

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



In the Matter of

1-800 Contacts, Inc.,  
a corporation;  
Respondent.

Docket No. 9372

ORIGINAL

**NON-PARTY COASTAL CONTACTS, INC.'S MOTION FOR IN CAMERA  
TREATMENT OF PROPOSED TRIAL EXHIBITS AND RELATED TESTIMONY**

Pursuant to 16 C.F.R. § 3.45(b), non-party Coastal Contacts ("Coastal") respectfully

brings this motion for *in camera* treatment of fifty proposed trial exhibits, as well as any related witness testimony, designated for introduction into the record by the parties in this case. Each of the fifty documents, (collectively the "Confidential Documents") identified in Exhibit A and discussed in detail below, contains Coastal's highly sensitive, non-public, business information, the disclosure of which would cause Coastal serious competitive harm. In support of its motion, Coastal provides the accompanying declaration of Coastal's Chief Financial Officer, Craig Lennox ("Lennox Declaration"). A copy of each proposed exhibit is attached to the Lennox Declaration.

**I. BACKGROUND**

Coastal is an online retailer of contact lenses, glasses, and sunglasses in several countries including the United States. Coastal is headquartered in Vancouver, Canada. (Lennox Decl., ¶

<sup>1</sup> In January 2016, Coastal Contacts Inc. amalgamated with Essilor Canada Ltd. to form Essilor Group Canada Inc.

2.) Coastal is not a party to this litigation, no employees from Coastal were deposited during this case, and neither party has indicated that Coastal, or any of its employees, will be called as a witness in this proceeding. As part of discovery in this case, Coastal produced documents in response to the FTC's Civil Investigative Demand and Subpoenas *Duces Tecum* issued by the FTC and Respondent. (*Id.* ¶¶ 20, 21.) Coastal produced over 900 pages, as well as narrative responses to 20 questions and 24 excel files created to respond to the FTC's and Respondent's requests for information. Coastal requested confidential treatment under the Protective Order for all of these materials. The FTC designated 52 of those documents for potential use at trial and Respondent designated 60 (many duplicates of each other). Of the 112 documents, Coastal requests *in camera* treatment for only the fifty Confidential Documents (19 unique documents) identified in Exhibit A.

FTC and Respondent do not oppose the instant motion.

## II. LEGAL STANDARD

Commission Rules of Practice, Rule § 3.45(b) allows *in camera* treatment for evidence if the materials' 'public disclosure will likely result in a clearly defined, serious injury to the person, partnership, or corporation requesting *in camera* treatment[.]'<sup>2</sup> Meeting such a standard requires a showing that the information concerned is 'sufficiently secret and sufficiently material . . . that disclosure would result in serious competitive injury.' *Gen. Foods Corp.*, 1980 WL 338997, at \*4; *In re Bristol-Myers Co.*, 90 FTC 455, 1977 WL 189054, at \*1 (Nov. 11, 1977).

In *Bristol-Myers*, the Commission identified six factors (the "*Bristol-Meyers* factors") to be weighed when determining secrecy and materiality. The first three factors focus on the

<sup>2</sup>That same rule also permits *in camera* treatment if "the material constitutes sensitive personal information[.]" but Coastal does not seek *in camera* treatment for the Confidential Documents on that basis.

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secrecy with which the materials are kept: (1) the extent to which the information is known outside of the applicant's business; (2) the extent to which the information is known by employees and others involved in the applicant's business; and (3) the extent of measures taken by the applicant to guard the secrecy of the information. See 1980 WL 338997, at \*2. The last three factors focus on the materiality of the information: (4) the value of the information to the applicant and its competitors; (5) the amount of effort or money expended by the applicant in developing the information; and (6) the ease or difficulty with which the information could be properly acquired or duplicated by others. See *id.*

A showing of injury may consist of extrinsic evidence or, in certain instances, may be inferred from the nature of the documents themselves. See *In re E.I. DuPont de Nemours & Co.*, 97 F.T.C. 116 (1981). Administrative law judges have broad discretion in applying these factors to determine whether information warrants *in camera* treatment. See *H.P. Hood*, 58 F.T.C. at 1185. Moreover, the Commission has held that a request for *in camera* treatment by a non-party to an FTC proceeding, such as Coastal, "deserve[s] special solicitude." *In re The Crown Cork & Seal Co.*, 71 F.T.C. 1714, 1714 (1967) ("[P]etitioner's plea warrants special solicitude coming as it does from a third party bystander in no way involved in the proceedings whose records, if *in camera* treatment is denied, will be open to the scrutiny of its competitors."); accord *In re Kaiser*, 103 F.T.C. at 500 ("a public understanding of this proceeding does not depend on access to [this] data submitted by these third party firms. . . . As a policy matter, extensions of confidential or *in camera* treatment in appropriate cases involving third party bystanders encourages cooperation with future adjudicative discovery requests.").

## ARGUMENT

After careful review, Coastal seeks *in camera* treatment for only fifty of the proposed exhibits identified by the parties. Each document contains information that is “sufficiently secret and sufficiently material to [Coastal’s] business that disclosure would result in serious competitive injury” and warrants *in camera* treatment. See *In re Gen. Foods Corp.*, 95 FTC 352, 1980 WL 338997, at \*3 (March 10, 1980).

**I. THE CONFIDENTIAL DOCUMENTS ARE SUFFICIENTLY SECRET TO WARRANT *IN CAMERA* TREATMENT.**

The first three of the *Bristol-Meyers* factors that evaluate the secrecy of the materials support granting Coastal’s motion for *in camera* treatment of the Confidential Documents.

**A. The information in the Confidential Documents is not known outside Coastal’s business.**

Coastal treats every document for which it seeks *in camera* treatment as confidential. (Lennox Decl. ¶ 19.) The information in these materials is not known to the public or generally outside of Coastal (or the parties with whom it negotiates or contracts). (*Id.*) Coastal has a strict Data Retention and Destruction Policy reviewed annually by its Information Security Officer.<sup>3</sup> It also has an Acceptable Use of Technology Policy, the purpose of which is to require employees, contractors, consultants, temporary and other workers, to “manage [technology] responsibility [sic] to maintain the confidentiality, integrity and availability” of the information contained on Coastal’s computer devices, networks and electronic information technology systems.<sup>4</sup> In addition, Coastal’s employment contracts all contain a “Maintaining Confidentiality” section that requires the employee to maintain the confidentiality of information both during and after

<sup>3</sup> Coastal Contacts Inc., Data Retention and Destruction Policy, version 1.2, published 06.04.2015.

<sup>4</sup> ~~Clearly, Acceptable Use of Technology Policy 1.1, published 11.17.2105.~~

employment with the company. Two of the documents are also subject to confidentiality agreements with Google and Yahoo (*Id.*, ¶¶ 6, 18, Ex. A, CX1714, RX1208). Finally, these documents are not a matter of public record and have not been fully disclosed in any public context. (*Id.*)

**B. The information in the Confidential Documents is not widely known by employees or others involved in Coastal's business.**

The information found in the Confidential Documents is only known to Coastal's marketing employees and senior management. Fifteen of the Confidential Documents are not even ordinary course business documents but were pulled or assembled to respond to information requests served upon Coastal in this action. These documents were viewed by only three marketing employees and the Chief Financial Officer. (*Id.* ¶ 20.)

