

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

In the Matter of

TAPESTRY, INC.,  
a corporation,

and

CAPRI HOLDINGS LIMITED,  
a corporation,

DOCKET NO. 9429

**NON-PARTY STRATHBERRY, INC.'S MOTION FOR *IN CAMERA* TREATMENT**

Under Rule 3.45(b) of the Federal Trade Commission's ("FTC") Rules of Practice, 16 C.F.R § 3.45(b), non-party Strathberry, Inc. respectfully moves this Court for *in camera* treatment of certain confidential business documents (the "Confidential Documents") that the parties have indicated that they may introduce into evidence at the FTC's Part 3 administrative evidentiary hearing beginning on September 25, 2024.

Strathberry, Inc. requests the Court to grant *in camera* treatment for the Confidential Documents for a five-year period. Strathberry, Inc. is a third party to this litigation and its confidential business information would not have been made public but for the subpoena issued by the FTC in this case. *In camera* treatment is necessary to prevent competitors from gaining access to this highly sensitive information.

In support of this motion, Strathberry, Inc. relies on the Declaration of Keith Wilks in Support of Non-Party Strathberry, Inc.'s Motion for *In Camera* Treatment ("Wilks Declaration"), attached hereto as Appendix 1.

The parties do not oppose the relief sought in this motion.

**I. Strathberry’s Business.**

Strathberry Limited (together with Strathberry, Inc., “Strathberry”) is a private company with a principal place of business in Edinburgh, Scotland. It is an internationally known brand specializing in luxury leather goods, including handbags. See Wilks Declaration, ¶¶ 1, 3.

Strathberry, Inc. is a United States registered subsidiary of Strathberry Limited. It is currently used as a settlement vehicle for Strathberry’s online direct-to-customer sales to customers located in the United States. See Wilks Declaration, ¶ 2.

**II. Documents for Which Protection is Sought.**

During discovery and pursuant to a subpoena, Strathberry produced to the FTC and Respondents a number of documents. While not everything that Strathberry produced was marked “Confidential,” the five Strathberry documents that the FTC and Respondents have included on their exhibit lists were, in fact, designated as “Confidential.” See Wilks Declaration, ¶ 5. Those materials (the “Confidential Documents”) are as follows:

| <b>Exhibit No.</b> | <b>Description</b>   | <b>Beg. Bates Label</b> | <b>End Bates Label</b> |
|--------------------|--|-------------------------|------------------------|
| PX3142             | Portions of a confidential customer insights review completed in the summer of 2022.   | Strathberry-00002       | Strathberry-00004      |
| PX3144             | Confidential Strathberry sales data, by month, from 2019 through 2023.   | Strathberry-00007       | Strathberry-00008      |
| PX3145             | This spreadsheet, produced natively, contains additional confidential Strathberry sales data from 2019 to 2023.                | Strathberry-00018       | Strathberry-00018      |
| PX3149             | This spreadsheet contains the same data as Strathberry-00007-08, but was produced natively at the request of the parties.      | Strathberry-00017       | Strathberry-00017      |
| DX-0169            | This is the same customer insights review as Strathberry-00002-04, but was reproduced to include the cover page and last page. | Strathberry-00010       | Strathberry-00014      |

Complete copies of each of the five Confidential Documents for which Strathberry seeks *in camera* treatment in their entirety are attached under seal as Appendix 2.

### **III. The Nature of Information for Which Protection Was Sought.**

The Confidential Documents are non-public, internal records of Strathberry. *See* Wilks Declaration, ¶ 7. The customer insights review (Strathberry-00002-04 and Strathberry-00010-14) is the result of a customer survey (3,700 respondents) commissioned by Strathberry to gain insight into the marketplace and Strathberry's standing in it. *See* Wilks Declaration, ¶ 8. The insights review, which includes survey results and commentary about the competitive marketplace, have not been shared outside the company. *See* Wilks Declaration, ¶¶ 9, 10. Strathberry considers it to be highly confidential competitive intelligence as it touches upon crossover ownership of luxury brands, customer opinions of Strathberry and its competitors in the luxury handbag market, customer aspirations, categories of luxury, and opinions about pricing. *Id.*

Strathberry's sales and revenue data (Strathberry-00007-08 and Strathberry-00017-18) are similarly confidential and have not been shared outside the company. The information in these documents include Strathberry's U.S. sales by month from 2019-2023; the number of units sold in the United States by month from 2019-2023; a breakdown of the same information (sales and units) by different channels (wholesale and online); direct-to-consumer sales by state from 2019-2023; and direct-to-consumer sales (measured in both dollars and units) by price range from 2019-2023. *See* Wilks Declaration, ¶ 11.

