

**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 Defendants Altria Client Services, LLC, Philip Morris USA Inc., Philip Morris Products S.A.’s (“Defendants”) Motion to Seal (Dkt. 494) and supporting memorandum (Dkt. 495). Defendant requests to file under seal unredacted versions of their Opposition to Plaintiffs’ Second Motion to Compel Production of Document Related to Defendants’ ‘374 Patent Infringement Counterclaim (“Opposition”) and accompanying exhibits 1-13. (Dkt. 497.) Plaintiffs RAI Strategic Holding, Inc. and R.J. Reynolds Vapor Company (“Plaintiffs”) filed a response in support of Defendant’s Motion (Dkt. 516), pursuant to Local Civil Rule 5(C). *See* L. Civ. R. 5(C).

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 Defendants’ filings, the Court makes the following findings.

First, Defendants have provided public notice of its request to seal the requested portions and interested parties have been given a reasonable opportunity to object. Defendants filed their motion to seal and public notice on March 17, 2021. (*See* Dkts. 494, 496.) Because over seven days have elapsed since Defendants filed the motion 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, Defendants have satisfied this requirement under *Ashcraft* and the Local Civil Rules.

Second, this Court has considered less drastic alternatives. Defendants submitted a redacted version of its Opposition, which omits only confidential information. (Dkt. 493) 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 Opposition and accompanying exhibits. The redacted portions of Defendant’s Opposition contains the parties’ confidential, proprietary, and competitively sensitive business information, which is also protected under the parties’ stipulated protective order. Additionally, the exhibits consist of confidential communications between the parties, confidential business documents and agreements, and other proprietary information about discovery in this case. As a result, public disclosure of the information could bring

competitive harm to the parties in this lawsuit and to third parties.

Accordingly, it is hereby

ORDERED that Defendant's motion (Dkt. 494) is **GRANTED**; and it is further

ORDERED that docket number 497 shall remain permanently under seal.

ENTERED this 25th day of March, 2021.



/s/

THERESA CARROLL BUCHANAN
UNITED STATES MAGISTRATE JUDGE

Alexandria, Virginia