**C. Coastal is careful not to disclose the information found within the Confidential Documents to any non-necessary employees.**

Coastal has carefully guarded the secrecy of the Confidential Documents. (*Id.* ¶ 21.) Coastal was compelled to produce the materials pursuant to the FTC's Civil Investigative Demand and Subpoenas *Duces Tecum* the FTC and Respondent served upon it in this action. (*Id.*) Coastal set up a new secure folder only accessible by the three marketing individuals and the Chief Financial Officer who were working to respond to the FTC's and Respondent's requests. None of the information in the Confidential Documents has otherwise been disclosed to any non-necessary employees. (*Id.*)

**II. THE CONFIDENTIAL DOCUMENTS ARE SUFFICIENTLY MATERIAL TO COASTAL'S BUSINESS THAT DISCLOSURE WOULD RESULT IN SERIOUS COMPETITIVE INJURY.**

The last three of the *Bristol-Meyers* factors that evaluate the materiality of the documents also support granting Coastal's motion for *in camera* treatment of the Confidential Documents.

**A. The Confidential Documents contain very valuable information to Coastal and its competitors.**

Coastal relies almost entirely on its online keyword search bidding and other forms of direct response marketing to drive sales of contact lenses, which means Coastal's competitors would benefit significantly from gaining access to the Confidential Documents. (*Id.* ¶ 22.) Coastal would suffer a loss of business advantage should the Confidential Documents be publicly disclosed, as its pricing, customer information, competitive positioning, and marketing and bidding strategies could be used by its competitors to target Coastal's weaknesses, its key customers, and its higher returning advertising channels, referral sites, and keywords. (*Id.*) Moreover, because the parties in this matter have identified such a large number of Coastal documents for potential use at trial, the potential competitive injury is compounded. Even where one particular document alone may not contain information that could be used by Coastal's competitors to gain a competitive advantage, there are several instances where, in combination with other potential exhibits, competitors could recreate detailed data and information, including highly sensitive return on investment figures. (*Id.* ¶ 13.)

Each of the fifty Confidential Documents contains confidential and competitively sensitive information, including but not limited to, (1) pricing, costing data, sales and other financial information and forecasts, including, but not limited to, advertising spend, budgets and return on investment by search advertising keyword; (2) current and prospective marketing and bidding strategies; and (3) internal analyses of Coastal's customer demographics and buying patterns. In addition, many of the proposed exhibits materials include competitively sensitive, and non relevant, information about Coastal's online sale of glasses and its businesses outside of the United States. (*Id.* ¶ 10, Ex. A, *e.g.*, RX1222.)

Disclosure of the materials at issue poses a high likelihood of harming Coastal's competitive position because Coastal's ability to retain its long-term customers and bid for high-conversion, high-revenue-returning keyword searches would be irreparably compromised. The materials would also give visibility into Coastal's direct response advertising channels that complement its search marketing efforts. (Lennox Decl. ¶ 22.)

**B. Pricing, Costing Data, Sales and Other Financial Information**

Many of the proposed exhibits contain information relating to Coastal's pricing, revenue, costs, discount and return on advertising spend data by keyword and/or by advertising channel. (*Id.* ¶¶ 14, 8, 13, 15, 16, 17, 11, 5, 12, 6, 9, 10, 17,18, Ex. A, CX1465<sup>5</sup>; CX1471<sup>6</sup>; CX1695<sup>7</sup>; CX1700<sup>8</sup>; CX1701<sup>9</sup>; CX1702<sup>10</sup>; CX1698<sup>11</sup>; CX1699<sup>12</sup>; CX1710<sup>13</sup>; CX1792<sup>14</sup>; CX1793<sup>15</sup>; RX1208; RX1210<sup>16</sup>; RX1222, COAST000000019<sup>17</sup>; CX1714.) These documents, if provided to Coastal's competitors, would put Coastal at a competitive disadvantage because competitors

<sup>5</sup> Duplicate exhibit: NONPARTYSUBMISSION00000066.

~~<sup>6</sup> Duplicate exhibit: NONPARTYSUBMISSION00000067.~~

<sup>7</sup> Duplicate exhibits: COAST00000026, NONPARTYSUBMISSION00010412.

<sup>8</sup> Duplicate exhibits: NONPARTYSUBMISSION00005742, NONPARTYSUBMISSION00007168, NONPARTYSUBMISSION00007173.

<sup>9</sup> Duplicate exhibits: NONPARTYSUBMISSION00005738, NONPARTYSUBMISSION00007164, NONPARTYSUBMISSION00007169.

<sup>10</sup> Duplicate exhibits: NONPARTYSUBMISSION00005739, NONPARTYSUBMISSION00007165, NONPARTYSUBMISSION00007170.

<sup>11</sup> Duplicate exhibits: COAST00000012, NONPARTYSUBMISSION00010398.

<sup>12</sup> Duplicate exhibits: COAST00000025, NONPARTYSUBMISSION00010411.

<sup>13</sup> Duplicate exhibit: RX1209.

<sup>14</sup> Duplicates exhibits: COAST00000013, NONPARTYSUBMISSION00010399.

<sup>15</sup> Duplicate exhibits: COAST00000020, COAST00000021, COAST00000022, COAST00000023, COAST00000024, NONPARTYSUBMISSION00010406, NONPARTYSUBMISSION00010407, NONPARTYSUBMISSION00010408, NONPARTYSUBMISSION00010409, NONPARTYSUBMISSION00010410.

<sup>16</sup> Duplicate exhibit: RX1220.

<sup>17</sup> Duplicate exhibit: NONPARTYSUBMISSION00010405.

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would know what Coastal is charging on average and the mix of revenue between product and shipping and handling charges. Competitors could also determine Coastal's revenues and its return on investment for each of Coastal's advertising channels. In addition, competitors could extrapolate Coastal's recent historical information to estimate Coastal's current costs, gross margin and operating income. In non-U.S. countries, this would be particularly damaging for Coastal as this profit information does not change significantly over time and it is not relevant to this case. (*Id.* ¶¶ 5, 8, 9, 10, 13, 14.) See, e.g., *In re E.I. DuPont de Nemours & Co.*, 97 FTC 116, 1981 WL 389447, at \*1 (Jan. 21, 1981) (granting *in camera* treatment for documents containing financial information, the release of which might permit competitors to “extrapolate an accurate model” of DuPont’s business).

Further, competitors could analyze Coastal's revenues by referral site and by each of Coastal's Bing and Google keywords to determine which have the highest volume of clicks and return the most revenue for Coastal's investment. Competitors would also know Coastal's maximum cost per bid, which is Coastal's willingness to pay, for each keyword. This would drive up Coastal's cost per keyword and potentially result in a loss of revenue as competitors would be able to alter their advertising budgets and expenditures to compete on the highest returning keywords, referral sites and advertising channels. (Lennox Decl. ¶¶ 6, 10, 11, 12, 16, 17, 18.)

Finally, the product margin information would put Coastal at a serious disadvantage in negotiating contracts for the supply of contact lenses and would permit non-online competitors to price their contact lenses differently with knowledge of Coastal's margins. (*Id.* ¶¶ 8, 15, 18, 14.) See, e.g., *In the Matter of Polypore Int'l, Inc.*, 2009 WL 1499350, at \*5 (May 13, 2009) (granting

*in camera* treatment for documents categorized as “costing data” and “sales and financial information”).

