

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

In the Matter of	)	
	)	
Tapestry, Inc.,	)	<b>DOCKET NO. 9429</b>
a corporation,	)	
	)	
and	)	
	)	
Capri Holdings Limited,	)	
a corporation,	)	
	)	
Respondents.	)	
	)	

**THIRD PARTY AEFPE GROUP INC.’S MOTION FOR *IN CAMERA* TREATMENT**

Pursuant to Rule 3.45 of the Federal Trade Commission’s Rules of Practice, 16 C.F.R. § 3.45(b), third party Aeffe Group Inc. (“Aeffe”) respectfully moves this Court for *in camera* treatment of a highly competitively-sensitive, confidential business documents, bearing Exhibit No. DX-0240 – AEFPE-FTC-000001 (the “Confidential Document”). Aeffe produced this document, among others, in connection with *Federal Trade Commission v. Tapestry, Inc.*, No. 1:24-cv-03109-JLR (S.D.N.Y.) in response to a subpoena issued by Tapestry, Inc. in that action. Counsel for Respondent Tapestry, Inc., has now notified Aeffe that it intends to introduce this Confidential Document into evidence at the administrative trial in this Rule 3 proceeding. *See* email correspondence dated August 30, 2024 (attached as **Exhibit A**).

For the reasons discussed in this motion, Aeffe requests that this Court afford the Confidential Document *in camera* treatment indefinitely. In support of this motion, Aeffe relies on the Declaration of Khoa Nguyen (the “Nguyen Declaration”), attached as **Exhibit B**, which provides additional details on the Confidential Document.

## I. THE CONFIDENTIAL DOCUMENTS

Aeffe seeks *in camera* treatment for the Confidential Document, a copy of which is attached hereto as **Exhibit C**. Aeffe is a third party to this action and, but for the subpoena it received in the *Federal Trade Commission v. Tapestry, Inc.*, No. 1:24-cv-03109-JLR (S.D.N.Y.), the Confidential Document would not have been made available to anyone outside of Aeffe.

## II. LEGAL STANDARD

Entities involved in Rule 3 proceedings may move the Court to “obtain *in camera* treatment for material, or portions thereof, offered into evidence.” 16 C.F.R. § 3.45(b). *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. *Id.* “[M]aterial made subject to an *in camera* order will be kept confidential and not placed on the public record of the proceeding in which it was submitted.” 16 C.F.R. § 3.45(a). “Only respondents, their counsel, authorized Commission personnel, and court personnel concerned with judicial review may have access thereto, provided that the Administrative Law Judge, the Commission and reviewing courts may disclose such *in camera* material to the extent necessary for the proper disposition of the proceeding.” *Id.*

## III. ARGUMENT

An entity seeking *in camera* treatment of a document must “make a clear showing that the information concerned is sufficiently secret and sufficiently material to [its] business that disclosure would result in serious competitive injury.” *In the Matter of Otto Bock HealthCare N. Am., Inc.*, 2018 WL 2491602, at \*1 (F.T.C. July 2, 2018) (internal quotation omitted). The submission of a declaration in support of the secret nature of such a document, such as that which as attached as Exhibit B to this motion, is essential. *In the Matter of Benco Dental Supply Co., A*

*Corp., Henry Schein, Inc., A Corp., & Patterson Companies, Inc., A Corp. Respondents.*, No. 9379, 2018 WL 5292624, at \*2 (F.T.C. Oct. 11, 2018).

The Confidential Document contains information related to Aeffe’s business and marketing plans. Information “such as...pricing to customers, business costs and profits, as well as business plans, marketing plans, or sales documents” has been granted *in camera* treatment during Rule 3 proceedings. *In the Matter of 1-800 Contacts, Inc., A Corp.*, No. 9372, 2017 WL 1493851, at \*8 (F.T.C. Apr. 7, 2017); *see also In the Matter of Mcwane, Inc., A Corp., and Star Pipe Products, Ltd., A LP, Respondents.*, 9351, 2012 WL 3862131, at \*10 (F.T.C. Aug. 17, 2012) (protecting “purchase and sales data”). “Five years of *in camera* treatment is routinely granted for competitively sensitive business records, including documents revealing competitive positioning, strategic plans, and marketing strategies.” *In the Matter of Meta Platforms, Inc., A Corporation, Mark Zuckerberg, A Natural Person, and Within Unlimited, Inc., A Corporation*, 2022 WL 18273876, at \*2 (collecting cases).

