

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

**In the Matter of**

**Tapestry Inc.,**  
a corporation, and

**Capri Holdings Limited,**  
a corporation,

Respondents.

Docket No. 9429

**NON-PARTY KURT GEIGER USA, INC.'s  
MOTION FOR *IN CAMERA* TREATMENT**

Pursuant to Rule 3.45(b) of the Federal Trade Commission's Rules of Practice, 16 C.F.R. § 3.45(b), counsel for non-Party Kurt Geiger USA, Inc. ("Kurt Geiger") respectfully moves this Court for *in camera* treatment for all or portions of five competitively sensitive, highly confidential business documents as well as the deposition transcript of a Kurt Geiger corporate representative, which contain confidential, competitively sensitive information ("Confidential Documents").

Counsel for The Federal Trade Commission ("FTC") and counsel for Respondents Tapestry Inc. ("Tapestry") and Capri Holdings Limited ("Capri") have stated that they do not intend to oppose Kurt Geiger's Motion.

Kurt Geiger produced the Confidential Documents in response to a third-party subpoena in the related preliminary injunction proceeding in the Southern District of New York (1:24-cv-03109-JLR). Respondents' Counsel has now notified Kurt Geiger that it intends to introduce five of Kurt Geiger's documents into evidence at the administrative trial in this matter. *See* E-mail from Tapestry's Counsel dated August 30, 2024 (attached as Exhibit A).

The exhibits for which Kurt Geiger is seeking *in camera* treatment are highly confidential business documents that contain information regarding its sales data, current financial performance, breakdown of profit margins, pricing information, financial projections, strategic marketing analysis, and future commercial plans. If these documents were to become part of the public record, Kurt Geiger would be significantly harmed. For the reasons discussed below, Kurt Geiger respectfully requests that the Confidential Documents be afforded *in camera* treatment. In support of this motion, Kurt Geiger relies on the Declaration of Dale Christilaw, (“Christilaw Declaration”), attached as Exhibit B which provides additional details regarding the Confidential Documents.

### I. The Documents for Which Protection Is Sought

Kurt Geiger seeks *in camera* treatment for all or portions of the following Confidential Documents, copies of which are attached as Exhibits C–I.

Exhibit No.	Document Title/Description	Beginning Bates No.	Ending Bates No.	All or Portion	Time Period Sought
DX-0587	Kurt Geiger US Handbag Sales Data	KG-FTC-000002	KG-FTC-000002	All	5 years
DX-0576	Kurt Geiger’s Sales Data	KG-FTC-000001	KG-FTC-000001	All	5 years
DX-0326	Kurt Geiger’s Sales Data	KG-FTC-0000001	KG-FTC-0000001	All	5 years
DX-0580	Kurt Geiger Feb 2023 presentation: “US Strategy Document”	KG 000000159	KG 000000185	All	5 years
DX-0579	“The Kurt Geiger Opportunity”	KG 000000025	KG 000000158	All	5 years
DX-0577	McKinsey Sept 2022 presentation “Understanding Kurt Geiger London’s Consumer”	KG 000000001	KG 000000024	All	5 years
DX-0937 <sup>1</sup>	Deposition transcript of Dale Christilaw			Selected Testimony <sup>2</sup>	5 years

<sup>1</sup> The proposed document redactions have been as-produced to the parties in this matter.

<sup>2</sup> Kurt Geiger seeks *in camera* treatment for the following portions of the Deposition Transcript of Dale Christilaw: 15:5–7; 16:2–22; 19:3–7; 19:11–23:18; 23:23–26:5; 26:25; 27:6–9; 28:5–12; 29:7–16; 29:20–30:6; 30:11–23; 31:12–32:11; 33:12–36:2; 37:6–38:17; 52:25–53:3; 53:14–54:3; 55:13–20; 56:24–25; 58:12–17; 59:13–17; 61:20; 65:3; 65:7; 65:13–24; 67:8–16; 67:21–68:18; 68:24–69:1; 72:7–73:4; 73:17–75:9; 75:15–76:4; 77:9–