**C. Current and Prospective Marketing and Bidding Strategies**

Some of the proposed exhibits contain information relating to Coastal’s current and/or prospective marketing and bidding strategies (Lennox Decl. ¶¶ 4, 5, 6, 18, Ex. A, CX1686, CX1710<sup>18</sup>). One of the exhibits also focuses on Google’s search advertising recommendations specific to Coastal’s keyword performance on Google. (*Id.* ¶ 6, Ex. A, RX1208). And, another exhibit’s attachment is the product of Yahoo’s analysis of Coastal’s keyword performance. (*Id.* ¶ 18, Ex. A, CX1714). These documents, if made public, would permit competitors to replicate Coastal’s bidding strategy. As a whole, these documents would competitively disadvantage Coastal if made public because the documents would give competitors insight into Coastal’s weaknesses, brand positioning, customer lifetime values and bidding strategies, which would permit them to reprioritize their marketing spend to better attract Coastal’s customers. (*Id.* ¶¶ 4, 5, 6, 18.) *In the Matter of Mewane, Inc., & Star Pipe Prods., Ltd.*, 2012 WL 5879803, at \*1 (Nov. 8, 2012) (granting non-party’s motion for *in camera* treatment of “strategic planning” documents).

**D. Internal Analyses of Coastal’s Customer Demographics and Buying Patterns**

Several of the documents discuss the demographics of Coastal’s customers, (Lennox Decl. ¶¶ 7, 9, Ex. A, CX1711, RX1210<sup>19</sup>) or analyze Coastal’s customers’ buying patterns, such as analyses of new versus returning customers (*id.* ¶¶ 4, 11, Ex. A, CX1686, CX1699<sup>20</sup>). The latter is a key metric for online retail competitors as returning customers are the most valuable

<sup>18</sup> Duplicate exhibit: RX1209.

<sup>19</sup> Duplicate exhibit: RX1220.

<sup>20</sup> Duplicate exhibits: COAST00000025, NONPARTYSUBMISSION00010411.

customers. (*Id.* ¶ 4.) The documents if made public would put Coastal at a competitive disadvantage because the analysis of Coastal's customers would highlight to competitors Coastal's weaknesses and enable them to target Coastal's customers more easily by geography, sex, income, shopping behavior and age. (*Id.* ¶¶ 4, 7, 9.) The documents would also provide competitors insight into how to prioritize their marketing budget in order to display ads on Coastal's top referral websites and other online forums which would drive up Coastal's display ad prices and potentially result in a loss of ad placement. (*Id.* ¶ 11.)

**E. Coastal has spent a significant amount of time, effort and money on developing the information in the Confidential Documents.**

Coastal has invested significant resources in developing the materials, either through substantial internal efforts to strategically direct the business towards the most profitable keywords, referral sites and channels of advertising (*id.* ¶ 9, Ex. A, *e.g.*, RX1210), or through a third party consultant for analysis of Coastal's brand awareness among customers (*id.* ¶ 7, Ex. A, CX1711). In addition, a significant amount of time and money was spent on pulling and analyzing data and reviewing the narratives and materials ultimately produced to the FTC and Respondent in response to the subpoenas. (*Id.* ¶¶ 23, 12, 16, 15, 11, 17, 13, 8, 14, 17, Ex. A, CX1792<sup>21</sup>; CX1793<sup>22</sup>; CX1702<sup>23</sup>; CX1701<sup>24</sup>; CX1700<sup>25</sup>; CX1699<sup>26</sup>; CX1698<sup>27</sup>; CX1695<sup>28</sup>;

<sup>21</sup> Duplicate exhibits: COAST000000013, NONPARTYSUBMISSION00010399.

<sup>22</sup> Duplicate exhibits: ~~COAST000000020~~, COAST000000021, COAST000000022, COAST000000023, COAST00000024, NONPARTYSUBMISSION00010406, NONPARTYSUBMISSION00010407, NONPARTYSUBMISSION00010408, NONPARTYSUBMISSION00010409, NONPARTYSUBMISSION00010410.

<sup>23</sup> Duplicate exhibits: NONPARTYSUBMISSION00005739, NONPARTYSUBMISSION00007165, NONPARTYSUBMISSION00007170.

<sup>24</sup> Duplicate exhibits: NONPARTYSUBMISSION00005738, NONPARTYSUBMISSION00007164, NONPARTYSUBMISSION00007169.

<sup>25</sup> Duplicate exhibits: NONPARTYSUBMISSION00005742, NONPARTYSUBMISSION00007168, NONPARTYSUBMISSION00007173.

CX1471<sup>29</sup>; CX1465<sup>30</sup>; COAST00000019<sup>31</sup>.) The public disclosure of this information would harm Coastal's business operations insofar as that investment would be wasted, as the internal and third party analyses would become public information that could be used against Coastal in bidding for keywords, negotiating supply contracts, and pricing contact lenses. (*Id.* ¶ 17.)

**F. The information contained in the Confidential Documents could not be easily duplicated.**

The information in the Confidential Documents could not be duplicated by others, as they involve confidential pricing, sales, and margin data of which non-agent third parties would not be aware. (*Id.* ¶ 24.) Providing these documents to Coastal's competitors would provide them with an unfair advantage over Coastal in bidding for contact lens-related keywords, negotiating supply contracts, and pricing contact lenses. (*Id.*)

In sum, all six *Bristol-Meyers* factors weigh in favor of finding that the Confidential Documents are sufficiently "secret" to warrant *in camera* treatment.

**III. COASTAL'S THIRD-PARTY STATUS WEIGHS IN FAVOR OF GRANTING *IN CAMERA* STATUS**

Coastal's status as a third party weighs in favor of *in camera* treatment of its documents. Documents in the possession of a third party deserve "special solicitude" in its request for *in camera* treatment for its confidential business information. *See In re Kaiser Aluminum & Chem. Corp.*, 103 FTC 500, 500 (1984) ("As a policy matter, extensions of confidential or *in camera*

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<sup>26</sup> Duplicate exhibits: COAST000000025, NONPARTYSUBMISSION00010411.

~~<sup>27</sup> Duplicate exhibits: COAST000000012, NONPARTYSUBMISSION00010398.~~

<sup>28</sup> Duplicate exhibits: COAST000000026, NONPARTYSUBMISSION00010412.

<sup>29</sup> Duplicate exhibit: NONPARTYSUBMISSION000000067.

<sup>30</sup> Duplicate exhibit: NONPARTYSUBMISSION000000066.

<sup>31</sup> Duplicate exhibit: NONPARTYSUBMISSION00010405.

treatment in appropriate cases involving third party bystanders encourages cooperation with future adjudicative discovery requests.”)

**IV. IN CAMERA TREATMENT IS ALSO WARRANTED FOR WITNESS TESTIMONY INVOLVING THE CONFIDENTIAL DOCUMENTS.**

During the Part 3 administrative proceeding, witnesses may be questioned about the Confidential Documents. Testimony about these matters could result in the disclosure of the same information contained in the Confidential Documents described above. Thus, Coastal also requests that any trial testimony related to the documents for which Coastal seeks *in camera* treatment also be closed to the public, with any resulting transcripts also receiving *in camera* treatment. See *In the Matter of Polypore Intl, Inc.*, 2009 WL 1499350, at \*5 (granting *in camera* treatment for documents and noting that parties may request the hearing “go into an *in camera* session” when “any of the information contained” in the confidential documents “is referred to in court”).

