chatterjee:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 429263 (OGC # 138178).

The University of Texas at Austin (the "university") received a request for the scoring sheet and winning proposal for RFP 2010049-MPDMS, online registration for the university athletic campus.¹ You state the university will release the requested scoring sheet. Although you take no position as to whether the submitted information is excepted under the Act, you state release of this information may implicate the proprietary interests of Active Network, Inc. ("Active"). Accordingly, you state, and provide documentation showing, you notified Active of the request for information and of its right to submit arguments to this office as to why the submitted information should not be released. *See* Gov't Code § 552.305(d); *see also* Open Records Decision No. 542 (1990) (statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception in the Act in certain circumstances). We have reviewed the submitted information.

We note an interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). As of the date of this letter, we have not received comments from Active explaining why its information should not be released. Therefore, we have no basis to conclude Active has a protected proprietary interest in the submitted information. *See id.*

¹We note that the university received clarification regarding this request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information). *See City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010).

§ 552.110; Open Records Decision Nos. 661 at 5-6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence, not conclusory or generalized allegations, that release of requested information would cause that party substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3. Accordingly, the university may not withhold Active's information on the basis of any proprietary interest it may have in submitted information. As no exceptions to disclosure have been raised, the submitted information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/dls

Ref: ID# 429263

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Mr. Stephen Branstetter
General Manager
The Active Network, Inc.
10182 Telesis Court, Suite 100
San Diego, California 92121
(w/o enclosures)