

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Maureen Ohlhausen, Acting Chairman



ORIGINAL

In the Matter of

Tronox Limited
a corporation,

National Industrialization Company
(TASNEE)
a corporation

National Titanium Dioxide
Company Limited (Cristal),
a corporation

AND

Cristal USA Inc.
a corporation

DOCKET NO. 9377

NON-PARTY AKZO NOBEL INC.'S UNOPPOSED MOTION FOR *IN CAMERA*
TREATMENT PURSUANT TO FTC RULE 3.45

Akzo Nobel Inc. ("AkzoNobel"), by and through its undersigned counsel and pursuant to 16 C.F.R. § 3.45(b), respectfully moves the Commission for *in camera* treatment of certain AkzoNobel documents designated by Respondents as exhibits in the hearing in this matter (the "Confidential Documents"). AkzoNobel produced these documents in response to a third party subpoena issued by Respondents on February 15, 2018, and pursuant to the Protective Order Governing Confidential Material in this matter ("Protective Order"). For the reasons described below, the Confidential Documents are entitled to *in camera* treatment because they contain competitively sensitive information that is material to AkzoNobel's business, and as such, any public disclosure of the information would seriously harm AkzoNobel and put it at a significant

competitive disadvantage in the market. AkzoNobel further requests that any hearing testimony regarding these documents be heard on an *in camera* basis.

BACKGROUND

AkzoNobel is a Dutch multinational company engaged in the manufacture of paints, performance coatings, and specialty chemical products for both industry and consumers. One of the key raw materials used in many of AkzoNobel's coating products is titanium dioxide ("TiO₂").

On April 19, 2018, AkzoNobel's outside counsel received notice from Respondents that they intend to use at the hearing in this matter numerous AkzoNobel documents that have been designated as Confidential. See Exhibit A (Respondents' Letter). Respondents have identified ten Bates-number ranges (each containing numerous documents) produced in response to Respondents' subpoena that they intend to use at the hearing. (*Ibid.*) Respondents further indicated that they intend to use AkzoNobel's 2017 response to an FTC Civil Investigation Demand,¹ the complete transcript of the deposition of Michael Post that was taken in this matter, as well as all nine documents that were used as exhibits during that deposition. (*Ibid.*)

Of these documents, AkzoNobel seeks full *in camera* treatment for just fifteen individual documents,² a list of which is attached to this Motion as Exhibit C, and copies of which are attached as Exhibit E. Every single document for which AkzoNobel seeks *in camera* treatment is a confidential business document containing proprietary, competitively sensitive, and/or trade

¹ The FTC also seeks to introduce AkzoNobel's Response to the FTC's Civil Investigation Demand as PX4228—accordingly AkzoNobel also requests identical *in camera* treatment for the FTC's use of this document.

² AkzoNobel also requests identical *in camera* treatment for several exhibits to Michael Post's deposition that are duplicates of previously identified documents.

secret information about AkzoNobel's business. Accordingly, AkzoNobel would suffer irreparable harm if the information contained in these documents were disclosed publicly.

In support of this Motion, AkzoNobel relies on the Declaration of Michael Post ("Post Decl."), AkzoNobel's Spend Area Director for TiO₂. See Exhibit D. Post's declaration provides specific descriptions of each of the documents for which AkzoNobel is seeking *in camera* treatment, as well as explanations for why those documents would be competitively harmful to AkzoNobel if publicly disclosed in this matter.

LEGAL STANDING

FTC Rule 3.45(b) provides that *in camera* treatment is appropriate where "public disclosure would likely result in a clearly defined, serious injury to the person, partnership, or corporation requesting *in camera* treatment." 16 C.F.R. 3.45(b). *In camera* treatment, therefore, should be granted where the subject information is "sufficiently secret and sufficiently material to the applicant's business that disclosure would result in serious competitive injury." *In re General Foods Corp.*, 95 F.T.C. 352, 355 (1980).

In assessing whether information is "sufficiently secret" and "sufficient material" to warrant *in camera* review, the Commission may consider: (1) the extent to which the information is known outside of the business; (2) the extent to which the information is known by employees and others involved in the business; (3) the measures taken to guard the confidentiality of the information; (4) the value of the information to the business (and its competitors); (5) the amount of effort or money expended in developing the information; and (6) the ease or difficulty with which the information could be acquired or duplicated by others. See *In re Bristol-Myers Co.*, 90 F.T.C. 455, 456-457 (1977). The Commission has held that "[t]he likely loss of business

advantages is a good example of a ‘clearly defined, serious injury.’” *See In re Dura Lube Corp.*, No. 9292, 1999 FTC LEXIS 255, at *7 (Dec. 23, 1999) (quoting *Gen. Foods*, 95 F.T.C. at 355).

Finally, when a non-party to the action makes a request for *in camera* treatment of business documents, that request should be given “special solicitude.” *See In re Crown Cork & Seal Co.*, 71 F.T.C. 1714, 1715 (1967).

ARGUMENT

I. AkzoNobel’s Documents are Highly Sensitive Such that their Public Disclosure Would Cause Serious and Material Competitive Harm to AkzoNobel.

As the Commission has held, “confidential records of businesses involved in Commission proceedings should be protected insofar as possible.” *In re H.P. Hood & Sons, Inc.*, 58 F.T.C. 1184, 1185 (1961). Protection is warranted here because the Confidential Documents for which AkzoNobel is seeking *in camera* treatment are highly sensitive and material to AkzoNobel’s business, and would therefore cause serious competitive injury to AkzoNobel if disclosed to the public. *See* Post Decl. ¶¶ 5–7.

First, as explained in Mr. Post’s declaration, the Confidential Documents contain information that is material to AkzoNobel’s business. TiO₂ is a crucial ingredient in many of AkzoNobel’s coating products, and therefore much effort is expended strategically sourcing TiO₂ in order to maintain competitive product pricing, adequate supply, and consistent quality. All of the Confidential Documents contain information regarding AkzoNobel’s procurement strategy, supplier pricing, negotiation strategy, procurement volume, or supplier contracts. *See, e.g.*, Post Decl. ¶¶ 5–7; 11–31.

Second, as further described in Mr. Post's declaration, the Confidential documents were regarded as highly sensitive within AkzoNobel, and access to these documents was therefore restricted to senior managers and executives within AkzoNobel's integrated supply chain. *See* Post Decl. ¶ 8. Further, AkzoNobel maintains a robust data privacy policy designed to safeguard confidential business information of the kind contained in the Confidential Documents. *See* Post Decl. ¶ 8. AkzoNobel does not share this information outside limited groups of key employees, and does not divulge this information to outside suppliers or competitors in the ordinary course of business. *See* Post Decl. ¶ 8. All of these documents were designated as "Confidential" upon their production pursuant to the Protective Order in this matter.