**V. DURATION**

Coastal seeks *in camera* treatment for the Confidential Documents for a period of three years. Three years is a typical period of time for which *in camera* treatment is provided for business records such as the Confidential Documents. See, e.g., *In re Evanston Nw. Healthcare Corp.*, 2005 FTC. LEXIS 27, at \*2 (Feb. 9, 2005); *E.I. Dupont de Nemours & Co.*, 1981 WL 389447, at \*2 (granting financial data *in camera* treatment for three years); *In re Intl Ass'n of Conference Interpreters*, 1996 FTC LEXIS 298, at \*12 (June 26, 1996) (granting contracts *in camera* treatment for three years.) Three years is necessary to prevent competitors from being able to gain an unfair competitive advantage by extrapolating Coastal's revenue, cost, and gross margin information to undercut Coastal's prices. It is also necessary to prevent competitors from

using Coastal's detailed keyword profitability information (e.g., impressions, conversions, revenues, costs per click) to irreparably harm Coastal in bidding on its highest return keywords.

**CONCLUSION**

For the reasons stated above, therefore, Coastal respectfully requests that the Court grant *in camera* treatment for the Confidential Documents contained in Exhibit A to the Lennox Declaration for a period of three years, and that witness testimony involving those documents or the information contained therein be received in closed proceedings.<sup>32</sup>

Dated: March 24, 2017

Respectfully submitted,

*/s/ Ryan C. Thomas*  
Ryan C. Thomas  
JONES DAY

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51 Louisiana Avenue, N.W.  
Washington, D.C. 20001-2113  
Email: rcthomas@jonesday.com  
Telephone: (202) 879-3807  
Facsimile: (202) 626-1700

*Counsel for Non-Party Coastal Contacts*

<sup>32</sup> In compliance with Rule 3.45(b), should the Commission intend to disclose the contents of the Confidential Documents in a final decision, the undersigned counsel should be notified.

**DECLARATION OF CRAIG LENNOX**

1. I am the Chief Financial Officer of Coastal Contacts (“Coastal”), non-party in the above-captioned proceeding. I have personal knowledge of the following facts. I have worked at Coastal since April 2012, and am familiar with the fifty documents forming the subject of the instant motion (the “Confidential Documents”). Coastal produced these documents in response to Subpoenas *Duces Tecum* the FTC and Respondent served on Coastal in connection with these proceedings, and true and correct copies of the Confidential Documents are attached as **Exhibit A**.
  2. Coastal is a primarily online retailer of contact lenses, glasses and sunglasses in several countries including the United States. Coastal is headquartered in Vancouver, Canada.
  3. Coastal relies almost entirely on its online keyword search bidding and other forms of direct response marketing to drive sales of contact lenses. Each of the fifty Confidential Documents contains information which is likely to result in a serious competitive injury to Coastal in its ability to retain long term customers, to maintain the availability of currently placed ads on its highest conversion referral sites, to prevent increases in its bidding costs for top conversion keywords, and to negotiate supply contracts. The Confidential Documents reflect pricing and cost information, marketing and bidding strategies, valuable customer target profiles and purchasing patterns, as well as expenditures and returns from those expenditures on online search advertising keywords. As such, if disclosed to the public, these materials pose a strong likelihood of harming Coastal’s competitive position because its pricing, customer information, competitive positioning, and marketing and bidding strategies could be used by its competitors to

target Coastal's weaknesses, its key customers, and its highest returning advertising channels, referral sites, and keywords. Specifically:

4. CX1686 is a "Return of the Customer" March 2013 power point consisting of Coastal's internal analysis of new orders and customer re-orders and the strategic marketing and financial implications of this data and internal analysis. Volume and trend information about repeat customers is one of the most valuable pieces of data among online retailers of any kind. If information about Coastal's repeat customer volumes is disclosed to the public, it could provide an unfair advantage to Coastal's competitors who could alter their spending and their strategy between new and repeat customers. It also gives competitors insight into Coastal's customers' lifetime values, which is the estimated net profit attributed to the entire future relationship with the customer, an extremely valuable metric. In addition, the presentation discusses this same information for Coastal's Canadian and other geographic markets as well as for online glasses sales, which reaches farther than the U.S. contact lens market at issue in the present case. While there is a presumption against providing *in camera* treatment to documents over three years old, that presumption is overcome here because the document contains marketing strategies still in place at Coastal stemming from the analysis of Coastal's customer purchasing patterns. See, e.g., *In the Matter of Polypore Int'l, Inc.*, 2009 WL 1499350, at \*5 (May 13, 2009) (granting *in camera* treatment for documents over three years old, while noting presumption against doing so).
5. CX1710 and duplicate, RX1209, are a 2015 "Coastal.com" power point that discusses marketing, pricing, and sales objectives and strategy for not only

contact lens sales, but also glasses, which is outside the scope of the current proceeding. The documents, if disclosed to Coastal's competitors, would provide them insight into Coastal's projected sales growth till 2018, the categories of contact lens sales in which Coastal believes it is under-penetrated, and Coastal's marketing and competitive strategies. This would put Coastal at a competitive disadvantage in competing for future online contact lens and glasses customers.

6. RX1208 is a December 15, 2014 "Coastal & Google 2014 Review & 2015 Opportunities" power point that shows Coastal's profitability, advertising investment and returns on its advertising investments for both contact lenses and glasses, as well as Google's catered recommendations to Coastal on how to improve traffic to its website online and through other devices (e.g., mobile). Coastal's current strategy is based in part on the recommendations made by Google in this presentation. If Coastal's brand positioning in the market, trends, and resulting strategies are revealed to Coastal's competitors, competitors could alter the allocation of their marketing budgets and change their marketing priorities, which could put Coastal at a competitive disadvantage. Further, the presentation goes beyond the scope of the issues at trial as it contains the same information described above for Coastal's Australian and Canadian markets and for its online sale of glasses business.

7. CX1711 is a September 2014 brand awareness study from Ipsos that measures and tracks the brand awareness of CoastalContacts.com in general and specifically among contact lens and glasses users in the United States as well as numerous other countries. The scope of the confidential information in the

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document is beyond that in the proceeding as it contains the same information described above for Coastal's Australian and Canadian markets and for its online sale of glasses business. Coastal invested a significant sum of money for Ipsos to conduct this study and its results compare Coastal's brand awareness to competitors. Coastal would suffer a significant competitive disadvantage if the contents of the Ipsos presentation were revealed to competitors who would be able to modify their strategy with respect to geographic and demographic targeting (e.g., age, sex, household income).

8. CX1471, and duplicate NONPARTYSUBMISSION00000067, are an excel that show for each of Coastal's contact lens product codes, for each month from January 2004 to July 2016, the average retail price, total sales revenue, total promotional discounts, total shipping and handling charges, and total units sold. If this pricing and discount information is revealed, competitors, including brick and mortar contact lens competitors, could gain insight and alter their strategy regarding mix of revenue between product and shipping and handling charges. This would put Coastal at a competitive disadvantage. The information, if released publicly, also puts Coastal in a weaker bargaining position when negotiating with suppliers. Coastal requests *in camera* treatment for the data in the document that is from January 2004 to July 2016. In exchange for providing *in camera* treatment for these documents, Coastal is willing to not seek *in camera* treatment for CX1465 (or duplicate NONPARTYSUBMISSION00000066), which provide the same revenue by month information for each year from January 2004 to July 2016. Coastal believes that the higher level revenue information

available in CX1465 and its duplicate serve the same purpose as CX1471 and its duplicate, NONPARTYSUBMISSION00000067, thereby making the granularity of the data in the latter two exhibits less relevant. See, e.g., *In the Matter of Polypore Int'l, Inc.*, 2009 WL 1499350, at \*5 (May 13, 2009) (granting *in camera* treatment for documents over three years old categorized as “costing data” and “sales and financial information,” while noting presumption against doing so).