The Confidential Document was created in 2024 and is a presentation containing, among other things, information regarding Aeffe’s strategic growth plans and priorities, analysis of competitors and evaluations, marketing strategies and product development strategies. *See* Nguyen Declaration, ¶ 6. Moreover, requests for *in camera* treatment of documents by third parties deserve “special solitude.” *In the Matter of Kaiser Aluminum & Chem. Corp.*, 103 F.T.C. 500 (F.T.C. 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.” *Id.*

As such, the content of the Confidential Document clearly falls within the scope of information designed to be protected by 16 C.F.R. § 3.45(b), and warrants it being granted *in*

*camera* treatment to prevent Respondent Tapestry, Inc., as well as other competitors, from having access to some of Aeffe's most competitively sensitive information.

#### IV. CONCLUSION

For the reasons set forth above, and in the Nguyen Declaration, Aeffe respectfully requests permanent *in camera* treatment of the Confidential Document to protect in from public disclosure.

Dated: September 10, 2024

By: /s/ Jonathan E. Temchin  
Jonathan E. Temchin

**TARTER KRINSKY & DROGIN LLP**  
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New York, NY 10018  
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Tel: (212) 216-8000  
Fax: (212) 216-8001

**CERTIFICATE OF SERVICE**

I hereby certify that on September 10, 2024, I filed the forgoing documents electronically using the FTC’s E-Filing System, which will send notification of such to the following:

The Honorable Dania L. Ayoubi  
Office of the Administrative Law Judges  
Federal Trade Commission  
600 Pennsylvania Ave., NW  
Room H-110  
Washington, DC 20580  
([oyalj@ftc.gov](mailto:oyalj@ftc.gov))

April Tabor Secretary Federal Trade  
Commission 600 Pennsylvania Ave., NW  
Rm. H-110 Washington, DC 20580  
([ElectronicFilings@ftc.gov](mailto:ElectronicFilings@ftc.gov))

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

Kassandra DiPietro  
([kdipietro@ftc.gov](mailto:kdipietro@ftc.gov))

*Complaint Counsel*

Christopher S. Yates  
([chris.yates@lw.com](mailto:chris.yates@lw.com))

David L. Johnson  
([david.johnson@lw.com](mailto:david.johnson@lw.com))

Christopher J. Brown  
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*Tapestry, Inc*

Jonathan M. Moses  
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Damian G. Didden  
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Counsel for Respondent  
*Capri Holdings Limited*

Dated: September 10, 2024

/s/ Jonathan E. Temchin  
Jonathan E. Temchin, Esq.

*Attorneys for Non-Party Aeffe Group Inc.*

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

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<b>In the Matter of</b>	)	
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<b>Tapestry, Inc.,</b>	)	<b>DOCKET NO. 9429</b>
<b>a corporation,</b>	)	
	)	
<b>and</b>	)	
<b>Capri Holdings Limited,</b>	)	
<b>a corporation,</b>	)	
	)	
<b>Respondents.</b>	)	
_____	)	

**[PROPOSED] ORDER**

Upon consideration of Aeffe Group Inc.’s Motion for *In Camera* Treatment 16 C.F.R. §3.45, it is HEREBY ORDERED that Exhibit No. DX-0240 – AEFPE-FTC-000001 be afforded in camera treatment in its entirety.

The Motion is hereby GRANTED.

ORDERED:

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

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

# EXHIBIT A

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**From:** [Karen.Kim@lw.com](mailto:Karen.Kim@lw.com) <[Karen.Kim@lw.com](mailto:Karen.Kim@lw.com)>  
**Sent:** Friday, August 30, 2024 5:04 PM



To: Jonathan E. Temchin <[jtemchin@tarterkrinsky.com](mailto:jtemchin@tarterkrinsky.com)>

Cc: [David.Johnson@lw.com](mailto:David.Johnson@lw.com); [Sarah.Stebbins@lw.com](mailto:Sarah.Stebbins@lw.com)

Subject: [EXT] FTC v. Tapestry, Inc. - Part 3 Exhibit List Notice - Aeffe Group

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 Aeffe Group (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-0240 - AEFPE-FTC-000001

Best,  
Karen

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

**LATHAM & WATKINS LLP**  
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<https://www.lw.com>

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Tarter Krinsky & Drogin is fully operational in-person. However, because of anticipated delays in receiving regular mail and other deliveries, please e-mail copies of anything you send by regular mail or delivery, including issuing remittances electronically. Please contact our receptionist at [reception@tarterkrinsky.com](mailto:reception@tarterkrinsky.com) or by phone at 212-216-8000 with any questions. Thank you in advance for your courtesies.