This highly confidential information about Strathberry's sales and financial data would give competitors great insight into, among other things: Strathberry's financial health, which markets Strathberry has been most successful in, at which price points Strathberry has had the

greatest success, and where Strathberry is growing the fastest (in both markets and product type).  
*See* Wilks Declaration, ¶ 12.

#### **IV. The Confidential Documents Warrant *In Camera* Treatment.**

*In camera* treatment of material is appropriate when “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).

Although the FTC administrative process recognizes the significant public interest in holding open and transparent adjudicative proceedings, *see H.P. Hood & Sons, Inc.*, 58 F.T.C. 1184, 1961 WL 65882, at \*2 (Mar. 14, 1961), under Commission Rule 3.45(b), the Court has recognized the interest in placing material *in camera* when “public disclosure of the documentary evidence will result in a clearly defined, serious injury to the person or corporation whose records are involved.” *In re Illumina, Inc.*, 2021 WL 3701606, at \*1 (Docket No. 9401, Aug. 12, 2021) (citations omitted). Courts will generally seek “to protect confidential business information from unnecessary airing.” *H.P. Hood & Sons, Inc.*, 58 F.T.C. 1184, 1961 WL 65882, at \*4 (Mar. 14, 1961).

The Court thus strikes a fine balance between (a) the need to publicize information to explain the rationale of FTC decisions, against (b) the risk of causing serious competitive injury to participants in the administrative process. *See In re Illumina, Inc.*, 2021 WL 3701606 at \*1. In striking that balance, this Court has paid “special solicitude” to third parties like Strathberry which request *in camera* treatment. *Id.*; *In re ProMedica Health System, Inc.*, 2011 WL 2258040, at \*5 (Docket No. 9346, May 25, 2011).

In deciding whether to grant *in camera* treatment, the Court generally has looked to six factors: (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 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 acquired or duplicated by others. *In re BristolMeyers Co.*, 90 F.T.C. 455, 1977 WL 189054, at \*2 (Nov. 11, 1977).

These considerations weigh in favor of *in camera* treatment of Strathberry's Confidential Documents for a five-year period because they contain competitively sensitive information that would result in serious injury to Strathberry if disclosed. As set forth in the Wilks Declaration, (1) none of the information in the Confidential Documents is known outside the business; (2) internally, the information is known on a "need to know" basis; (3) Strathberry safeguards the information and has not shared it outside the business; (4) the information goes to the core of Strathberry's business and financial condition and would be highly valuable to competitors; (5) Strathberry developed the information through the conduct of its business; and (6) unless it were disclosed in this proceeding, information in the Confidential Documents could not be acquired or duplicated by others. *See* Wilks Declaration, ¶¶ 8-13.

The release of the Confidential Documents would be of great value to Strathberry's competitors, and would be highly detrimental to Strathberry's business advantage. *See* Wilks Declaration, ¶¶ 7-15. In short, the Confidential Documents contain the type of information that the Court has previously afforded *in camera* status to. *See, e.g., In the Matter of Louisiana Real Estate Appraisers Board*, 2021 WL 1143455, at \*3 (Docket No. 9374, Mar. 12, 2021) (granting *in camera* treatment for five years of information concerning geographic scope of operations); *In re Otto Bock Healthcare N. Am., Inc.*, No. 9378, 2018 FTC LEXIS 111, at \*11 (July 6, 2018) (granting *in camera* treatment for five years of confidential sales data and pricing information); *In re Tronox Ltd.*, 2018 WL 2336016, at \*4 (Docket No. 9377, May 15, 2018) (*in camera*

treatment granted for five years to business operations data, pricing data, and internal assessments of the market); *Matter of McWane, Inc.*, 2012 WL 3862131, at \*3-4 (Docket No. 9351, Aug. 17, 2012) (granting *in camera* status for five year to sales data, pricing data, and information related to business strategies and financial status).

Finally, it should be noted that, “[a]s a policy matter, extensions of confidential or *in camera* treatment in appropriate cases involving third party bystanders encourages cooperation with future adjudicative discovery requests.” *In the Matter of Kaiser Aluminum & Chem. Corp.*, 103 F.T.C. 500, 1984 WL 565325, at \*1 (May 25, 1984). This consideration is especially apt here. Strathberry Limited is a foreign company that cooperated through its U.S. based subsidiary (i.e., the entity which was subpoenaed). It produced sensitive and proprietary information based on the understanding that that information would be kept confidential. In fact, Strathberry cooperated with the FTC and Respondents when the parties requested *additional* information after Strathberry’s initial production. In such circumstances, the confidentiality of Strathberry’s Confidential Documents should be preserved.