## II. Because Kurt Geiger's Documents are Secret and Material to its Business, Disclosure Would Result in a Clearly Defined, Serious Injury to the Company

*In camera* treatment of material is appropriate when its “public disclosure will likely result in a clearly defined, serious injury to the person, partnership, or corporation requesting” such treatment. 16 C.F.R. § 3.45(b). The proponent demonstrates “serious competitive injury” by showing that the documents are secret and that they are material to the business. *Matter of Gen. Foods Corp.*, 95 F.T.C. 352, 355 (1980). Courts generally attempt “to protect confidential business information from unnecessary airing.” *In Re H. P. Hood & Sons, Inc.*, 58 F.T.C. 1184, 1186 (1961).

As discussed in the Christilaw Declaration, the Confidential Documents relate to sales data, current financial performance, breakdown of profit margins, pricing information, financial projections, strategic marketing analysis, and future commercial plans. As set forth below, such information is both secret and material to Kurt Geiger's business and therefore satisfies the standard for *in camera* treatment.

In considering both secrecy and materiality, the Court may consider “(1) the extent to which the information is known outside of the business; (2) the extent to which it is known by employees and others involved in [the] business; (3) the extent of measures taken [] to guard the secrecy of the information; (4) the value of the information to [the business] and [its] competitors; (5) the amount of effort or money expended [] in developing the information; [and] (6) the ease or difficulty with which the information could be properly acquired or duplicated by others.” *Matter of Bristol-Myers Co.*, 90 F.T.C. 455 (1977). Each of these factors weighs in favor of granting the present Motion.

The information contained in the Confidential Documents is not publicly available. Christilaw Decl. ¶ 8. Nor is said information shared broadly among all employees. In fact, Kurt

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78:16; 80:8–20; 81:7–89:7; 90:21–95:23; 96:9–100:16; 101:5–102:1; 102:18–104:21; 106:6–107:17; 108:1–109:6.

Geiger has taken significant steps to protect the confidential information contained therein. Christilaw Decl. ¶ 8. The Confidential Documents were produced only pursuant to a compulsory third-party subpoena. Kurt Geiger's counsel designated the document as "Confidential" to avoid any public disclosure.

The information contained in the Confidential Documents is only disclosed to Kurt Geiger management and certain of its employees on an as-needed basis. Christilaw Decl. ¶ 8. Kurt Geiger takes substantial measures to guard the secrecy of the information contained in the Confidential Documents by limiting its dissemination and taking every reasonable step to protect its confidentiality. Christilaw Decl. ¶ 8.

Finally, Kurt Geiger's status as a non-party is relevant to the treatment of its documents. The Commission has held that "[t]here can be no question that the confidential records of businesses involved in Commission proceedings should be protected insofar as possible." *In Re H. P. Hood & Sons, Inc.*, 58 F.T.C. at 1186. This is especially so in the case of a non-party such as Kurt Geiger, which deserves "special solicitude" in its request for *in camera* treatment for its confidential business information. *See In the Matter of Kaiser Aluminum & Chem. Corp.*, 103 F.T.C. 500, 500 (1984) ("As a policy matter, extensions of confidential or *in camera* treatment in appropriate cases involving third party bystanders encourages cooperation with future adjudicative discovery requests."). Therefore, Kurt Geiger's status as a non-party in this matter weighs in favor of granting *in camera* status to its Confidential Documents.

### **III. *In Camera* Protection Should Extend for at Least Five Years for Kurt Geiger's Ordinary Course Documents**

Due to the highly confidential and proprietary nature of the information contained in the Confidential Documents—competitively sensitive information that Kurt Geiger continues to use and considers key to its business strategies regarding market expansion, financial performance, marketing strategy, and ongoing operations—lasting protection is appropriate to ensure avoidance of the competitive injuries to Kurt Geiger's business outlined above. *See In*

*re I-800 Contacts, Inc.*, 2017 FTC LEXIS 55, at \*3 (Fed. Trade Comm'n April 4, 2017) (“applicants seeking *in camera* treatment . . . must also demonstrate, by affidavit or declaration, that such material remains competitively sensitive”).