9. RX1210, and duplicate RX1220, are Clearly’s 2016 USA Market Strategy power point that provides Coastal’s revenues, costs, gross margin, marketing, and return on ad spend from 2013-2015, internal analysis of Coastal data regarding its customer demographics and geographic locations, and the 2015 revenues and costs associated with marketing through various advertising channels for both glasses and contact lens businesses. These recent documents, if made public to competitors, would put Coastal at a competitive disadvantage by permitting competitors to take advantage of the effort and time spent by Coastal’s senior management and marketing team to develop customer-focused strategies based on analyses of its targeted customers. These documents also permit competitors to gain insight into Coastal’s most recent margins, costs and marketing investments and extrapolate this information for the current calendar year. Because the documents contain information regarding Coastal’s glasses business as well as Essilor sales information for the UK/Ireland, Canada, Japan and Australia/New Zealand businesses, they also contain confidential information irrelevant to the scope of the proceeding.

10. RX1222 is a November 2012 “Advertising Performance” power point that contains the revenue, costs per click, conversion rates, and volume of impressions and clicks for four months in 2012 for both glasses and contacts combined, for each of several advertising channels (e.g., search, email, display, Facebook), for the United States, Japan, Canada, Australia, New Zealand, and the United Kingdom. The document therefore contains revenues and financial information for numerous countries that are not at issue in the current matter. In some of these countries, the financial information provided does not change sufficiently year-over-year such that, if the information is released to the public, a competitor that competes in those countries could extrapolate the data to current year and have a reasonable estimate of Coastal’s sales there. This would put Coastal at a competitive disadvantage. See, e.g., *In the Matter of Polypore Int’l, Inc.*, 2009 WL 1499350, at \*5 (May 13, 2009) (granting *in camera* treatment for documents over three years old categorized as “costing data” and “sales and financial information,” while noting presumption against doing so).

11. CX1699, and duplicates NONPARTYSUBMISSION00010411 and COAST00000025, are excels that show data on referrals to Coastal’s U.S. website from 2011 to 2016, such as the number of new visitors to Coastal’s website, the URL of origin from which Coastal’s U.S. website was reached, the conversion rate for both contact lenses and glasses together, and the revenue from the transactions placed. Coastal does not, in the ordinary course, split contact lens and glasses referral data. As such, the documents would reveal to Coastal’s competitors a wider scope of information than the contact lens-pertinent

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information relevant in this trial. Public release of the documents would also put Coastal at a competitive disadvantage because it would disclose Coastal's top referral sources by URL and the volume of transactions and revenue received from those referral sources. Visibility into which referral sources resulted in the highest click through rates would permit competitors to place display ads on these sites, which would in turn drive up the price of Coastal's ads on those same sites and potentially reduce Coastal's referrals. Coastal requests *in camera* treatment for the data from 2014 to 2016 because many of the sources that drive a substantial volume of traffic to Coastal's website do not change year over year such that, if made public, competitors could derive a lot of value from partnering with these referral sites and outcompeting Coastal.

12. CX1792 (and duplicates NONPARTYSUBMISSION00010399 and COAST000000013) and CX1793 (and duplicates NONPARTYSUBMISSION00010410, COAST000000020-COAST000000024) are excels that show the performance of Coastal's Bing and Google search advertising keywords relating to contact lenses from August 2014 to July 2016, organized by search advertising campaign and ad group. The excels contain the revenue, costs, spend, conversion rates and click-through rates as well as several other measures of the success of each and every keyword used in Coastal's advertising campaigns in Bing and Google. These documents, if revealed to Coastal's competitors, would allow them to be able to reverse engineer Coastal's exact execution of its marketing strategy – they would be able to compete against Coastal with Coastal's own playbook. Competitors

would know the most successful keywords that have the highest conversion rates which, if they bid for them, would drive up Coastal's costs for those keywords. In addition, Coastal's competitors would be able to determine Coastal's marketing goals and strategies by looking at year over year changes to Coastal's willingness to pay for different keywords (Coastal's maximum cost per click per keyword).

13. CX1695, and duplicates NONPARTYSUBMISSION00010412 and COAST00000026, are excels that show the percentage of orders and dollar volume of sales generated from each of Coastal's advertising channels for both U.S. contact lens and glasses sales from 2011 to 2016. As such, the documents would reveal to Coastal's competitors a wider scope of information than the contact lens-pertinent information relevant in this trial. In addition, if revealed to Coastal's competitors, the data would result in a competitive disadvantage for Coastal because the information would assist competitors in determining the returns from investing in different channels of advertising. Coastal requests *in camera* treatment for the 2014 through 2016 data in the documents. Coastal is not seeking *in camera* treatment for CX1697 (or duplicates COAST000000028 or NONPARTYSUBMISSION00010414), which provide Coastal's advertising expenditures for contact lenses in total and separately by advertising channel from 2014 through 2016. If both sets of exhibits are made public, this would give competitors a competitive advantage because it would permit them to easily calculate Coastal's return on investment by advertising channel and how Coastal's advertising mix has changed by channel over the years.

14. CX1465, and duplicate NONPARTYSUBMISSION00000066, are excels that show Coastal's sales revenue for each month from January 2004 to July 2016 from U.S. sales of contact lenses in total and separately for online and telephone sales. If revealed to the public, the documents would competitively disadvantage Coastal because they would show competitors Coastal's revenue trends and the size of Coastal's U.S. business, which has not been made public since the end of the first quarter of 2014, ending January 31, 2014. This could in turn weaken Coastal's leverage with suppliers when negotiating contracts. Coastal requests *in camera* treatment for the data in the documents that is from January 2014 to July 2016. However, Coastal is willing to remove its request for *in camera* treatment of these exhibits in exchange for granting *in camera* treatment for CX1471, and duplicate NONPARTYSUBMISSION00000067, which Coastal believes serve the same purpose but is at a much more granular level. (*Supra*, ¶ 8.)
15. CX1700, and duplicates . NONPARTYSUBMISSION00005742, NONPARTYSUBMISSION00007168 and NONPARTYSUBMISSION00007173, are PDFs that show, for 2011 through 2015, Coastal's U.S. contact lens annual net revenue, annual cost of goods sold, and annual product margin. If Coastal's costing and margin data were revealed to Coastal's competitors and suppliers, Coastal would be put at a competitive disadvantage in negotiating contracts for the supply of contact lenses. In addition, because pricing for the supply of contact lenses can vary by channel of retail sale, a big box retailer, for example, would be able to determine online margins and may choose to price its contact lenses differently. Because the product margins

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do not vary significantly by year, Coastal requests *in camera* treatment for the 2011 through 2015 data.

