

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

RAI STRATEGIC HOLDINGS, INC., <i>et al.</i>)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 1:20-cv-393 (LO/TCB)
)	
ALTRIA CLIENT SERVICES LLC, <i>et al.</i>)	
)	
Defendants.)	
)	

ORDER

This matter comes before the Court on Plaintiffs RAI Strategic Holdings, Inc. and R.J. Reynolds Vapor Company’s (“Plaintiffs”) Motion to Seal (Dkt. 485) and supporting memorandum (Dkt. 490). Plaintiffs request to file under seal an un-redacted version of their Memorandum in Support of their Second Motion to Compel Responsive Documents Related to Defendants’ ‘374 Patent Infringement Counterclaim (“Memorandum”) and accompanying exhibits B-E, G-J, and L-O (Dkt. 489).

District courts have authority to seal court documents “if the public’s right of access is outweighed by competing interests.” *Ashcraft v. Conoco, Inc.*, 218 F.3d 288, 302 (4th Cir. 2000). Procedurally, a district court may seal court filings if it (1) “provide[s] public notice of the request to seal and allow[s] interested parties a reasonable opportunity to object, (2) consider[s] less drastic alternatives to sealing the documents, and (3) provide[s] specific reasons and factual findings supporting its decision to seal the documents and for rejecting the alternatives.” *Id.*

Upon consideration of Plaintiffs’ filings, the Court makes the following findings.

First, Plaintiffs have provided public notice of its request to seal and interested parties have been given a reasonable opportunity to object. Plaintiffs filed their motion to seal and public notice on March 12, 2021. (*See* Dkts. 485, 486.) Because over seven days have elapsed since Plaintiffs filed the motion to seal and public notice, and no interested party has objected, the Court may treat this motion as uncontested under Local Civil Rule 5(C). *See* L. Civ. R. 5(C). Accordingly, Plaintiffs have satisfied this requirement under *Ashcraft* and the Local Civil Rules.

Second, this Court has considered less drastic alternatives. Plaintiffs submitted a redacted version of their Memorandum and accompanying exhibits. (Dkt. 491.) This selective protection of information constitutes the least drastic measure of sealing confidential material. *See Adams v. Object Innovation, Inc.*, No. 3:11cv272-REP-DWD, 2011 WL 7042224, at *4 (E.D. Va. Dec. 5, 2011) “[The] proposal to redact only the proprietary and confidential information, rather than seal the entirety of [the document], constitutes the least drastic method of shielding the information at issue.”), *report and recommendation adopted*, 2012 WL 135428 (E.D. Va. Jan. 17, 2012).

Finally, the Court finds reason to seal the redacted portions of the Memorandum and accompanying exhibits. The redacted portions contain confidential, proprietary, and competitively sensitive business and technological information of the parties in this lawsuit and third parties. This information is also protected under the parties’ stipulated protective order and includes internal scientific studies and analyses, as well as deposition testimony related to development information. As a result, public disclosure of the information could bring competitive harm to the parties in this lawsuit and to others.

Accordingly, it is hereby

ORDERED that Plaintiffs' motion to seal (Dkt. 485) is **GRANTED**. Docket number 489 shall remain permanently under seal.

ENTERED this 22nd day of March, 2021.

A handwritten signature in black ink, consisting of a large, stylized 'T' and 'B' followed by a long horizontal line extending to the right. To the right of the signature is the text "/s/".

THERESA CARROLL BUCHANAN
UNITED STATES MAGISTRATE JUDGE

Alexandria, Virginia