Third, AkzoNobel is likely to be materially harmed and placed at a significant competitive disadvantage if the Confidential Documents are publicly disclosed. For example, if information about AkzoNobel's TiO₂ procurement strategy were made public, this would enable suppliers to take unfair advantage of AkzoNobel in future pricing negotiations, and would allow competitors to reap the benefits of AkzoNobel's hard-earned strategic insights without having expended the resources to cultivate them. AkzoNobel's competitors could alternatively use this information to undermine AkzoNobel's procurement strategy and impede its ability to secure competitive TiO₂ pricing. Not only would this place AkzoNobel at a significant competitive disadvantage in the market, but it would adversely affect the larger TiO₂ market, harming competition in the process.

Finally, since AkzoNobel is a non-party to this matter, its request for *in camera* treatment of a limited subset of its sensitive business documents should be given "special solicitude." *In re Crown Cork & Seal Co.*, 71 F.T.C. at 1715. AkzoNobel has expended considerable time and effort in responding in good faith to both the FTC's and Respondents' discovery requests—even

making available one of its key directors for deposition in Europe. Throughout this process, AkzoNobel was assured by the parties that the sensitive documents produced would be treated as confidential under the Protective Order governing this matter.

In sum, the serious harm and competitive disadvantage that AkzoNobel would suffer if this small subset of its documents were disclosed publicly far outweighs any interest in public disclosure.

II. Certain AkzoNobel Documents Relating to Communications with the European Commission Should Be Given Permanent In Camera Treatment.

Where confidential information “is likely to remain sensitive or become more sensitive with the passage of time,” the Commission has found indefinite *in camera* treatment to be appropriate. *In re Dura Lube Corp.*, 1999 FTC LEXIS 255, at *8-9. Further, the European Commission has very strict rules governing the protection of information provided to it pursuant to an investigation. Under the EC Merger Regulation, information collected from third parties may be used only for “the relevant request, investigation or hearing” and may not be disclosed in any other circumstance. *See* Council Regulation (EC) No. 139/2004 of 20 January 2004 on the control of concentrations between undertakings (the EC Merger Regulation) at Article 17. *See also* Commission Notice on the rules for access to the Commission file in cases pursuant to Articles 81 and 82 of the EC Treaty, Articles 53, 54 and 57 of the EEA Agreement and Council Regulation (EC) No. 139/2004 ¶ II(A)(7).

When a foreign entity has taken a clear position on the confidentiality of a particular set of documents, principles of comity under federal law should be weighed against the need for production. *See, e.g., In re Rubber Chems. Antitrust Litig.*, 486 F. Supp. 2d 1078, 1084 (N.D.

Cal. 2007); *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, No. 05-MD-1720 (JG)(JO), 2010 WL 3420517, at *1 (E.D.N.Y. Aug. 27, 2010).

Several documents that Respondents' intend to use at the hearing in this matter represent AkzoNobel's communications with the European Commission covering a wide range of competition-related topics such as production volumes, supplier relationships, pricing, financial expenditures, markets, and other information on AkzoNobel's business model as it relates to TiO₂. *See* Post Decl. ¶¶ 30–31. This information is maintained as extremely confidential in accordance with EC rules, and its disclosure is therefore limited. As explained further in Mr. Post's declaration, the sensitive nature of the information contained in these documents alone compels that they be given in camera treatment. *See* Post Decl. ¶¶ 5–7. Coupled with the European Commission's strict confidentiality standards, therefore, the principles of comity require that these documents be given permanent in camera treatment. The potential harm to AkzoNobel of disclosure and the European Commission's strong interest in maintaining the confidentiality of their communications far outweigh any public interest in disclosure.

IV. The Remaining Documents Should Be Given *In Camera* Treatment for a Period of Five Years.

The remaining AkzoNobel documents merit *in camera* treatment for five years. *See* Post Decl. ¶¶ 11–29. Where *in camera* treatment is granted for ordinary business records, it is generally provided for two to five years. *In re 1-800 Contacts, Inc.*, 2017 FTC LEXIS 55 at *6 (April 4, 2017). Five years is appropriate in this matter because the TiO₂ pricing cycle often last three to five years, contractual relationships are often in effect for more than five years, and AkzoNobel's pricing forecasts and procurement strategies are designed to be effective for three to five years.

While there is often a presumption against granting *in camera* treatment for documents that are more than three years old, the presumption does not apply when the moving party is able to show that such material remains competitively sensitive. See *In re 1-800 Contacts, Inc.*, 2017 FTC LEXIS 55 at * 3 (April 4, 2017). The nature of the TiO₂ industry and AkzoNobel's business model are such that information generally remains competitively sensitive for very long periods of time. As noted in Mr. Post's declaration, if information regarding procurement strategies, TiO₂ pricing forecasts, and contract terms were publicly disclosed, this would put AkzoNobel at a competitive disadvantage in pricing negotiations for many years to come. Post Decl. ¶¶ 11–29.

CONCLUSION

For the foregoing reasons, AkzoNobel respectfully requests that the Commission grant its motion for *in camera* treatment pursuant to FTC Rule 3.45(b) for the durations of time outlined in this Motion.

Dated: May 15, 2018

Respectfully submitted,

/s/ Daniel G. Swanson

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**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Maureen Ohlhausen, Acting Chairman**

In the Matter of

**Tronox Limited
a corporation,**

**National Industrialization Company
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**National Titanium Dioxide
Company Limited (Cristal),
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AND

