

ORIGINAL

PUBLIC

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES



In the Matter of)
)
ECM BioFilms, Inc.,)
a corporation, also d/b/a)
Enviroplastics International,)
Respondent.)

DOCKET NO. 9358

**ORDER ON RESPONDENT'S RENEWED
MOTION FOR *IN CAMERA* TREATMENT**

I.

By Order dated July 23, 2014, Respondent's July 9, 2014 Motion for *In Camera* Treatment was denied without prejudice. The July 23 Order explained the standards for *in camera* treatment. On July 31, 2014, Respondent filed a renewed Motion for *In Camera* Treatment ("Motion"). Complaint Counsel filed an Opposition on August 1, 2014 ("Opposition"). For the reasons set forth below, Respondent's Motion is GRANTED IN PART and DENIED IN PART.

II.

Respondent seeks *in camera* treatment for a narrow set of documents that the parties intend to introduce at trial. Of the over 1,200 potential exhibits identified by the parties, Respondent seeks *in camera* treatment for 28 documents that ECM asserts contain truly confidential information, such as customer lists, financial information, personal information, and business strategy. Respondent's Motion is supported by an Affidavit of Robert Sinclair, President and CEO of ECM BioFilms, Inc. ("Sinclair Affidavit"), who reviewed the documents and averred that the documents subject to Respondent's motion contain information that will likely result in a serious and clearly defined injury to ECM if disclosed publicly. Complaint Counsel opposes Respondent's Motion, though has consented to some of Respondent's requests for *in camera* treatment for select excerpts of certain documents.

III.

Having reviewed the Motion, Affidavit, Opposition, and proposed exhibits, and applied the standards for *in camera* treatment explained in the July 23, 2014 Order, Respondent's Motion is GRANTED IN PART and DENIED IN PART as set forth below:

A.

In camera treatment for a period of three years, to expire on August 1, 2017, is GRANTED for the following exhibits: RX132, RX330 and RX331.

In camera treatment for a period of five years, to expire on August 1, 2019, is GRANTED for: CCX234.

B.

With respect to the following documents, only certain portions of the exhibits contain information subject to *in camera* treatment.

In camera treatment for a period of three years, to expire on August 1, 2017, is GRANTED for portions of the following exhibits: CCX305, CCX322, CCX392, CCX395, CCX408, CCX410, CCX413, CCX414, CCX416, CCX417, CCX418, CCX420, CCX421, CCX422 and CCX423.

In camera treatment for a period of five years, to expire on August 1, 2019, is GRANTED for portions of the following exhibits: CCX419, CCX429 and RX130.

For each of these exhibits, Respondent shall create a public version, labeled, for example, CCX408-A, that redacts, in the manner described in Respondent's Motion, the sensitive commercial information from each of these exhibits.

C.

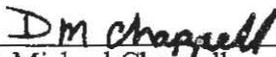
With respect to CCX676, Respondent's Motion is DENIED.

D.

With respect to the deposition transcripts, although Respondent has narrowed its request to only specific portions of the transcripts, with the one exception noted below, none of the excerpts for which Respondent seeks *in camera* treatment meets Commission's strict standards for *in camera* treatment. Accordingly, *in camera* treatment for a period of five years, to expire on August 1, 2019, is GRANTED only to CCX818: 161:23-167:10. With respect to all other deposition transcript excerpts, Respondent's request is DENIED.

Respondent shall create a public version of this exhibit, labeled CCX818-A, that redacts the sensitive commercial information appearing at page 161, line 23 through page 167, line 10.

ORDERED:


D. Michael Chappell
Chief Administrative Law Judge

Date: August 4, 2014