

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

PHILIP MORRIS PRODUCTS S.A.,

Plaintiff,

v.

R.J. REYNOLDS VAPOR COMPANY,

Defendant.

Case No. 1:20-cv-00393-LMB-WEF

DEFENDANT’S RENEWED MOTION TO SEAL

Pursuant to Local Civil Rule 5(C) and the Court’s order at Dkt. 1454 regarding Defendant R.J. Reynolds Vapor Company’s (“RJRv’s”) prior motion to seal at Dkt. 1419, RJRV hereby moves the Court for leave to file under seal (“Motion”) the following documents:

- An unredacted version of RJRV’s Memorandum in Opposition to Plaintiff’s Motion for a Permanent Injunction or, Alternatively, an Ongoing Royalty (“Opposition Brief”) (Dkt. 1421 and resubmitted concurrently with this motion).
- An unredacted version of Exhibit 1 to RJRV’s Opposition Brief, which is the confidential declaration of Christy Canary-Garner, dated August 31, 2022 (Dkt. 1421-1 and resubmitted concurrently with this motion).
- An unredacted version of Exhibit 2 to RJRV’s Opposition Brief, which is the confidential declaration of Dr. Jeffrey C. Suhling, dated September 1, 2022 (Dkt. 1421-2 and resubmitted concurrently with this motion).

- An unredacted version of Exhibit 3 to RJRV’s Opposition Brief, which is the confidential declaration of Ryan Sullivan, Ph.D and attachments thereto, dated September 1, 2022 (Dkt. 1421-3 and resubmitted concurrently with this motion).
- An unredacted version of Exhibit 4 to RJRV’s Opposition Brief, which includes excerpts from the confidential version of the ITC Commission Opinion, issued on September 29, 2021 in *Certain Tobacco Heating Articles*, Inv. No. 337-TA-1199 (U.S.I.T.C.) (the “ITC Investigation” or “ITC”), that Plaintiff Philip Morris Products S.A. (“PMP”) and/or Altria Client Services, LLC/Philip Morris USA Inc. (collectively, “Altria/PM”) designated as containing confidential business information subject to the Protective Order (Dkt. 1421-4 and resubmitted concurrently with this motion)..
- An unredacted version of Exhibit 10 to RJRV’s Opposition Brief, which includes excerpts from the deposition transcript of Martin King, dated June 25, 2021, that PMP designated as confidential business information subject to the Protective Order (Dkt. 1421-10 and resubmitted concurrently with this motion).
- An unredacted version of Exhibit 11 to RJRV’s Opposition Brief, which includes excerpts from ITC Hearing Exhibit RX-0188, a distribution agreement that Altria/PM produced and designated as confidential business information subject to the Protective Order (Dkt. 1421-11 and resubmitted concurrently with this motion).
- An unredacted version of Exhibit 12 to RJRV’s Opposition Brief, which includes excerpts from ITC Hearing Exhibit RX-0544, a relationship agreement that PMP produced and designated as confidential business information subject to the Protective Order (Dkt. 1421-12 and resubmitted concurrently with this motion).

- An unredacted version of Exhibit 13 to RJRV's Opposition Brief, which includes excerpts from the deposition transcript of Dr. Moira Gilchrist, dated June 18, 2021, that PMP designated as confidential business information subject to the Protective Order (Dkt. 1421-13 and resubmitted concurrently with this motion).
- An unredacted version of Exhibit 14 to RJRV's Opposition Brief, which includes excerpts from Altria/PM's 8th Supplemental Responses to RJRV's ITC Interrogatories (Nos. 1-19), dated September 25, 2020, that Altria/PM designated as confidential business information subject to the Protective Order (Dkt. 1421-14 and resubmitted concurrently with this motion).
- An unredacted version of Exhibit 19 to RJRV's Opposition Brief, which includes excerpts from Dr. Jonathan Arnold's ITC Expert Rebuttal Report, dated October 23, 2020 (Dkt. 1421-19 and resubmitted concurrently with this motion).
- An unredacted version of Exhibit 25 to RJRV's Opposition Brief, which includes excerpts from the deposition transcript of Edward Kiernan, dated April 16, 2021, that PMP designated as confidential business information subject to the Protective Order (Dkt. 1421-24 and resubmitted concurrently with this motion).
- An unredacted version of Exhibit 28 to RJRV's Opposition Brief, which includes excerpts from ITC Hearing Exhibit CX-0183C, a presentation that Altria/PM produced and designated as confidential business information subject to the Protective Order (Dkt. 1421-27 and resubmitted concurrently with this motion).
- An unredacted version of Exhibit 29 to RJRV's Opposition Brief, which includes excerpts from ITC Hearing Exhibit CX-0190C, a presentation that Altria/PM

produced and designated as confidential business information subject to the Protective Order (Dkt. 1421-28 and resubmitted concurrently with this motion).

- An unredacted version of Exhibit 30 to RJRV's Opposition Brief, which includes excerpts from ITC Hearing Exhibit CX-0614C, a regulatory document that PMP produced and designated as confidential business information subject to the Protective Order (Dkt. 1421-29 and resubmitted concurrently with this motion).
- An unredacted version of Exhibit 31 to RJRV's Opposition Brief, which includes excerpts from the confidential version of RJRV's March 31, 2021 Opening Post-Hearing Brief filed in the ITC Investigation, that PMP and/or Altria/PM designated as containing confidential business information subject to the Protective Order (Dkt. 1421-30 and resubmitted concurrently with this motion).
- An unredacted version of Exhibit 39 to RJRV's Opposition Brief, which is a PMP intellectual property assignment agreement, that PMP produced and designated as confidential business information subject to the Protective Order (Dkt. 1421-38 and resubmitted concurrently with this motion).
- An unredacted version of Exhibit 42 to RJRV's Opposition Brief, which includes excerpts from PMP's 8th Supplemental Responses to RJRV's 1st Set of ITC Interrogatories (Nos. 1-19), dated September 25, 2020, that PMP designated as confidential business information subject to the Protective Order (Dkt. 1421-41 and resubmitted concurrently with this motion).
- An unredacted version of Exhibit 44 to RJRV's Opposition Brief, which is Trial Exhibit PX-125, a RJRV settlement and license agreement, that RJRV produced

and designated as confidential business information subject to the Protective Order (Dkt. 1421-42 and resubmitted concurrently with this motion).

The aforementioned Opposition Brief and Exhibits 1-3, 19, and 44 all contain Reynolds confidential information. The Opposition Brief and Exhibits 4, 10-14, 19, 25, 28-31, 39, and 42 all contain information that Plaintiff has designated as confidential and requested to be sealed, and Reynolds expects Plaintiff to provide the necessary support for that material to be sealed. Reynolds takes no position as to the appropriateness of Plaintiff's designated material for sealing. For the Opposition Brief and Exhibit 19, Reynolds's information sought to be sealed is annotated with yellow highlighting and PMP's information it requested be sealed is annotated with green highlighting. In support of this Motion, RJRV submits contemporaneously herewith a non-confidential Memorandum in Support of Motion to File Documents Under Seal, along with a proposed Order.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.