

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

TRONOX LIMITED,

**NATIONAL INDUSTRIALIZATION
COMPANY (TASNEE),**

**NATIONAL TITANIUM DIOXIDE
COMPANY LIMITED (Cristal)**

and

CRISTAL USA INC.,

Defendants.

Civil Action No. 1:18-cv-01622 (TNM)

[PROPOSED] PROTECTIVE ORDER

For the purposes of protecting the interests of the parties and third parties in the above-captioned matter against the improper use and disclosure of confidential information submitted or produced in connection with this matter:

IT IS HEREBY ORDERED THAT this Protective Order shall govern the handling of all Confidential Material, as hereafter defined.

1. As used in this Order, “Confidential Material” shall refer to any document or portion thereof that contains privileged information, Sensitive Personal Information, trade secrets or commercial information which is not publicly known and is of technical or commercial advantage to its possessor, in accordance with Federal Rule of Civil Procedure 26(c)(1)(G), and exhibits and transcripts that were ordered to be “in camera” during the administrative

hearing. “Sensitive Personal Information” shall refer to, but shall not be limited to, an individual’s Social Security number, taxpayer identification number, financial account number, credit card or debit card number, driver’s license number, state-issued identification number, passport number, date of birth (other than year), and any sensitive health information identifiable by individual, such as an individual’s medical records. “Document” shall refer to any information, data, writing, recording, transcript, or electronically stored information. “Administrative Hearing” shall refer to the proceedings titled *In the Matter of Tronox, et al.* Docket No. 9377 before the Federal Trade Commission Office Administrative Law Judges. “Commission” shall refer to the Federal Trade Commission (“FTC”), or any of its employees, agents, attorneys, and all other persons acting on its behalf, excluding persons retained as consultants or experts for purposes of this proceeding. “Defendant” shall refer to any named defendant, including its employees, agents, attorneys, and all other persons acting on its behalf, excluding persons retained as consultants or experts for purposes of this proceeding

2. Any document or portion thereof submitted by a Defendant or a third party during a Federal Trade Commission investigation or during the course of this proceeding that is entitled to confidentiality under the Federal Trade Commission Act, 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. A designation of Confidential Material shall constitute a representation 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. All exhibits and testimony presented in the Administrative Hearing is in the public domain unless the Office of Administrative Law Judges has ruled that it should be *in camera*.

4. Material may be designated as Confidential Material 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 v. Tronox/Cristal,” or any other appropriate notice that identifies this proceeding, together with an indication of the portion or portions of the document considered to be Confidential Material. Confidential Material contained in electronic documents may also be designated as confidential by placing the designation “CONFIDENTIAL – FTC v. Tronox/Cristal,” or any other appropriate notice that identifies this proceeding, 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 deleted contain privileged matter, provided that the copy produced shall indicate at the appropriate point that portions have been deleted and the reasons therefor.
5. Confidential Material shall be disclosed only to: (a) the Court presiding over this proceeding, personnel assisting the Court, judges and other court personnel of any court having jurisdiction over any appellate proceedings involving this matter; (b) the Commission and its employees, and personnel retained by the Commission as experts or consultants for this proceeding; (c) outside counsel of record for any Defendant, 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 hearing of this proceeding including experts and consultants, provided they are not employees of 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.

6. In addition, and subject to other provisions contained in this Order, Defendants have designated one individual from Tronox (Mr. Steven Kaye) and one individual from Cristal (Mr. James Koutras) who may access confidential information. Mr. Kaye and Mr. Koutras shall have access to such material for the purpose of defending this litigation only. Mr. Kaye and Mr. Koutras may only access this information at the offices of their outside counsel, or using a secure electronic data room or document review platform using individual login identification and passwords.
7. Disclosure of Confidential Material to any person authorized pursuant to this Order shall be only for the purposes of this litigation, including any appeals, and the Administrative Hearing, or any appeal therefrom, 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 sections 6(f) and 21 of the Federal Trade Commission Act or to comply with any other legal obligation imposed upon the Commission.
8. In the event that any Confidential Material is contained in any pleading, motion, exhibit or other paper filed or to be filed with the Court, the Court shall be so informed by the Party filing such papers, and such papers shall be filed *in camera*. To the extent that such material

was originally submitted by a third party, the party including the material in its papers shall immediately notify the submitter of such inclusion. Confidential Material contained in the papers shall continue to have *in camera* treatment until further order of the 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.

9. If counsel plans to introduce into evidence any document or transcript containing Confidential Material produced by another party or by a third party, then counsel 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 that party wishes *in camera* treatment for the document or transcript, the party shall file an appropriate motion with the Court within five business 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 redacted or deleted may be placed on the public record.
10. By entering this Order and limiting the disclosure of information in this case, the Court does not intend to preclude another court from finding that information may be relevant and subject to disclosure in another case. Any person or parties subject to this Protective Order that may be subject to a motion to disclose another party's information designated as

Confidential Material pursuant to this Protective Order, shall promptly notify that party of the motion so that it may have an opportunity to appear and be heard on whether that information should be disclosed. 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 ten business days before production, and shall include a copy of this Protective Order. 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, 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. In addition, nothing herein shall limit the applicability of Rule 4.11(e) of the Commission's Rules of Practice, 16 C.F.R. § 4.11(e), to discovery requests in another proceeding that are directed to the Commission.

11. Within sixty (60) calendar days after final judgment in this action, including the exhaustion of all appeals, or within sixty (60) calendar days after dismissal pursuant to a settlement agreement, each party or other person subject to the terms of this Protective Order shall be under an obligation to destroy or return to the producing party all materials and documents containing Confidential Material, and to certify to the producing party such destruction or return. However, counsel retained by any party for this action shall be entitled to retain all court papers, trial transcripts, exhibits, and attorney work product provided that any such

materials are maintained and protected in accordance with the terms of this Protective Order.

12. It is Ordered by the Court that this Protective Order will be enforced by the sanctions set forth in Rule 37(b) of the Federal Rules of Civil Procedure and such other sanctions as may be available to the Court, including the power to hold parties or other violators of this Protective Order in contempt. All other remedies available to any person(s) injured by a violation of this Confidentiality Order are fully reserved.
13. Any party may petition the Court for good cause shown, in the event such party desires relief from a term or condition of this Order.

SO ORDERED:

Dated: _____, 2018

Judge Trevor N. McFadden
United States District Court Judge