16. CX 1701 (and duplicates NONPARTYSUBMISSION00005738, NONPARTYSUBMISSION00007169 and NONPARTYSUBMISSION00007164) and CX1702 (and duplicates NONPARTYSUBMISSION00005739, NONPARTYSUBMISSION00007170 and NONPARTYSUBMISSION00007165) are excels that show how frequently and by how much Coastal changed its maximum budgets for search advertising campaigns related to contact lenses in Bing, from March 30, 2016 to July 21, 2016, and in Google, from September 1, 2014 to September 1, 2016, respectively. If revealed to Coastal's competitors, these documents would put Coastal at a competitive disadvantage because they would permit competitors to have knowledge of and therefore spend more on the advertising campaigns that Coastal is focusing on. Coastal is willing to eliminate its request for *in camera* treatment of these exhibits in exchange for the granting of its request for *in camera* treatment of both CX1695 and CX1792 and their duplicate exhibits because CX1792 contains much more granular detail concerning Coastal's search advertising campaigns and CX1695, in conjunction with CX1792, provides a concerning holistic view of Coastal's advertising investments and returns on those investments. (*Supra*, ¶¶ 12, 13.)

17. CX1698 (and duplicates NONPARTYSUBMISSION00010398, COAST000000012), and COAST000000019 (and duplicate

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NONPARTYSUBMISSION00010405) are excels that show Coastal's keyword change history reports from February 2016 to August 2016 in Bing and May 2015 to August 2016 in Google, respectively. The documents state, for each of Coastal's search advertising campaigns and ad groups related to contact lenses, the dates on which Coastal's search advertising keywords changed, how the keywords were changed, and the change in the maximum cost per click that Coastal was willing to pay per keyword. The documents would put Coastal at a competitive disadvantage if revealed to its competitors because they would disclose what Coastal is willing to pay per keyword in online auctions and would signal to competitors which keywords likely return higher sales or conversions. Coastal's competitors could use this information to outbid Coastal on its keywords which would result in lost online contact lens sales for Coastal.

18. CX1714 is an email from Carla Cui to Mike Suh and Albert Chong regarding a follow up account analysis for Coastal, along with the excel attachment, named Coastal Contacts Documents. Coastal requests only *in camera* treatment for the "Yahoo Terms" and "Normalized Terms" tabs of the Coastal Contacts Documents attachment. These two tabs, if made public, would competitively disadvantage Coastal as they would permit competitors to replicate Coastal's keyword bidding strategy. Coastal's competitors would know Coastal's most successful keywords and its willingness to spend on those keywords, which if they bid for them, would drive up Coastal's costs for those keywords.

19. Coastal treats all fifty Confidential Documents as confidential. The information in these materials is not known to the public or generally outside Coastal (or the parties with

whom it negotiates). Coastal has a strict Data Retention and Destruction Policy reviewed annually by its Information Security Officer.<sup>33</sup> It also has an Acceptable Use of Technology Policy, the purpose of which is to require employees, contractors, consultants, temporary and other workers, to “manage [technology] responsibility [sic] to maintain the confidentiality, integrity and availability” of the information contained on Coastal’s computer devices, networks and electronic information technology systems.<sup>34</sup> In addition, Coastal’s employment contracts all contain a “Maintaining Confidentiality” section that requires the employee to maintain the confidentiality of information both during and after employment with the company. Two of the documents are also subject to confidentiality agreements with Google and Yahoo (*supra* ¶¶ 6, 18, Ex. A, CX1714, RX1208). Finally, these documents are not a matter of public record and have not been fully disclosed in any public context. None of the documents are a matter of public record nor have they been fully disclosed in any public context.

20. The information found in these documents is not widely known among Coastal’s employees or others involved in Coastal’s business, and is not generally disseminated throughout Coastal. The fifteen documents that were prepared specifically for the FTC and Respondent in response to their Subpoenas *Duces Tecum* have only been viewed by me and three others in Coastal’s marketing team.

21. Coastal has carefully guarded the secrecy of these materials. Coastal was compelled to produce the materials pursuant to the Subpoenas *Duces Tecum* the FTC and Respondent served upon it in these proceedings. Coastal set up a new secure folder only accessible by the three marketing individuals and the Chief Financial Officer who were working

<sup>33</sup> Coastal Contacts Inc., Data Retention and Destruction Policy, version 1.2, published 06.04.2015.

<sup>34</sup> Clearly, Acceptable Use of Technology Policy 1.1, published 11.17.2105.

to respond to the FTC's and Respondent's requests. In sum, the secrecy of the information found in the Confidential Documents has been kept closely.

22. Coastal's competitors and the suppliers with which it contracts for contact lenses would benefit significantly from gaining access to these materials. The materials reflect Coastal's keyword bidding strategy, revenues, costs, gross margins, advertising expenditures, advertising budgets, and pricing with respect to Coastal's online contact lens sales business, all of which are competitively sensitive. For example, the materials include competitively sensitive information about Coastal's pricing, revenue, costs, gross margin and other financial information and forecasts (*supra* ¶ 15, Ex. A, *e.g.*, CX 1700), Coastal's prospective marketing and bidding strategies stemming from analysis of Coastal's customer purchasing patterns (*supra* ¶ 4, Ex. A, *e.g.*, CX 1686), Coastal's targeted customer demographics and purchasing information (*supra* ¶ 11, Ex. A, *e.g.*, CX 1699), and Coastal's advertising expenditures, budgets and returns on advertising spent on different keywords and channels (*supra* ¶ 6, Ex. A, *e.g.*, RX1208). These materials are competitively sensitive to Coastal, which relies almost entirely on its keyword search bidding and other forms of direct response marketing to drive sales of contact lenses. The Confidential Documents also contain competitively sensitive information about Coastal's online sale of glasses business and its businesses in non-U.S. countries (*supra* ¶ 10, Ex. A, RX1222). Coastal would suffer an unfair competitive advantage should the Confidential Documents be publicly disclosed, as its pricing, customer information, competitive positioning, and marketing and bidding strategies could be used by its competitors to target Coastal's weaknesses, its key customers, and its higher returning advertising channels, referral sites, and keywords.

23. Coastal has invested significant resources in developing the materials, either through substantial internal efforts by senior management to strategically direct the business

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(*supra* ¶ 9, Ex. A, *e.g.*, RX1210), or through a third party consultant for a valuable analysis of Coastal's brand awareness among customers (*supra* ¶ 7, Ex. A, CX 1711). In addition, a significant amount of time and money was spent on pulling and analyzing data, having calls with outside counsel to respond to questions, and reviewing the narratives and materials ultimately produced to the FTC and Respondent in response to the subpoenas. (*supra* ¶¶ 23, 12, 16, 15, 11, 17, 13, 8, 14, 17, Ex. A, CX1465<sup>35</sup>; CX1471<sup>36</sup>; CX1695<sup>37</sup>; CX1698<sup>38</sup>; CX1699<sup>39</sup>; CX1700<sup>40</sup>; CX1701<sup>41</sup>; CX1702<sup>42</sup>; CX1792<sup>43</sup>; CX1793<sup>44</sup>). The public disclosure of this information would harm Coastal's business operations insofar as that investment would be moot, as the internal and third party analyses would become public information that could be used against Coastal in bidding for keywords, negotiating supply contracts, and pricing contact lenses.

24. The materials could not be duplicated by others, as they involve confidential pricing data and contract terms of which non-agent third parties would not be aware. Providing these documents to Coastal's competitors would provide them with an unfair advantage over

<sup>35</sup> Duplicate exhibit: NONPARTYSUBMISSION000000066.

~~<sup>36</sup> Duplicate exhibit: NONPARTYSUBMISSION000000067~~

<sup>37</sup> Duplicate exhibits: COAST000000026, NONPARTYSUBMISSION00010412.