**Cristal USA Inc.
a corporation**

ORIGINAL

DOCKET NO. 9377

**[PROPOSED] ORDER
ON NON-PARTY AKZO NOBEL INC.'S
MOTION FOR IN CAMERA TREATMENT**

Upon consideration of non-party AkzoNobel's Motion for In Camera Treatment, and finding good cause, it is HEREBY ORDERED that the following documents are to be provided in camera treatment of a period of five years from the date of this Order in their entirety:

| Exhibit No. | Date | Beginning Bates No. | Ending Bates No. |
|--------------------|-------------|----------------------------|-------------------------|
| N/A | N/A | AKZONOBEL0010373 | AKZONOBEL0010373 |
| N/A | N/A | AKZONOBEL0010374 | AKZONOBEL0010374 |
| N/A | 12/09/16 | AKZONOBEL0010398 | AKZONOBEL0010402 |
| N/A | 11/24/16 | AKZONOBEL0010403 | AKZONOBEL0010403 |

| | | | |
|--------|----------|---|------------------|
| N/A | 2/2018 | AKZONOBEL0010836 | AKZONOBEL0010836 |
| N/A | 7/2017 | AKZONOBEL0010837 | AKZONOBEL0010837 |
| N/A | 2/2018 | AKZONOBEL0010838 | AKZONOBEL0010863 |
| N/A | 1/1/2012 | AKZONOBEL0011072 | AKZONOBEL0011118 |
| N/A | 4/1/2014 | AKZONOBEL0011119 | AKZONOBEL0011134 |
| N/A | 4/1/2014 | AKZONOBEL0011135 | AKZONOBEL0011149 |
| N/A | 1/1/2009 | AKZONOBEL0011150 | AKZONOBEL0011176 |
| N/A | 1/1/2014 | AKZONOBEL0011177 | AKZONOBEL0011224 |
| N/A | N/A | AKZONOBEL0011433 | AKZONOBEL0011433 |
| N/A | 2/9/17 | AKZONOBEL0002626 <i>(Exhibit 4 to Post Deposition)</i> | AKZONOBEL0002636 |
| N/A | N/A | AKZONOBEL0010835 <i>(Exhibit 5 to Post Deposition)</i> | AKZONOBEL0010863 |
| N/A | 11-12/16 | AKZONOBEL0010398 <i>(Exhibit 6 to Post Deposition)</i> | AKZONOBEL0010403 |
| N/A | N/A | AKZONOBEL0011433 <i>(Exhibit 8 to Post Deposition)</i> | AKZONOBEL0011433 |
| PX4228 | 7/24/17 | N/A | N/A |

It is FURTHER ORDERED, that the following documents are to be provided permanent in camera treatment from the date of this Order in their entirety:

| Exhibit No. | Date | Beginning Bates No. | Ending Bates No. |
|--------------------|-------------|---|-------------------------|
| N/A | 11/24/17 | AKZONOBEL0011445 | AKZONOBEL0011490 |
| N/A | 1/11/2018 | AKZONOBEL0010699 <i>(Exhibit 3 to Post Deposition)</i> | AKZONOBEL0010712 |
| N/A | 11/24/17 | AKZONOBEL0011444 <i>(Exhibit 9 to Post Deposition)</i> | AKZONOBEL0011490 |

IT IS SO ORDERED:

Dated: May __, 2018

D. Michael Chappell
Chief Administrative Law Judge

Dated: _____, 2018.

PUBLIC

ORIGINAL

Exhibit A
(Respondents' Letter)

Arnold & Porter

Seth Wiener
 +1 202.942.5691 Direct
 Seth.Wiener@arnoldporter.com

CONFIDENTIAL

April 19, 2018

VIA FEDEX

Daniel G. Swanson
 Gibson Dunn & Crutcher LLP
 333 S Grand Ave
 Los Angeles, CA 90071

Re: In re Tronox Limited (FTC Docket No. 9377)

Dear Daniel:

This letter services as notice, per footnote one of the Second Revised Scheduling Order, entered February 23, 2018, and paragraph ten of the Protective Order Governing Confidential Material, entered December 7, 2017 in the above-captioned matter before the United States Federal Trade Commission, that Tronox Limited, National Industrialization Company (TASNEE), National Titanium Dioxide Company Limited (Cristal), and Cristal USA Inc. (collectively "Respondents") plan to introduce the following documents or transcripts containing confidential material produced by Akzo Nobel, Inc. at the hearing before Judge Chappell:

| Bates Begin | Bates End |
|--------------------|------------------|
| AKZONOBEL0001179 | AKZONOBEL0001186 |
| AKZONOBEL0002626 | AKZONOBEL0002636 |
| AKZONOBEL0004994 | AKZONOBEL0005007 |
| AKZONOBEL0010369 | AKZONOBEL0010374 |
| AKZONOBEL0010398 | AKZONOBEL0010403 |
| AKZONOBEL0010699 | AKZONOBEL0010706 |
| AKZONOBEL0010835 | AKZONOBEL0010863 |
| AKZONOBEL0011071 | AKZONOBEL0011224 |
| AKZONOBEL0011433 | AKZONOBEL0011433 |
| AKZONOBEL0011444 | AKZONOBEL0011490 |

- Akzo Nobel's response to the Federal Trade Commission's civil investigation demand

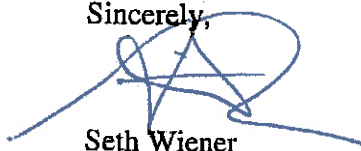
Arnold & Porter

Daniel G. Swanson
April 19, 2018
Page 2

- Deposition Transcript of Michael Post (and accompanying exhibits)

Per paragraph seven of the Scheduling Order, entered December 20, 2017, I inform you “of the strict standards for motions for *in camera* treatment for evidence to be introduced at trial set forth in 16 C.F.R. § 3.45, explained in *In re 1-800 Contacts, Inc.*, 2017 FTC LEXIS 55 (April 4, 2017); *In re Jerk, LLC*, 2015 FTC LEXIS (Feb. 23, 2015); *In re Basic Research, Inc.*, 2006 FTC LEXIS 14 (Jan. 25, 2006).¹ Motions also must be supported by a declaration or affidavit by a person qualified to explain the confidential nature of the documents. *In re 1-800 Contacts, Inc.*, 2017 FTC LEXIS 55 (April 4, 2017); *In re North Texas Specialty Physicians*, 2004 FTC LEXIS 66 (April 23, 2004). Each party or non-party that files a motion for *in camera* treatment shall provide one copy of the documents for which *in camera* treatment is sought to the Administrative Law Judge.”

Sincerely,



Seth Wiener

¹ “Under Rule 3.45(b), the Administrative Law Judge may order that material offered into evidence ‘be placed *in camera* only (a) after finding that its public disclosure will likely result in a clearly defined, serious injury to the person, partnership or corporation requesting *in camera* treatment or (b) after finding that the material constitutes sensitive personal information.’” *In re 1-800 Contacts, Inc.*, 2017 FTC LEXIS 55 (April 4, 2017); see also *In re Jerk, LLC*, 2015 FTC LEXIS (Feb. 23, 2015).

