

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FEDERAL TRADE COMMISSION)
600 Pennsylvania, Avenue, N.W.)
Washington, DC 20580)

Plaintiff,)

v.)

Civil Action No. 13-1021

ARDAGH GROUP S.A.)
56, rue Charles Martel,)
Luxembourg)
L-2135)

and)

COMPAGNIE DE SAINT-GOBAIN)
"Les Miroirs" 18, avenue d'Alsace)
92400 Courbevoie)
France)

and)

SAINT-GOBAIN CONTAINERS, INC.)
1509 S. Macedonia Avenue)
Muncie, Indiana 47307)

Defendants.)

PROTECTIVE ORDER

To ensure that matters raised by this proceeding are open to the public to the extent possible, and also that confidential information submitted by a defendant or any third party, whether pursuant to compulsory process or voluntarily, is not improperly disclosed, IT IS
HEREBY ORDERED:

(1) As used in this Order, “confidential material” shall refer to any document or portion thereof that contains competitively sensitive information, including trade secrets or other confidential research, development, commercial or financial information, as such terms are used in Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure and Section 6(f) of the Federal Trade Commission Act, and in the cases so construing them, and in any rules promulgated pursuant to or in implementation of them. “Document” shall refer to any discoverable writing or recording, as defined in Rule 1001 of the Federal Rules of Evidence, or transcript of oral testimony in the possession of a party or a third party.

(2) Any document or portion thereof submitted by any person during a Federal Trade Commission (“FTC”) investigation by any person that is entitled to confidentiality under the Federal Trade Commission Act, the Hart-Scott-Rodino Antitrust Improvements Act of 1976, or any regulation, interpretation, or precedent concerning documents in the possession of the Commission, as well as any information taken from any portion of such document, shall be treated as confidential material for purposes of this Order. The identity of a third party submitting such confidential material shall also be treated as confidential material for the purposes of this Order where the submitter has requested such confidential treatment.

(3) The parties and any third parties, in complying with informal discovery requests or discovery requests served upon them pursuant to the Federal Rules of Civil Procedure, may designate any document or portion thereof submitted in response to such discovery requests as confidential material, including documents obtained by them from third parties pursuant to discovery or as otherwise obtained.

(4) The parties, in conducting discovery from third parties, shall attach to such discovery requests a copy of this Order so as to apprise such third parties of their rights herein.

(5) A designation of confidentiality shall constitute a representation to the Court, in good faith and after careful determination, that the material is not reasonably believed to be already in the public domain and that counsel believes the material so designated constitutes confidential material as defined in Paragraph (1) of this Order.

(6) Material may be designated as confidential by placing on or affixing to the document containing such material (in such manner as will not interfere with the legibility thereof), or, if an entire folder or box of documents is confidential, by placing or affixing to that folder or box, the designation "CONFIDENTIAL-FTC Docket No. XXX" or any other appropriate notice, together with an indication of the portion or portions of the document considered to be confidential material. Confidential information contained in electronic documents may also be designated as confidential by placing the designation "CONFIDENTIAL-FTC Docket No. XXXX" or any other appropriate notice, on the face of the CD or DVD or other medium on which the document is produced. Masked or otherwise redacted copies of documents may be produced where the portions masked or redacted contain privileged matter, provided that the copy produced shall indicate at the appropriate point that portions have been masked or redacted and the reasons therefor.

(7) Confidential material shall be disclosed only to: (a) appropriate judges and court personnel; (b) FTC counsel, their associated attorneys, FTC Commissioners, and other

employees or consultants of the FTC; (c) outside counsel of record for defendants (“outside counsel”), their associated attorneys and other employees of their law firm(s), provided they are not employees of a defendant; (d) anyone retained to assist outside counsel in the preparation or trial of this action (including consultants), provided they are not affiliated in any way with a defendant and have signed an agreement to abide by the terms of the protective order; and (e) any witness or deponent who may have authored or received the information in question.

(8) Disclosure of confidential material to any person described in Paragraph (7) of this Order shall be only for the purposes of the preparation, hearing, and any appeal of this proceeding and any administrative proceeding arising from this transaction, and for no other purpose whatsoever, provided, however, that the Commission may, subject to taking appropriate steps to preserve the confidentiality of such material, use or disclose confidential material as provided by its Rules of Practice, sections 6(f) and 21 of the Federal Trade Commission Act; or any other legal obligation imposed upon the Commission.

(9) In the event that any confidential material is contained in any pleading, motion, exhibit or other paper (collectively the “papers”) filed or to be filed with the Clerk of the Court, the Clerk shall be so informed by the party filing such papers, and such papers shall be filed under seal. To the extent that such material was originally submitted by a third party, the party including the materials in its papers shall immediately notify the submitter of such inclusion. Confidential material contained in the papers (including confidential material from both parties and third parties) shall remain under seal until further order of this Court;

provided, however, that such papers may be furnished to persons or entities who may receive confidential material pursuant to Paragraphs (7) or (8). Upon or after filing any paper containing confidential material, the filing party shall file on the public record a duplicate copy of the paper that does not reveal confidential material. Further, if the protection for any such material expires, a party may file on the public record a duplicate copy which also contains the formerly protected material.

(10) If counsel for a defendant or any other party plans to introduce into evidence any document or transcript containing confidential material produced by another party or by a third party, they shall provide advance notice to the other party or third party for purposes of allowing that party to seek an order that the document or transcript be granted *in camera* treatment. If such party wishes *in camera* treatment for the document or transcript, the party shall file an appropriate motion with the court within five days after it receives such notice. Except where such an order is granted, all documents and transcripts shall be part of the public record. Where *in camera* treatment is granted, a duplicate copy of such document or transcript with the confidential material deleted therefrom may be placed on the public record.

(11) If any party receives a discovery request in any investigation or in any other proceeding or matter that may require the disclosure of confidential material submitted by another party or third party, the recipient of the discovery request shall promptly notify the submitter of receipt of such request. Unless a shorter time is mandated by an order of a court, such notification shall be in writing and be received by the submitter at least 10 business days before production, and shall include a copy of this Order and a cover letter that will apprise

the submitter of its rights hereunder. Nothing herein shall be construed as requiring the recipient of the discovery request or anyone else covered by this Order to challenge or appeal any order requiring production of confidential material, to subject itself to any penalties for non-compliance with any such order, or to seek any relief from the Court. The recipient shall not oppose the submitter's efforts to challenge the disclosure of confidential material.

(12) At the time that any consultant or other person retained to assist counsel in the preparation of this action concludes participation in the action, such person shall return to counsel all copies of documents or portions thereof designated confidential that are in the possession of such person, together with all notes, memoranda or other papers containing confidential information. At the conclusion of this proceeding or any related administrative proceedings, including the exhaustion of judicial review, the parties shall return documents obtained in this action to their submitters, provided, however, that the Commission's obligation to return documents shall be governed by the provisions of Rule 4.12 of the Rules of Practice, 16 CFR 4.12.

SO ORDERED:



UNITED STATES DISTRICT JUDGE

Dated: Washington, D.C.

9 July, 2013

ATTORNEYS ENTITLED TO NOTICE

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Saint-Gobain Containers, Inc.