As the FTC has previously recognized, if competitively information is disclosed, a non-party such as Kurt Geiger would lose advantages that it currently enjoys based on its efforts to maintain the confidentiality of the information contained in the Confidential Documents. *See In re Otto Bock Healthcare N. Am., Inc.*, 2018 FTC LEXIS 111, at \*11 (July 6, 2018) (granting *in camera* treatment for five years for non-party’s ordinary course of business documents such as “sales and financial data, which reveal[ed] product-level sales, monthly sales reports by product line and distribution channel, sales targets, margins, distributor contracts and pricing information.”). Accordingly, and in recognizing the presumption of a public hearing in this proceeding, Kurt Geiger respectfully requests that the information contained in the Confidential Documents be afforded narrow *in camera* protection for the time limits identified in the above chart.

#### **IV. Conclusion**

For the reasons set forth above and in the accompanying Christilaw Declaration, Kurt Geiger respectfully requests that this Court grant *in camera* treatment for the information contained in the Confidential Documents.

Date: September 9, 2024

Respectfully submitted,

/s/ Heather P. Lamberg

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*Counsel for Non-Party Kurt Geiger USA, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on September 9, 2024, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

April Tabor  
Secretary  
**Federal Trade Commission**  
600 Pennsylvania Ave., NW  
Rm. H-113  
Washington, DC 20580  
[ElectronicFilings@ftc.gov](mailto:ElectronicFilings@ftc.gov)

The Honorable Dania L. Ayoubi  
Office of Administrative Law Judges  
**Federal Trade Commission**  
600 Pennsylvania Ave., NW  
Rm. H-110  
Washington, DC 20580

I also certify that I caused the foregoing document to be served via email to:

*Complaint Counsel***Federal Trade Commission**

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Respectfully submitted

/s/ Laura C. Onken

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*Counsel for Non-Party  
Kurt Geiger USA, Inc.*



**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

**In the Matter of**

**Tapestry Inc.**,  
a corporation;

and

**Capri Holdings Limited**,  
a corporation.

Respondents.

Docket No. 9429

**[PROPOSED] ORDER**

Upon consideration of Non-Party Kurt Geiger USA, Inc.'s ("Kurt Geiger") Motion for *In Camera* Treatment and 16 C.F.R. §3.45, it is HEREBY ORDERED that the following documents are to be accorded *in camera* treatment from the date of this Order for the time periods below.

<b>Exhibit No.</b>	<b>Document Title/Description</b>	<b>Beginning Bates No.</b>	<b>Ending Bates No.</b>	<b>All or Portion</b>	<b>Time Period Sought</b>
DX-0587	Kurt Geiger US Handbag Sales Data	KG-FTC-000002	KG-FTC-000002	All	5 years
DX-0576	Kurt Geiger's Sales Data	KG-FTC-000001	KG-FTC-000001	All	5 years
DX-0326	Kurt Geiger's Sales Data	KG-FTC-0000001	KG-FTC-0000001	All	5 years
DX-0580	Kurt Geiger Feb 2023 presentation: "US Strategy Document"	KG 000000159	KG 000000185	All	5 years
DX-0579	"The Kurt Geiger Opportunity"	KG 000000025	KG 000000158	All	5 years
DX-0577	McKinsey Sept 2022 presentation "Understanding Kurt Geiger London's Consumer"	KG 000000001	KG 000000024	All	5 years

DX-0937 <sup>1</sup>	Deposition transcript of Dale Christilaw			Selected Testimony <sup>2</sup>	5 years
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ORDERED:

\_\_\_\_\_  
 The Honorable Dania L. Ayoubi  
 Administrative Law Judge

Date: \_\_\_\_\_

<sup>1</sup> The proposed document redactions have been as-produced to the parties in this matter.