Notice of Electronic Service

I hereby certify that on May 15, 2018, I filed an electronic copy of the foregoing Non-Party Akzo Nobel Inc.'s Motion for In Camera Treatment, [Proposed] Order, Exhibit A, Exhibit B, Exhibit C, Exhibit D - Declaration of Michael Post - REDACTED, Exhibit E, Certificate of Service, with:

D. Michael Chappell
Chief Administrative Law Judge
600 Pennsylvania Ave., NW
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Washington, DC, 20580

Donald Clark
600 Pennsylvania Ave., NW
Suite 172
Washington, DC, 20580

I hereby certify that on May 15, 2018, I served via E-Service an electronic copy of the foregoing Non-Party Akzo Nobel Inc.'s Motion for In Camera Treatment, [Proposed] Order, Exhibit A, Exhibit B, Exhibit C, Exhibit D - Declaration of Michael Post - REDACTED, Exhibit E, Certificate of Service, upon:

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Andrew Brown
Attorney

PUBLIC

ORIGINAL

Exhibit B
(FTC Letter)



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Bureau of Competition
Mergers II Division

April 19, 2018

VIA EMAIL TRANSMISSION

Akzo Nobel Inc.
c/o Keith Porapaiboon
525 West Van Buren
Suite 1600
Chicago, IL 60607
Keith.Porapaiboon@akzonobel.com

RE: *In the Matter of Tronox Limited et al.*, Docket No. 9377

Dear Keith:

By this letter we are providing formal notice, pursuant to Rule 3.45(b) of the Commission's Rules of Practice, 16 C.F.R. § 3.45(b), that Complaint Counsel intends to offer the documents and testimony referenced in the enclosed Attachment A into evidence in the administrative trial in the above-captioned matter. For your convenience, a copy of the documents and testimony will be sent to you in a separate email with an FTP link.

The administrative trial is scheduled to begin on May 18, 2018. All exhibits admitted into evidence become part of the public record unless Administrative Law Judge D. Michael Chappell grants *in camera* status (i.e., non-public/confidential).

For documents or testimony that include sensitive or confidential information that you do not want on the public record, you must file a motion seeking *in camera* status or other confidentiality protections pursuant to 16 C.F.R §§ 3.45 and 4.10(g). Judge Chappell may order that materials, whether admitted or rejected as evidence, be placed *in camera* only after finding that their public disclosure will likely result in a clearly-defined, serious injury to the person, partnership, or corporation requesting *in camera* treatment.

Motions for *in camera* treatment for evidence to be introduced at trial must meet the strict standards set forth in 16 C.F.R. § 3.45 and explained in *In re 1-800 Contacts, Inc.*, 2017 FTC LEXIS 55 (April 4, 2017); *In re Jerk, LLC*, 2015 FTC LEXIS 39 (Feb. 23, 2015); *In re Basic Research, Inc.*, 2006 FTC LEXIS 14 (Jan. 25, 2006). Motions also must be supported by a declaration or affidavit by a person qualified to explain the confidential nature of the material. *In re 1-800 Contacts, Inc.*, 2017 FTC LEXIS 55 (April 4, 2017); *In re North Texas Specialty Physicians*, 2004 FTC LEXIS 66 (Apr. 23, 2004). For your convenience, we included, as links in the cover email, an example of a third-party motion (and the accompanying declaration or

affidavit) for *in camera* treatment that was filed and granted in an FTC administrative proceeding. If you choose to move for *in camera* treatment, you must provide a copy of the document(s) for which you seek such treatment to the Administrative Law Judge. Also, you or your representative will need to file a Notice of Appearance in the administrative proceeding. For more information regarding filing documents in adjudicative proceedings, please see <https://www.ftc.gov/faq/ftc-info/file-documents-adjudicative-proceedings>.

Please be aware that under the current Second Revised Scheduling Order (revised on February 23, 2018), **the deadline for filing motions seeking *in camera* treatment is May 1, 2018**. A copy of the February 23, 2018 Second Revised Scheduling Order and the December 20, 2017 original Scheduling Order, which contains Additional Provisions, can be found at <https://www.ftc.gov/enforcement/cases-proceedings/171-0085/tronoxcrystal-usa>.

If you have any questions, please feel free to contact me at (202) 326-2397.

Sincerely,

/s/ Cem Akleman

Cem Akleman

Counsel Supporting the Complaint

Attachment

Attachment A

| Exhibit No. | Full Name | Date | BegBates | EndBates |
|-------------|---|------------|------------------|------------------|
| PX4193 | Email from Michael Post to William Harvey re: Q3 Pricing-Cristal | 8/4/2017 | AKZONOBEL0000576 | AKZONOBEL0000582 |
| PX4194 | Email from Megan O'Malley Noe to William Harvey re: Open Order Report w/Attach: Supply plan for pending order from AN USA 160408.xlsx | 4/8/2016 | AKZONOBEL0006535 | AKZONOBEL0006539 |
| PX4195 | Email from Michael Post to William Harvey re: Please update shipping schedule: it is so serious for stopped AN production...can't accept. | 1/3/2017 | AKZONOBEL0000783 | AKZONOBEL0000796 |
| PX4196 | Email from William Harvey to Lorry Wang re: AkzoNobel North America | 11/29/2017 | AKZONOBEL0004014 | AKZONOBEL0004021 |
| PX4228 | AkzoNobel Inc's Responses to Civil Investigative Demand | 7/24/2017 | PX4228-001 | PX4228-008 |
| PX7033 | Deposition Transcript: Michael Post | 3/22/2018 | PX7033-001 | PX7033-077 |

Notice of Electronic Service

I hereby certify that on May 15, 2018, I filed an electronic copy of the foregoing Non-Party Akzo Nobel Inc.'s Motion for In Camera Treatment, [Proposed] Order, Exhibit A, Exhibit B, Exhibit C, Exhibit D - REDACTED, Exhibit E, Certificate of Service, with:

D. Michael Chappell
Chief Administrative Law Judge
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EXHIBIT C

List of AkzoNobel's Documents Under In Camera Review

**List of AkzoNobel's Documents
Under In Camera Review**

| Exhibit No. | Date | Beginning Bates No. | Ending Bates No. |
|--------------------|-------------|---|-------------------------|
| N/A | N/A | AKZONOBEL0010373 | AKZONOBEL0010373 |
| N/A | N/A | AKZONOBEL0010374 | AKZONOBEL0010374 |
| N/A | 12/09/16 | AKZONOBEL0010398 | AKZONOBEL0010402 |
| N/A | 11/24/16 | AKZONOBEL0010403 | AKZONOBEL0010403 |
| N/A | 2/2018 | AKZONOBEL0010836 | AKZONOBEL0010836 |
| N/A | 7/2017 | AKZONOBEL0010837 | AKZONOBEL0010837 |
| N/A | 2/2018 | AKZONOBEL0010838 | AKZONOBEL0010863 |
| N/A | 1/1/2012 | AKZONOBEL0011072 | AKZONOBEL0011118 |
| N/A | 4/1/2014 | AKZONOBEL0011119 | AKZONOBEL0011134 |
| N/A | 4/1/2014 | AKZONOBEL0011135 | AKZONOBEL0011149 |
| N/A | 1/1/2009 | AKZONOBEL0011150 | AKZONOBEL0011176 |
| N/A | 1/1/2014 | AKZONOBEL0011177 | AKZONOBEL0011224 |
| N/A | N/A | AKZONOBEL0011433 | AKZONOBEL0011433 |
| N/A | 2/9/17 | AKZONOBEL0002626 <i>(Exhibit 4 to Post Deposition)</i> | AKZONOBEL0002636 |
| N/A | N/A | AKZONOBEL0010835 <i>(Exhibit 5 to Post Deposition)</i> | AKZONOBEL0010863 |
| N/A | 11-12/16 | AKZONOBEL0010398 | AKZONOBEL0010403 |

| | | | |
|--------|-----------|---|------------------|
| | | <i>(Exhibit 6 to Post Deposition)</i> | |
| N/A | N/A | AKZONOBEL0011433 <i>(Exhibit 8 to Post Deposition)</i> | AKZONOBEL0011433 |
| PX4228 | 7/24/17 | N/A | N/A |
| N/A | 11/24/17 | AKZONOBEL0011445 | AKZONOBEL0011490 |
| N/A | 1/11/2018 | AKZONOBEL0010699 <i>(Exhibit 3 to Post Deposition)</i> | AKZONOBEL0010712 |
| N/A | 11/24/17 | AKZONOBEL0011444 <i>(Exhibit 9 to Post Deposition)</i> | AKZONOBEL0011490 |

Notice of Electronic Service

I hereby certify that on May 15, 2018, I filed an electronic copy of the foregoing Non-Party Akzo Nobel Inc.'s Motion for In Camera Treatment, [Proposed] Order, Exhibit A, Exhibit B, Exhibit C, Exhibit D - Declaration of Michael Post - REDACTED, Exhibit E, Certificate of Service, with:

D. Michael Chappell
Chief Administrative Law Judge
600 Pennsylvania Ave., NW
Suite 110
Washington, DC, 20580

Donald Clark
600 Pennsylvania Ave., NW
Suite 172
Washington, DC, 20580

I hereby certify that on May 15, 2018, I served via E-Service an electronic copy of the foregoing Non-Party Akzo Nobel Inc.'s Motion for In Camera Treatment, [Proposed] Order, Exhibit A, Exhibit B, Exhibit C, Exhibit D - Declaration of Michael Post - REDACTED, Exhibit E, Certificate of Service, upon:

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EXHIBIT D
DECLARATION OF MICHAEL POST

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Maureen Ohlhausen, Acting Chairman

In the Matter of

Tronox Limited
a corporation,

National Industrialization Company
(TASNEE)
a corporation

National Titanium Dioxide
Company Limited (Cristal),
a corporation

AND

Cristal USA Inc.
a corporation

DOCKET NO. 9377

DECLARATION OF MICHAEL POST
IN SUPPORT OF NON-PARTY AKZO NOBEL INC.'S MOTION FOR *IN CAMERA*
TREATMENT

I, Michael Post, hereby declare as follows:

1. I am the Global Spend Area Director, Titanium Dioxide, for Akzo Nobel Inc. and its affiliates ("AkzoNobel"). I make this declaration in support of non-party Akzo Nobel's Motion for *In Camera* Treatment of various documents (the "Motion"). I have personal knowledge of the matters stated herein and, if called upon to do so, could competently testify about them.
2. AkzoNobel, a Dutch company with a worldwide presence, engages in the manufacture of paints, performance coatings, and specialty chemical products for both industry and consumers. I have worked in a variety of purchasing roles at AkzoNobel since 2009, and I have been the Global Spend Area Director, Titanium Dioxide, since 2016.

3. As the Spend Area Director, I am responsible for all of the commercial aspects of titanium dioxide (“TiO2”) procurement within AkzoNobel, which includes negotiating with TiO2 suppliers and strategizing regarding TiO2 sourcing. I have thus become very familiar with how TiO2 is sourced and ultimately used in a variety of AkzoNobel products.

4. It is my understanding that on April 19, 2018, AkzoNobel’s outside counsel received notice from Respondents that they intend to use at the hearing in this matter numerous AkzoNobel documents that have been designated as Confidential. Respondents have identified ten Bates-number ranges containing numerous documents produced in response to Respondents’ subpoena that they intend to use at the hearing. Respondents further indicated that they intend to use AkzoNobel’s ██████ response to an FTC Civil Investigation Demand, the complete transcript of my deposition that was taken in this matter, as well as all nine documents that were used as exhibits during my deposition.¹

5. I have reviewed all of these documents to determine their competitive significance and sensitivity to public disclosure. As the Global Spend Area Director, I was already substantially familiar with these documents, and upon reviewing them I recognized that a number of the documents contain highly-sensitive and confidential business information. AkzoNobel therefore seeks full *in camera* treatment for twenty-one of these documents. Based on my review of the documents, my knowledge of AkzoNobel’s business, and my familiarity with the internal protection afforded this type of information by AkzoNobel, I conclude that disclosure of these twenty-one documents—including to AkzoNobel’s suppliers and competitors—would cause serious and irreparable competitive harm to AkzoNobel’s business.

¹ Several of the documents marked as exhibits to my deposition, however, are at least partially duplicative of documents already identified for use by Respondents.

6. Each of the documents for which AkzoNobel seeks *in camera* review contains competitively sensitive, proprietary, and/or trade secret information about: (a) AkzoNobel's pricing, volume, and other terms and conditions of sale; (b) AkzoNobel's strategy for procuring TiO₂, including potential substitutes; or (c) AkzoNobel's product formulas, production processes, and strategic decisions regarding TiO₂.

7. The information contained in these documents regarding TiO₂ is materially significant to AkzoNobel's business of manufacturing coating products, because TiO₂ is an ingredient in most of AkzoNobel's products and formulations.

8. Given the sensitivity and competitive significance of this information, AkzoNobel has gone to great lengths to safeguard it from disclosure to the public, or to others within the industry (both competitors and suppliers). AkzoNobel has strict policies governing the protection of confidential information like that discussed below, and every business unit and function must perform information security risk assessments to ensure compliance with those policies. Very few people within AkzoNobel have access to competitively sensitive information—indeed, only senior-level managers and executives within AkzoNobel's integrated supply chain are given access to strategy documents, and information related to pricing and contract terms is only provided to those AkzoNobel employees with a need-to-know related to a business purpose. The group of AkzoNobel employees who have access to these documents is small. Further, it is AkzoNobel's policy not to divulge in the ordinary course of business the information contained in these documents to any of its suppliers—much less to its competitors or the general public, and AkzoNobel rigorously enforces this privacy/non-disclosure policy.