<sup>38</sup> Duplicate exhibits: COAST000000012, NONPARTYSUBMISSION00010398.

<sup>39</sup> Duplicate exhibits: COAST000000025, NONPARTYSUBMISSION00010411.

<sup>40</sup> Duplicate exhibits: NONPARTYSUBMISSION00005742, NONPARTYSUBMISSION00007168, NONPARTYSUBMISSION00007173.

<sup>41</sup> Duplicate exhibits: NONPARTYSUBMISSION00005738, NONPARTYSUBMISSION00007164, NONPARTYSUBMISSION00007169.

<sup>42</sup> Duplicate exhibits: NONPARTYSUBMISSION00005739, NONPARTYSUBMISSION00007165, NONPARTYSUBMISSION00007170.

<sup>43</sup> Duplicate exhibits: COAST000000013, NONPARTYSUBMISSION00010399.

<sup>44</sup> Duplicate exhibits: COAST000000020, COAST000000021, COAST000000022, COAST000000023, COAST000000024, NONPARTYSUBMISSION00010406, NONPARTYSUBMISSION00010407, NONPARTYSUBMISSION00010408, NONPARTYSUBMISSION00010409, NONPARTYSUBMISSION00010410.

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Coastal in bidding for contact lens-related keywords, negotiating supply contracts, and pricing contact lenses.

25. Three years of confidentiality is necessary to prevent competitors from being able to gain an unfair competitive advantage by extrapolating Coastal's revenue, cost, and gross margin information to undercut Coastal's prices. It is also necessary to prevent competitors from using Coastal's detailed keyword profitability information (e.g., impressions, conversions, revenues) to irreparably harm Coastal in bidding on its highest return keywords.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed at Vancouver, BC on March 24, 2017.



Craig Lennox

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## **EXHIBIT A**

Exhibit No	Document Title/Description	Date	Beginning Bates No.	Ending Bates No.	Confidential Information
CX1465; NONPARTYSUBMISSION 00000066	Coastal Contacts CL Revenue (total revenue)	00/00/0000	FTC-PROD- 0011007	FTC-PROD- 0011007	Pricing, Costing Data, Sales and Other Financial Information
CX1471; NONPARTYSUBMISSION 00000067	Coastal Contacts Sales by Product	00/00/0000	FTC-PROD- 0011008	FTC-PROD- 0011008	Pricing, Costing Data, Sales and Other Financial Information
CX1686	Coastal.com Presentation: Return of the Customer, Version 2.0	00/00/0000	COA- 00000699	COA- 00000699	Current and Prospective Marketing and Bidding Strategies; Internal Analyses of Coastal's Customer Demographics and Buying Patterns
CX1695; COAST00000026; NONPARTYSUBMISSION 00010412	Coastal Contacts Spreadsheet: Channel Mix Repull - Sep 27	00/00/0000	FTC- COASTAL- 000024	FTC- COASTAL- 000024	Pricing, Costing Data, Sales and Other Financial Information
CX1698; COAST00000012; NONPARTYSUBMISSION 00010398	Coast Contacts Presentation: Bing keyword change history report feb 2016 - aug 2016	00/00/0000	FTC- COASTAL- 000027	FTC- COASTAL- 000027	Pricing, Costing Data, Sales and Other Financial Information
CX1699; COAST00000025; NONPARTYSUBMISSION 00010411	Spreadsheet: Referral data	00/00/0000	FTC- COASTAL- 000040	FTC- COASTAL- 000040	Pricing, Costing Data, Sales and Other Financial Information; Internal Analyses of Coastal's Customer Demographics and Buying Patterns

Exhibit No	Document Title/Description	Date	Beginning Bates No.	Ending Bates No.	Confidential Information
CX1700; NONPARTYSUBMISSION 00005742; NONPARTYSUBMISSION 00007168; NONPARTYSUBMISSION 00007173	Coastal Contacts Spreadsheet: Net Shipped Revenue and Product Margin	00/00/0000	FTC- COASTAL- 000008	FTC- COASTAL- 000008	Pricing, Costing Data, Sales and Other Financial Information
CX1701; NONPARTYSUBMISSION 00005738; NONPARTYSUBMISSION 00007164; NONPARTYSUBMISSION 00007169	Coastal Contacts Spreadsheet: Bing Campaign Daily Budget Change Report	9/22/16	FTC- COASTAL- 000009	FTC- COASTAL- 000009	Pricing, Costing Data, Sales and Other Financial Information
CX1702; NONPARTYSUBMISSION 00005739; NONPARTYSUBMISSION 00007165; NONPARTYSUBMISSION 00007170	Coastal Contacts Spreadsheet: Google campaign daily budget change report	00/00/0000	FTC- COASTAL- 000010	FTC- COASTAL- 000010	Pricing, Costing Data, Sales and Other Financial Information
CX1710; RX1209	Coastal Presentation: Coastal Contacts	00/00/0000	COA- 00000447	COA- 00000447	Pricing, Costing Data, Sales and Other Financial Information; Current and Prospective Marketing and Bidding Strategies

Exhibit No	Document Title/Description	Date	Beginning Bates No.	Ending Bates No.	Confidential Information
CX1711	Coastal Contacts Presentation: Brand Awareness Omnibus Study: Canada (Wave 13), U.S. (Wave 7) & Australia (Wave 2)	00/00/0000	COA-00000690	COA-00000690	Internal Analyses of Coastal's Customer Demographics and Buying Patterns
CX1792; COAST00000013; NONPARTYSUBMISSION 00010399	Coastal data files - affirmative bidding on competitors (Bing keyword performance)	00/00/0000	FTC-COASTAL-000028	FTC-COASTAL-000028	Pricing, Costing Data, Sales and Other Financial Information
CX1793; COAST00000020; COAST00000021; COAST00000022; COAST00000023; COAST00000024; NONPARTYSUBMISSION 00010406; NONPARTYSUBMISSION 00010407; NONPARTYSUBMISSION 00010408; NONPARTYSUBMISSION 00010409; NONPARTYSUBMISSION 00010410	Coastal data files - affirmative bidding on competitors (Google keyword performance)	00/00/0000	FTC-COASTAL-000035	FTC-COASTAL-000039	Pricing, Costing Data, Sales and Other Financial Information

Exhibit No	Document Title/Description	Date	Beginning Bates No.	Ending Bates No.	Confidential Information
RX1208	Coastal & Google 2014 Review & 2015 Opportunities	12/15/2014	COA-00000410	COA-00000446	Pricing, Costing Data, Sales and Other Financial Information; Current and Prospective Marketing and Bidding Strategies
RX1210	Clearly 2016 USA Market Strategy	00/00/0000	COA-00000448	COA-00000562	Pricing, Costing Data, Sales and Other Financial Information; Internal Analyses of Coastal's Customer Demographics and Buying Patterns
RX1220	Clearly 2016 USA Market Strategy	00/00/0000	COA-00000572	COA-00000572	Pricing, Costing Data, Sales and Other Financial Information; Internal Analyses of Coastal's Customer Demographics and Buying Patterns
RX1222	Advertising Performance November 2012 (Presentation)	11/01/2012	COA-00000692	COA-00000692	Pricing, Costing Data, Sales and Other Financial Information
NONPARTYSUBMISSION 00010405; COAST00000019	Google keyword change history report may 2015 - aug 2016 Email from Carla Cui to Mike Suh and Albert Chong re: Coastal Contacts - Account Analysis Follow Up Files w/Attach: Coastal Contacts Documents.xls	00/00/0000	FTC-COASTAL-000034	FTC-COASTAL-000034	Pricing, Costing Data, Sales and Other Financial Information
CX1714		1/19/2011	COA-00000746	COA-00000749	Pricing, Costing Data, Sales and Other Financial Information

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

In the Matter of  
1-800 Contacts, Inc.,  
a corporation;  
Respondent.