<sup>2</sup> Kurt Geiger seeks *in camera* treatment for the following portions of the Deposition Transcript of Dale Christilaw: 15:5-7; 16:2-22; 19:3-7; 19:11-23:18; 23:23-26:5; 26:25; 27:6-9; 28:5-12; 29:7-16; 29:20-30:6; 30:11-23; 31:12-32:11; 33:12-36:2; 37:6-38:17; 52:25-53:3; 53:14-54:3; 55:13-20; 56:24-25; 58:12-17; 59:13-17; 61:20; 65:3; 65:7; 65:13-24; 67:8-16; 67:21-68:18; 68:24-69:1; 72:7-73:4; 73:17-75:9; 75:15-76:4; 77:9-78:16; 80:8-20; 81:7-89:7; 90:21-95:23; 96:9-100:16; 101:5-102:1; 102:18-104:21; 106:6-107:17; 108:1-109:6.

# **EXHIBIT A**

**From:** Karen.Kim@lw.com  
**Sent:** Friday, August 30, 2024 2:59 PM  
**To:** LAMBERG, Heather (HPL); ONKEN, Laura  
**Cc:** David.Johnson@lw.com; Andrew.Paik@lw.com  
**Subject:** In the Matter of Tapestry Inc., and Capri Holdings Ltd., Dkt No. 9439 - Kurt Geiger  
**Attachments:** 2024.05.16 - Scheduling Order.pdf; 2024.04.25 - Protective Order Governing Confidential Material.pdf

Counsel,

Pursuant to the Scheduling Order and Protective Order *In the Matter of Tapestry Inc., and Capri Holdings Ltd.*, Dkt No. 9439 (attached for reference) and 16 C.F.R. § 3.45(b), we are providing notice that we intend to offer materials or testimony provided by Kurt Geiger (the “third party”) as evidence at the FTC’s Part 3 administrative evidentiary hearing beginning on September 25, 2024 in Washington, DC. Accordingly, pursuant to the Scheduling Order in this matter, if a third party wishes *in camera* treatment for a document or transcript that a party intends to introduce into evidence, that third party shall file an appropriate motion with the Administrative Law Judge within ten (10) days after it receives notice of a party’s intent to introduce such material. Respondents will not oppose any proposed *in camera* treatment. The materials and/or testimony included are:

- DX-0587 - KG-FTC-000002
- DX-0576 - KG-FTC-000001
- DX-0326 - KG-FTC-0000001
- DX-0580 - KG 000000159
- DX-0579 - KG 000000025
- DX-0577 - KG 000000001
- DX-0937 - Deposition transcript of Dale Christilaw (Kurt Geiger)

We are also filing in *FTC v. Tapestry, Inc.*, No. 24-cv-3109 (S.D.N.Y.) proposed findings of fact and conclusions of law that contain some of the Confidential Material of Kurt Geiger that we have previously identified to you and filed under seal in the federal proceeding. The materials and/or testimony included are:

- DX-0580 - KG 000000159
- DX-0577 - KG 000000001
- DX-0937 - Deposition transcript of Dale Christilaw (Kurt Geiger)

We plan on filing any Confidential Material under seal and believe that, under the protective order, any third-party Confidential Material may be filed under seal without a motion and no further motion or letter is required of third-parties, unless ordered by the Court. See P.O. Para. 9, ECF No. 70.

Best,  
Karen

**Karen Keun-Yong Kim**  
Pronouns: She/Her/Hers

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## **EXHIBIT B**

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

Tapestry Inc.,  
a corporation, and

Capri Holdings Limited,  
a corporation,

Respondents.