9. For the foregoing reasons, AkzoNobel seeks full *in camera* treatment, for a period of five years, for the following documents:

| Document Title/Description | Date | Beginning Bates No. | Ending Bates No. |
|--------------------------------------|-------------|----------------------------|-------------------------|
| Preferred Resins Supplier Strategy | N/A | AKZONOBEL0010373 | AKZONOBEL0010373 |
| Pigments & TIO2 Supplier Strategies | N/A | AKZONOBEL0010374 | AKZONOBEL0010374 |
| █ Email to █ re AkzoNobel Price List | 12/09/16 | AKZONOBEL0010398 | AKZONOBEL0010402 |
| TiO2 Spend Area Report Q4 2016 | 11/24/16 | AKZONOBEL0010403 | AKZONOBEL0010403 |
| TiO2 Strategic Sourcing Methodology | 2/2018 | AKZONOBEL0010836 | AKZONOBEL0010836 |
| TiO2 Strategic Sourcing Methodology | 7/2017 | AKZONOBEL0010837 | AKZONOBEL0010837 |
| Paints & Coatings TiO2 Strategy | 2/2018 | AKZONOBEL0010838 | AKZONOBEL0010863 |
| Supply Framework Agreement with █ | 1/1/2012 | AKZONOBEL0011072 | AKZONOBEL0011118 |
| Supply Framework Agreement with █ | 4/1/2014 | AKZONOBEL0011119 | AKZONOBEL0011134 |
| Sales Promotion Agreement with █ | 4/1/2014 | AKZONOBEL0011135 | AKZONOBEL0011149 |
| Supply Framework Agreement with █ | 1/1/2009 | AKZONOBEL0011150 | AKZONOBEL0011176 |
| Supply Framework Agreement with █ | 1/1/2014 | AKZONOBEL0011177 | AKZONOBEL0011224 |
| TiO2 Pricing Forecast | N/A | AKZONOBEL0011433 | AKZONOBEL0011433 |

| | | | |
|---|----------|---|------------------|
| by Supplier | | | |
| Emails re [REDACTED] with Pricing Info | 2/9/17 | AKZONOBEL0002626 <i>(Exhibit 4 to Post Deposition)</i> | AKZONOBEL0002636 |
| TiO2 Strategic Sourcing Methodology (DUPLICATE) | N/A | AKZONOBEL0010835 <i>(Exhibit 5 to Post Deposition)</i> | AKZONOBEL0010863 |
| [REDACTED] Email to [REDACTED] re AkzoNobel Price List & TiO2 Spend Area Report Q4 2016 (DUPLICATE) | 11-12/16 | AKZONOBEL0010398 <i>(Exhibit 6 to Post Deposition)</i> | AKZONOBEL0010403 |
| TiO2 Pricing Forecast by Supplier (DUPLICATE) | N/A | AKZONOBEL0011433 <i>(Exhibit 8 to Post Deposition)</i> | AKZONOBEL0011433 |
| AkzoNobel's Response to FTC Civil Investigative Demand | 7/24/17 | N/A | N/A |

10. AkzoNobel seeks full *in camera* treatment indefinitely for the following documents related to communications with the European Commission:

| Document Title/Description | Date | Beginning Bates No. | Ending Bates No. |
|--|-------------|---|-------------------------|
| AkzoNobel's Response to the European Commission | 11/24/17 | AKZONOBEL0011445 | AKZONOBEL0011490 |
| AkzoNobel's Communication with the European Commission | 1/11/2018 | AKZONOBEL0010699 <i>(Exhibit 3 to Post Deposition)</i> | AKZONOBEL0010712 |
| AkzoNobel's Response to the European Commission | 11/24/17 | AKZONOBEL0011444 <i>(Exhibit 9 to Post Deposition)</i> | AKZONOBEL0011490 |

| | | | |
|-------------|--|--|--|
| (DUPLICATE) | | | |
|-------------|--|--|--|

11. AKZONOBEL0010373 is a presentation entitled "Preferred Resins Supplier Strategy," which explains AkzoNobel's supplier selection process, both generally and specifically as it applies to suppliers of resin. It provides detailed information about how AkzoNobel goes about selecting suppliers. This presentation was created for senior managers, and its dissemination was strictly limited to that group. The dissemination of the presentation was heavily safeguarded in the normal course of AkzoNobel's business because allowing its widespread publication would almost certainly harm AkzoNobel's position in the market. If the information contained in this presentation were made publicly available, AkzoNobel's competitors would be allowed to reap the benefits of AkzoNobel's supplier strategy without having invested in its cultivation, harming both AkzoNobel and competition generally. AkzoNobel's competitors might also be able to use the information contained in this presentation to undermine AkzoNobel's procurement/supplier strategy, undercutting AkzoNobel's position in the resins market and further reducing competition.

12. AKZONOBEL0010374 is a presentation entitled "Pigments & TiO₂ Supplier Strategies," which describes AkzoNobel's strategy for sourcing the raw materials for its coatings business. The presentation discusses in detail AkzoNobel's strategy for selecting its raw material suppliers, and breaks down AkzoNobel's purchases of TiO₂ by supplier and by region. It also reveals AkzoNobel's plan to [REDACTED] As discussed above, procurement strategy is a closely held secret within AkzoNobel, and as such this presentation's distribution was limited to its audience of senior executives. AkzoNobel

tightly safeguards the information contained in this presentation, because it could easily be used by AkzoNobel's suppliers to game AkzoNobel's procurement system and to raise prices on AkzoNobel for some of its most important raw materials, including TiO₂. As discussed above, widespread dissemination of the information contained in this presentation would allow AkzoNobel's competitors to reap the benefits of AkzoNobel's procurement strategy without having invested in the strategy's cultivation. This would harm both AkzoNobel's position in the market, as well as competition generally.

13. AKZONOBEL0010398–10402 is an email chain discussing AkzoNobel's TiO₂ suppliers. It provides specific information concerning pricing from individual suppliers, and details AkzoNobel's competitive strategy regarding negotiations over pricing from its suppliers in various markets. This information was shared only with a select group of people at AkzoNobel because its dissemination could severely undermine AkzoNobel's negotiating positions with its suppliers worldwide. If the information in this email chain were disclosed, AkzoNobel's suppliers could use it to raise prices, undermine AkzoNobel's price negotiations, and disrupt the competitive market for TiO₂.