Docket No. 9372

COASTAL'S MEET AND CONFER STATEMENT

Pursuant to the Scheduling Order issued on September 7, 2016, counsel conferred regarding the issues raised in this motion by email in the days leading up to the filing of this motion. Coastal's counsel provided Complaint Counsel and Respondent with notice of its intent to file the instant motion, and Complaint Counsel and Respondent stated that they would not oppose it.

Dated: March 24, 2017

Respectfully submitted,

/s/ Ryan C. Thomas

Ryan C. Thomas  
JONES DAY

51 Louisiana Avenue, N.W.  
Washington, D.C. 20001-2113  
Email: rcthomas@jonesday.com  
Telephone: (202) 879-3807  
Facsimile: (202) 626-1700

*Counsel for Non-Party Coastal Contacts*

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

In the Matter of

1-800 Contacts, Inc.,  
a corporation;

Respondent.

Docket No. 9372

**[PROPOSED] ORDER ON NON-PARTY COASTAL CONTACTS' MOTION FOR IN  
CAMERA TREATMENT OF CERTAIN DOCUMENTS**

On March 27, 2017, non-party Coastal Contacts filed a motion seeking *in camera* treatment for fifty documents proposed to be used as exhibits in this proceeding, included as Exhibit A to the Declaration of Craig Lennox, filed concurrently therewith.

Coastal Contacts' motion is **GRANTED**.

ORDERED:

\_\_\_\_\_  
D. Michael Chappell  
Chief Administrative Law Judge

Date:

CERTIFICATE OF SERVICE

I hereby certify that on March 24, 2017, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

Donald S. Clark  
Secretary  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-113  
Washington, DC 20580

I further certify that I delivered via electronic mail a copy of the foregoing document to:

The Honorable D. Michael Chappell  
Chief Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-110  
Washington, DC 20580

Thomas H. Brock  
Barbara Blank  
Gustav Chiarello  
Kathleen Clair  
Joshua B. Gray  
Geoffrey Green  
Nathaniel Hopkin  
Charles A. Loughlin  
Daniel Matheson  
Charlotte Sairman  
Mark Taylor

FEDERAL TRADE COMMISSION  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580-0001

Phone: 202-326-2638  
TBrock@ftc.gov  
bblank@ftc.gov  
gchiarello@ftc.gov  
kclair@ftc.gov  
jgray@ftc.gov  
ggreen@ftc.gov  
nhopkin@ftc.gov  
cloughlin@ftc.gov  
dmatheson@ftc.gov  
cslaiman@ftc.gov  
mtaylor@ftc.gov

*Counsel for Respondent 1-800 Contacts, Inc.*

Gregory P. Stone  
Steven M. Perry  
Garth T. Vincent  
Stuart N. Senator  
Gregory M. Sergi  
Justin P. Raphael  
Munger, Tolles & Olson LLP  
355 South Grand Avenue  
Los Angeles, CA 90071  
gregory.stone@mto.com  
steven.perry@mto.com  
garth.vincent@mto.com  
stuart.senator@mto.com  
gregory.sergi@mto.com  
Justin.Raphael@mto.com

/s/ Ryan C. Thomas

*Counsel for Non-Party Coastal Contacts*

**PUBLIC**

**Docket No. 9372**

**In the Matter of 1-800 Contacts, Inc.**

**Exhibits Filed Under Seal**

Notice of Electronic Service

I hereby certify that on March 30, 2017, I filed an electronic copy of the foregoing Non-Party Coastal Contacts Motion for In Camera Treatment, Non-Party Coastal Contacts Exhibits Filed Under Seal, 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 March 30, 2017, I served via E-Service an electronic copy of the foregoing Non-Party Coastal Contacts Motion for In Camera Treatment, Non-Party Coastal Contacts Exhibits Filed Under Seal, upon:

Thomas H. Brock  
Attorney  
Federal Trade Commission  
TBrock@ftc.gov  
Complaint

Barbara Blank  
Attorney  
Federal Trade Commission  
bblank@ftc.gov  
Complaint

Gustav Chiarello  
Attorney  
Federal Trade Commission  
gchiarello@ftc.gov  
Complaint

Kathleen Clair  
Attorney  
Federal Trade Commission  
kclair@ftc.gov  
Complaint

Joshua B. Gray  
Attorney  
Federal Trade Commission  
jbgray@ftc.gov  
Complaint

Geoffrey Green  
Attorney  
Federal Trade Commission  
ggreen@ftc.gov  
Complaint

Nathaniel Hopkin  
Attorney  
Federal Trade Commission

nhopkin@ftc.gov  
Complainant

Charles A. Loughlin  
Attorney  
Federal Trade Commission  
cloughlin@ftc.gov  
Complainant

Daniel Matheson  
Attorney  
Federal Trade Commission  
dmatheson@ftc.gov  
Complainant

Charlotte Slaiman  
Attorney  
Federal Trade Commission  
cslaiman@ftc.gov  
Complainant

Mark Taylor  
Attorney  
Federal Trade Commission  
mtaylor@ftc.gov  
Complainant

Gregory P. Stone  
Attorney  
Munger, Tolles & Olson LLP  
gregory.stone@mto.com  
Respondent

Steven M. Perry  
Attorney  
Munger, Tolles & Olson LLP  
steven.perry@mto.com  
Respondent

Garth T. Vincent  
Munger, Tolles & Olson LLP  
garth.vincent@mto.com  
Respondent

Stuart N. Senator  
Munger, Tolles & Olson LLP  
stuart.senator@mto.com  
Respondent

Gregory M. Sergi  
Munger, Tolles & Olson LLP  
gregory.sergi@mto.com  
Respondent

Justin P. Raphael  
Munger, Tolles & Olson LLP  
Justin.Raphael@mto.com  
Respondent

Sean Gates  
Charis Lex P.C.  
sgates@charislex.com  
Respondent

Mika Ikeda  
Attorney  
Federal Trade Commission  
mikeda@ftc.gov  
Complaint

Zachary Briers  
Munger, Tolles & Olson LLP  
zachary.briers@mto.com  
Respondent

Chad Golder  
Munger, Tolles, and Olson  
chad.golder@mto.com  
Respondent

Julian Beach  
Munger, Tolles & Olson LLP  
julian.beach@mto.com  
Respondent

Aaron Ross  
Attorney  
Federal Trade Commission  
aross@ftc.gov  
Complaint

Thomas Dillickrath  
Attorney  
Federal Trade Commission  
tdillickrath@ftc.gov  
Complaint

Jessica S. Drake  
Attorney  
Federal Trade Commission  
jdrake@ftc.gov  
Complaint

W. Stuart Hirschfeld  
Attorney  
Federal Trade Commission  
shirschfeld@ftc.gov  
Complaint

David E. Owyang  
Attorney  
Federal Trade Commission  
dowyang@ftc.gov  
Complaint

Henry Su  
Attorney  
Federal Trade Commission

hsu@ftc.gov  
Complaint

Ryan Thomas  
Attorney