### **Conclusion**

For the reasons set forth above and in the accompanying Wilks Declaration, Strathberry respectfully requests that this Court grant *in camera* treatment for the Confidential Documents for five years. As noted above, the parties do not oppose the relief requested in this motion.

Respectfully submitted,

Dated: September 20, 2024

/s/ Scott McConchie  
Scott McConchie (Mass. BBO #634127)  
Sherin and Lodgen LLP  
101 Federal Street  
Boston, MA 02110  
Tele: (617) 646-2000  
smcconchie@sherin.com

*Counsel for Third-Party Strathberry, Inc.*

**CERTIFICATION OF COUNSEL**

I, Scott McConchie, hereby certify that (a) Complaint Counsel informed me that the FTC intended to offer the following exhibits at the administrate trial: PX3142, PX3144, PX3145, and PX3149; (b) counsel for Respondents informed me that Respondents intended to offer the following exhibit at the administrate trial: DX-0169; (c) the proposed exhibits contain confidential information produced by Strathberry; and (d) I have conferred with the parties and they do not oppose *in camera* treatment of the exhibits that are subject to this motion.

/s/ Scott McConchie  
Scott McConchie

# APPENDIX 1



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

In the Matter of

TAPESTRY, INC.,  
a corporation,

and

CAPRI HOLDINGS LIMITED,  
a corporation,

DOCKET NO. 9429

**DECLARATION OF KEITH WILKS IN SUPPORT OF NON-PARTY  
STRATHBERRY, INC.’S MOTION FOR *IN CAMERA* TREATMENT**

I, Keith Wilks, pursuant to 28 U.S.C. § 1746, state and declare as follows:

1. I am the Chief Financial Officer of non-party Strathberry Limited, a private company with a principal place of business in Edinburgh, Scotland.
2. Strathberry Limited is the parent company of non-party Strathberry, Inc., which produced documents pertaining to Strathberry Limited’s business to the Federal Trade Commission (“FTC”) and Respondents. Collectively, Strathberry Limited and Strathberry, Inc. are referred to herein as “Strathberry.”
3. Strathberry is an internationally known brand specializing in luxury leather goods, including handbags. I make this declaration in support of Strathberry’s motion for *in camera* treatment of certain documents that Strathberry produced in response to a subpoena issued by the FTC and which the parties have indicated that they may use at the FTC’s Part 3 administrative evidentiary hearing beginning on September 25, 2024.
4. I have personal knowledge of the matters stated herein and, if called upon to do so, could competently testify about them.

5. While not all documents that Strathberry produced in discovery were marked “Confidential” pursuant to the applicable Protective Order, Strathberry did designate as “Confidential” the five documents at issue (the “Confidential Documents”).

6. The Confidential Documents subject to Strathberry’s motion are listed in the table below:

| <b>Exhibit No.</b> | <b>Description</b>  | <b>Beg. Bates Label</b> | <b>End Bates Label</b> |
|--------------------|---|-------------------------|------------------------|
| PX3142             | Portions of a confidential customer insights review completed in the summer of 2022.  | Strathberry-00002       | Strathberry-00004      |
| PX3144             | Confidential Strathberry sales data, by month, from 2019 through 2023.  | Strathberry-00007       | Strathberry-00008      |
| PX3145             | This spreadsheet, produced natively, contains additional confidential Strathberry sales data from 2019 to 2023.                             | Strathberry-00018       | Strathberry-00018      |
| PX3149             | This spreadsheet contains the same data as Strathberry-00007-08, but was produced natively at the request of the parties.                   | Strathberry-00017       | Strathberry-00017      |
| DX-0169            | This is the same confidential customer insights review as Strathberry-00002-04, but was reproduced to include the cover page and last page. | Strathberry-00010       | Strathberry-00014      |

7. All of the Confidential Documents listed above are non-public, internal records of Strathberry.

8. The customer insights review (Strathberry-00002-04 and Strathberry-00010-14) is the result of a customer survey (3,700 respondents) commissioned by Strathberry in 2022 to gain insight into the luxury handbag marketplace and Strathberry’s standing in it.

9. The customer insights review, which includes both survey results and commentary about the competitive marketplace, touches upon crossover ownership of luxury

brands, customer opinions of Strathberry and its competitors in the luxury handbag market, customer aspirations, categories of luxury, and opinions about pricing.

10. The customer insights review has not been shared outside the company and Strathberry considers it to be highly confidential competitive intelligence.

11. Strathberry's sales and revenue data (Strathberry-00007-08 and Strathberry-00017-18) are similarly confidential and have not been shared outside the company. The information in these documents include Strathberry's U.S. sales by month from 2019-2023; the number of units sold in the United States by month from 2019-2023; a breakdown of the same information (sales and units) by different channels (wholesale and online); direct-to-consumer sales by state from 2019-2023; and direct-to-consumer sales (measured in both dollars and units) by price range from 2019-2023.