14. AKZONOBEL0010403 is a presentation that lists AkzoNobel's performance on a number of key performance indicators within the TiO₂ Spend Area in Q4 of 2016. It also analyzes the recent trends in the prices that AkzoNobel has paid for TiO₂ in various of its business units, broken down by region. The presentation further shows price announcements from AkzoNobel's TiO₂ suppliers contrasted with AkzoNobel's forecast for prices for each of those suppliers. This information is considered highly sensitive within AkzoNobel, and as such this presentation was not widely disseminated within the company. Indeed, it was only given to a select group of senior executives who had a need to know such information. The information

contained in this presentation goes to the heart of AkzoNobel's pricing strategy. If it were disseminated widely, it would severely undercut AkzoNobel's ability to negotiate TiO₂ prices with suppliers, as the suppliers would be privy both to AkzoNobel's forecasts, as well as to what it has paid other suppliers for TiO₂ in the same or similar regions. This would not only severely harm AkzoNobel's business, but it would likely disrupt the competitive market for TiO₂.

15. AKZONOBEL0010836 is a presentation that shows AkzoNobel's strategic sourcing methodology for TiO₂ in [REDACTED] as of February 2018. It starts by discussing AkzoNobel's TiO₂ sourcing history and requirements [REDACTED], including a breakdown by individual supplier. It also shows AkzoNobel's current buying practices from each individual supplier [REDACTED] comparing pricing and other terms of sale for each supplier. The presentation then details AkzoNobel's current TiO₂ needs and projects those needs into the future, also detailing the factors that AkzoNobel will use to determine which suppliers to use in the future. The presentation explains the key findings of an analysis that AkzoNobel did of its TiO₂ requirements and sourcing in [REDACTED]. The presentation also shows how AkzoNobel views itself vis-a-vis its competitors and its suppliers in [REDACTED], walking through the strengths, weaknesses, opportunities, and threats regarding AkzoNobel's sourcing function. The presentation further offers AkzoNobel's opinions on various factors that drive pricing for TiO₂, and analyzes each of AkzoNobel's TiO₂ suppliers (including the suppliers' performance, sales, capabilities, and strengths). Finally, the presentation details AkzoNobel's overall strategy for managing its TiO₂ suppliers. The strategies and analyses contained in this presentation represent some of the most sensitive information that AkzoNobel's sourcing arm possesses. As such, AkzoNobel maintained this presentation in strict confidence, and it was only provided to a handful of senior managers in charge of the TiO₂ business unit. The public disclosure of this information would

put AkzoNobel at a significant competitive disadvantage, critically undermining AkzoNobel in any pricing negotiations with suppliers and giving AkzoNobel's competitors the veritable keys to the TiO₂ castle.

16. AKZONOBEL0010837 is another presentation regarding AkzoNobel's strategic sourcing methodology. It contains much of the same information as AKZONOBEL0010836, but in the context of the [REDACTED] markets. As outlined above, presentations that contain information this sensitive are restricted to only a handful of senior managers within the TiO₂ business unit. For all of the reasons outlined above in ¶ 15, the public dissemination of this presentation would significantly harm AkzoNobel's competitive standing in the market.

17. AKZONOBEL0010838–10863 is a document jointly developed by executives in AkzoNobel's procurement and research and development departments, providing a summary of AkzoNobel's TiO₂ sourcing strategy. It was drafted in 2018 and intended to be valid for at least two to three years. It describes in considerable detail AkzoNobel's view of the TiO₂ market, both historically and going forward. It describes recent changes in the market that AkzoNobel views as material, and details AkzoNobel's strategy [REDACTED]

[REDACTED] The document is a roadmap of AkzoNobel's strategic approach to the TiO₂ market, and is thus closely guarded within the company. As with all strategically or competitively sensitive documents, access to this document is restricted to a small number of people within AkzoNobel who are tasked with managing AkzoNobel's broader TiO₂ sourcing strategy.

18. AKZONOBEL0011072–11118 is a contract with [REDACTED] one of AkzoNobel's TiO2 suppliers. AkzoNobel maintains strict confidentiality over its contracts with suppliers, and does not share them with other suppliers. If other suppliers were able to learn this information, it would give them a significant competitive advantage in future negotiations with AkzoNobel. This contract is still in effect, so its disclosure would significantly impair AkzoNobel's ability to secure competitive TiO2 pricing and other terms of sale. AkzoNobel's competitors could also use this information to estimate a critical cost input of many of AkzoNobel's products, which would allow them to undermine AkzoNobel in the market, and disrupt AkzoNobel's TiO2 supply.

19. AKZONOBEL0011119–11134 is a contract with [REDACTED] one of AkzoNobel's TiO2 suppliers. AkzoNobel maintains strict confidentiality over its contracts with suppliers, and does not share them with other suppliers. If other suppliers were able to learn this information, it would give them a significant competitive advantage in future negotiations with AkzoNobel. This contract is still in effect, so its disclosure would significantly impair AkzoNobel's ability to secure competitive TiO2 pricing and other terms of sale. AkzoNobel's competitors could also use this information to estimate a key cost input of many of AkzoNobel's products, which would allow them to undermine AkzoNobel in the market and disrupt AkzoNobel's TiO2 supply.

20. AKZONOBEL0011135–11149 is a [REDACTED] Agreement with [REDACTED] [REDACTED] the same supplier as referenced in AKZONOBEL0011119–11134. This document is an addendum to AkzoNobel's contract with [REDACTED], used to determine [REDACTED] [REDACTED]. Just like the main contract, this document is

maintained as strictly confidential, as it contains negotiated contract terms that could put AkzoNobel at a severe negotiating disadvantage if disclosed, for all of the reasons discussed supra, ¶ 19.

21. AKZONOBEL0011150–11176 is a contract with [REDACTED] [REDACTED] one of AkzoNobel's TiO2 suppliers. AkzoNobel maintains strict confidentiality over its contracts with suppliers, and does not share them with other suppliers. If other suppliers were able to learn this information, it would give them a significant competitive advantage in future negotiations with AkzoNobel. This contract is still in effect, so its disclosure would significantly impair AkzoNobel's ability to secure competitive TiO2 pricing and other terms of sale. Further, this contract is especially sensitive since [REDACTED] [REDACTED] AkzoNobel's competitors could also use this information to estimate a key cost input of many of AkzoNobel's products, which would allow them to undermine AkzoNobel in the market and disrupt AkzoNobel's TiO2 supply.