Docket No. 9429

**DECLARATION OF DALE CHRISTILAW  
IN SUPPORT OF NON-PARTY KURT GEIGER USA, INC.’S  
MOTION FOR *IN CAMERA* TREATMENT**

I, Dale Christilaw, declare as follows:

1. I am the Chief Financial Officer of Kurt Geiger Ltd (“Kurt Geiger”).
2. I have reviewed and am familiar with the documents Kurt Geiger produced in response to subpoenas from the Federal Trade Commission (“FTC”) and Tapestry, Inc. (“Tapestry”) in the related preliminary injunction proceeding in the Southern District of New York (1:24-cv-03109-JLR), as well as my deposition transcript in relation to that matter. Given my position at Kurt Geiger, I am familiar with the type of information contained in the documents at issue and its competitive significance to Kurt Geiger.
3. Based on my review of the documents, my knowledge of Kurt Geiger’s business, and my familiarity with the confidentiality protection afforded to this type of information by Kurt Geiger, the disclosure of these documents—which include confidential information regarding Kurt Geiger’s strategy, financial performance and projections, consumer and

market research, and commercial plans—to the public and to Kurt Geiger’s competitors would cause serious, irreparable competitive injury to Kurt Geiger.

4. Kurt Geiger makes a substantial effort to protect materials pertaining to its strategy, financial performance, consumer and market research, and commercial plans.
5. Publicly disclosing any of Kurt Geiger’s confidential information is not necessary in this proceeding and could be detrimental to Kurt Geiger, whose only involvement in this proceeding is as a third party.
6. Respondent Tapestry notified Kurt Geiger that it intends to introduce six of Kurt Geiger’s competitively sensitive, confidential documents as well as my deposition into in this matter:
  - a. Three of these documents (DX-0587, KG-FTC-000002; DX-0576, KG-FTC000001; and DX-0326, KG-FTC-000001) relate to non-public Kurt Geiger sales, pricing, and/or margin data.
  - b. Two of these documents — “Kurt Geiger US Strategy Document” (DX-0580, KG 000000159) and “The Kurt Geiger Opportunity” (DX-0579, KG 000000025)—are strategy documents that include future commercial plans, brand positioning, financial information, strategic marketing analysis, and other confidential information.
  - c. One document—“Understanding Kurt Geiger London’s Customer” (DX-0577, KG 000000001)—is a document prepared by McKinsey & Company containing confidential strategic marketing analysis and brand positioning information.
  - d. My deposition testimony (DX-0937) also includes confidential information regarding Kurt Geiger’s financial performance and strategic plans.



7. As described in the Motion, Kurt Geiger seeks *in camera* protection for the information related to Kurt Geiger's sales data, current financial performance, breakdown of profit margins, pricing information, brand positioning information, financial projections, strategic marketing analysis, and future commercial plans contained in these documents.
8. The foregoing information is material to Kurt Geiger's business. Given its competitive significance, Kurt Geiger takes substantial measures to guard the secrecy of this confidential information by limiting its dissemination and taking reasonable steps to protect its confidentiality. The information is disclosed to Kurt Geiger's management and employees only on as-needed basis. The information is not, and would not, otherwise become publicly available.
9. Pursuant to 28 U.S.C 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 9, 2024.



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Dale Christilaw

**EXHIBIT C**

**DX-0587**

**[KG-FTC-000002]**

***Full In Camera Treatment Requested***

**EXHIBIT D**

**DX-0576**

**[KG-FTC-000001]**

***Full In Camera Treatment Requested***

**EXHIBIT E**

**DX-0326**

**[KG-FTC-0000001]**

***Full In Camera Treatment Requested***

**EXHIBIT F**

**DX-0580**

**[KG 000000159]**

**Full *In Camera* Treatment Requested**

**EXHIBIT G**

**DX-0579**

**[KG 000000025]**

***Full In Camera Treatment Requested***

**EXHIBIT H**

**DX-0577**

**[KG 000000001]**

**Full *In Camera* Treatment Requested**

# **EXHIBIT I**

**DX-0937**

**Deposition of Dale Christilaw**

**Partial *In Camera* Treatment Requested**