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Tarter Krinsky & Drogin LLP, Attorneys-at-Law.

# EXHIBIT B

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION**

	)	
<b>In the Matter of</b>	)	
	)	
<b>Tapestry, Inc.,</b>	)	<b>DOCKET NO. 9429</b>
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	)	
<b>Capri Holdings Limited,</b>	)	
<b>a corporation,</b>	)	
	)	
<b>Respondents.</b>	)	
	)	

**DECLARATION OF KHOA NGUYEN IN SUPPORT OF NON-PARTY  
AEFFE GROUP INC.’S MOTION FOR *IN CAMERA* TREATMENT**

I, Khoa Nguyen, hereby declare as follows:

1. I am the President of Aeffe Group Inc. (“Aeffe”). I make this declaration in support of Non-Party Aeffe Group Inc.’s Motion for *In Camera* Treatment (the “Motion”). I have personal knowledge of the facts set forth in this declaration, and if called as a witness, I could testify competently under oath to such facts.

2. I have reviewed the document referenced in this Declaration, as well the documents produced by Aeffe in *Federal Trade Commission v. Tapestry, Inc.*, No. 1:24-cv-03109-JLR (S.D.N.Y.) in response to a subpoena issued by Tapestry, Inc. in that action. These documents were produced as confidential under a protective order issued in that action. Aeffe received notice by Respondent’s counsel that document bearing production number DX-0240 - AEFPE-FTC-000001 (the “Confidential Document”) may be used in connection with the parties’ evidentiary hearings before the federal court and before the FTC.

3. Aeffe moved the federal court for a sealing order to preserve the confidential nature of the Confidential Document, which such motion was granted on September 6, 2024. Aeffe now moves the FTC for a similar order to grant *in camera* treatment of the Confidential Document.

4. As President of Aeffe, I am familiar with not only the content of the Confidential Document, but also the highly sensitive nature of the information contained within it and its competitive significance to Aeffe. My review of the Confidential Document, as well as my familiarity with Aeffe's business and the confidentiality protection afforded to the type of information provided by Aeffe, serve as the basis for my submission that the public disclosure of the Confidential Document would cause serious competitive injury to Aeffe.

5. Aeffe is a company involved in the fashion and luxury industry and is active in the creation, production and distribution of a wide range of products including prêt-à-porter, footwear and leather goods, lingerie and beachwear. Aeffe has a focus on uniqueness and exclusivity, and serves as a home to several proprietary brands, including "Alberta Ferretti," "Philosophy di Lorenzo Serafini," "Moschino," and "Pollini."

6. The Confidential Document contains highly confidential and commercially sensitive information. It is a powerpoint presentation containing, among other things, information regarding Aeffe's strategic growth plans and priorities, analysis of competitors and evaluations, marketing strategies and product development strategies. Aeffe depends on the confidentiality of its strategic growth plans and marketing strategies to remain competitive within an already highly competitive industry. The disclosure of this confidential information would allow Aeffe's competitors to review and replicate aspects of Aeffe's business model, and benefit from its proprietary market research and related evaluations. The Confidential Document represents work

product that is unique to Aeffe based on the expenditure of its internal resources to develop a plan for its own competitive advantage.

7. In light of the above, the protection from public disclosure of this information is necessary to eliminate the substantial prejudice that would be suffered by Aeffe should it be released, along with the irreparable competitive and financial harm that would follow as a result.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 9, 2024.

  
\_\_\_\_\_  
Khoa Nguyen

# EXHIBIT E"

DX-0240 – AEFPE-FTC-000001"

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**Eqphk gpkcn/"Tgf cevgf '**

**kp'Gpvt gvf '"**

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