22. AKZONOBEL0011177–11224 is a contract with [REDACTED] [REDACTED] one of AkzoNobel's TiO2 suppliers. AkzoNobel maintains strict confidentiality over its contracts with suppliers, and does not share them with other suppliers. If other suppliers were able to learn this information, it would give them a significant competitive advantage in future negotiations with AkzoNobel. This contract is still in effect, so its disclosure would significantly impair AkzoNobel's ability to secure competitive TiO2 pricing and other terms of sale. Further, this contract is especially sensitive since [REDACTED] [REDACTED] AkzoNobel's competitors could also use this information to estimate a key cost input of many of

AkzoNobel's products, which would allow them to undermine AkzoNobel in the market and disrupt AkzoNobel's TiO2 supply.

23. AKZONOBEL0011433 is AkzoNobel's strategic forecast of TiO2 pricing, broken down by supplier and region. This is an extremely important and sensitive document, and is only allowed to be accessed by senior executives and those responsible for pricing planning. The information is maintained as strictly confidential because its disclosure would provide suppliers with a significant advantage in future price negotiations with AkzoNobel. Armed with this forecast, the suppliers would be able to determine exactly how much AkzoNobel anticipates paying a particular TiO2 supplier in a given year, within in a given region. [REDACTED]

[REDACTED]

[REDACTED]

24. Exhibit 4 to Post Deposition (AKZONOBEL0002626-2636) is an email string from 2017 discussing [REDACTED] its impact on TiO2 pricing. The discussion not only contains AkzoNobel's strategic considerations and impressions of the impact of supply shocks and adverse events on TiO2 pricing, but it also contains specific TiO2 pricing information, and implicates current contractual relationships. For these reasons, the information was only provided to senior executives and employees in the TiO2 supply chain organization with a need to know. If the information contained in this email were disclosed, AkzoNobel's suppliers could use the pricing information to put AkzoNobel at a disadvantage in future pricing talks, and competitors could unfairly reap the benefits of AkzoNobel's insights and strategic impressions on the issues of TiO2 pricing and supply shocks.

25. Exhibit 5 to Post Deposition (AKZONOBEL0010835–10863) is a duplicate of the TiO₂ Strategic Sourcing Methodology and Paints & Coating TiO₂ Strategy presentations discussed supra, ¶¶ 15–17.

26. Exhibit 6 to Post Deposition (AKZONOBEL0010398–10403) is a duplicate of the email chain and presentation regarding TiO₂ suppliers discussed supra, ¶¶ 13–14.

27. Exhibit 8 to Post Deposition (AKZONOBEL0011433) is a duplicate of the strategic forecast of TiO₂ pricing document, discussed supra, ¶ 23.

28. Exhibit 9 to Post Deposition (AKZONOBEL0011444–11490) is a duplicate of AkzoNobel's response to competition-related inquiries by the European Commission, discussed infra, ¶ 30.

29. AkzoNobel's Response to FTC Civil Investigative Demand is a document that AkzoNobel created in [REDACTED] in response to an FTC Civil Investigation Demand ("CID") issued in [REDACTED]. AkzoNobel's response to the CID detailed the amount of TiO₂ that AkzoNobel purchased from various suppliers, as well as TiO₂ price increases and subsequent negotiation strategies related to price. The CID response was labeled "Confidential Business Information," and only a select few people within AkzoNobel were given access to the document, because disclosure of the information it contains would put AkzoNobel at a competitive disadvantage. Suppliers could use the pricing information, information about AkzoNobel's negotiating strategies, and other responses to undercut AkzoNobel in future price negotiations; and competitors could use the information on AkzoNobel's TiO₂ purchase volumes and prices to calculate market share and estimate the cost inputs of many of AkzoNobel's products. Disclosure of AkzoNobel's CID response would not only harm AkzoNobel and the

TiO₂ market, but also the FTC's investigative efforts—as companies may be less forthcoming absent assurance that confidential business information will not easily fall into the hands of their competitors.

30. AKZONOBEL0011445–11490 is AkzoNobel's response to competition-related inquiries by the European Commission. AkzoNobel's responses are wide-ranging, covering topics such as production volumes, supplier relationships, pricing, financial expenditures, markets, and other information on AkzoNobel's business model as it relates to TiO₂. This information is maintained as extremely confidential in accordance with EC rules, and its disclosure is therefore limited. As such, AkzoNobel has shared this information with only a small number of senior executives and attorneys within AkzoNobel. As discussed above, this document covers a wide variety of extremely sensitive topics, the disclosure of any one of which would place AkzoNobel at a severe competitive disadvantage. For the reasons discussed above, the information contained in this document could be used by suppliers and competitors alike to undercut and undermine AkzoNobel at every turn in the TiO₂ market.

31. Exhibit 3 to Post Deposition (AKZONOBEL0010699–10712) is an email string between senior executives and attorneys at AkzoNobel and officials from the European Commission. The discussion contains the same type of information as AKZONOBEL0011445–11490, and is similarly designated confidential under EC rules. For the reasons discussed above in ¶ 30, access to this document is highly restricted because its disclosure would be extremely harmful to AkzoNobel.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 15, 2018

Michael Post

Michael Post

Notice of Electronic Service

I hereby certify that on May 15, 2018, I filed an electronic copy of the foregoing Non-Party Akzo Nobel Inc.'s Motion for In Camera Treatment, [Proposed] Order, Exhibit A, Exhibit B, Exhibit C, Exhibit D - Declaration of Michael Post - REDACTED, Exhibit E, Certificate of Service, with:

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REDACTED

PUBLIC

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Exhibit E
(Documents Marked Confidential –
In Camera Review Required)

[REDACTED IN FULL]

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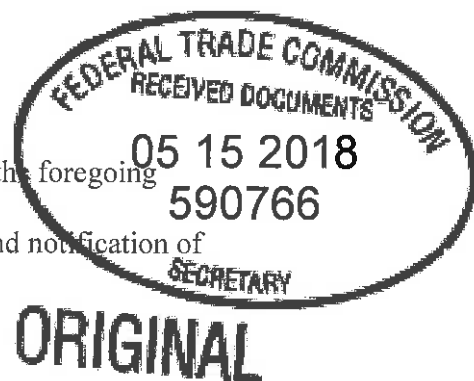
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15th day of May, 2018, I filed the foregoing documents electronically using the FTC's E-filing system, which will send notification of such filings to:



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I also hereby certify that I caused a true and correct copy of the foregoing documents to be served upon the following via electronic mail:

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Dated: May 15, 2018

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