12. This highly confidential information about Strathberry's sales and financial data would give competitors great insight into, among other things: Strathberry's financial health, which markets Strathberry has been most successful in, at which price points Strathberry has had the greatest success, and where Strathberry is growing the fastest (in both markets and types of products).

13. Like the customer insights review, this financial and sales information is the kind of information that Strathberry would never share with competitors or make publicly available. Internally, Strathberry limits access to this proprietary information on a "need to know basis."


14. Strathberry produced the Confidential Documents to the FTC and Respondents pursuant to the Protective Order and its assurances that such information could be kept confidential. In fact, we cooperated with the FTC and Respondents when they asked for

additional information after our initial production. Our productions – and cooperation – were rooted in the expectation of continued confidentiality.

15. In my opinion, Strathberry – a private company – would suffer great competitive injury if our competitors (including the Respondents) had access to this information. There is little doubt that the information would be of great value to them.

Pursuant to 28 U.S.C. § 1746, I declare, under the penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed in Edinburgh, Scotland  
on September 16, 2024

Signed by:  
  
2F6F9D216BDF4B8...

Name: Keith Wilks  
Title: Chief Financial Officer, Strathberry Limited

# **APPENDIX 2**

**Hearing Exhibit Nos. PX3142, PX3144, PX3145,  
PX3149, DX-0169**

**CONFIDENTIAL – REDACTED IN  
ENTIRETY**

# Hearing Exhibit No. PX3142

**CONFIDENTIAL – REDACTED IN  
ENTIRETY**

# Hearing Exhibit No. PX3144

**CONFIDENTIAL – REDACTED IN  
ENTIRETY**

# Hearing Exhibit No. PX3145

**CONFIDENTIAL – REDACTED IN  
ENTIRETY**



# Hearing Exhibit No. PX3149

**CONFIDENTIAL – REDACTED IN  
ENTIRETY**

# Hearing Exhibit No. DX-0169

**CONFIDENTIAL – REDACTED IN  
ENTIRETY**

**CERTIFICATE OF SERVICE**

I hereby certify that on September 20, 2024, I caused the foregoing document to be electronically filed using the FTC's e-filing system, which will send notice to the following:

April Tabor  
Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W., Rm. H-113  
Washington, DC 20580  
ElectronicFilings@ftc.gov

The Honorable Diana L. Ayoubi  
Office of Administrative Law Judges  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W., Rm. H-110  
Washington, DC 20580  
OALJ@ftc.gov

I also certify that I caused a true and correct copy of the foregoing document to be served via electronic mail to:

*Complaint Counsel*

Abby L. Dennis (adennis@ftc.gov)  
Peggy Bayer Femenella (pbayerfemenella@ftc.gov)  
Frances Anne Johnson (fjohnson@ftc.gov)  
Timothy Singer (tsinger@ftc.gov)  
Brandon Boxbaum (bboxbaum@ftc.gov)  
Victoria Sims (vsims@ftc.gov)  
Peter Colwell (pcolwell@ftc.gov)  
Blake Risenmay (brisenmay@ftc.gov)  
Andrew Lowdon (alowdon@ftc.gov)  
Sarah Kerman (skerman@ftc.gov)  
Kassandra DiPietro (kdipietro@ftc.gov)  
Nicole Lindquist (nlindquist@ftc.gov)  
Danielle Quinn (dquinn@ftc.gov)  
Laura Antonini (lantonini@ftc.gov)

*Counsel for Tapestry, Inc.*

Amanda P. Reeves (amanda.reeves@lw.com)  
Ian R. Conner (ian.conner@lw.com)  
Lindsey S. Champlin (lindsey.champlin@lw.com)  
Jennifer L. Giordano (jennifer.giordano@lw.com)  
David L. Johnson (david.johnson@lw.com)

Seung Wan (Andrew) Paik (andrew.paik@lw.com)  
Mary A. Casale (mary.casale@lw.com)  
Christopher J. Brown (chris.brown@lw.com)  
Lawrence E. Buterman (lawrence.buterman@lw.com)  
Al Pfeiffer (al.pfeiffer@lw.com)  
Christopher S. Yates (chris.yates@lw.com)  
Sean Berkowitz (sean.berkowitz@lw.com)

*Counsel for Capri Holdings Limited*

Jonathan M. Moses (JMMoses@wlrk.com)  
Elaine P. Golin (EPGolin@wlrk.com)  
Damian G. Didden (DGDidden@wlrk.com)

Dated: September 20, 2024

/s/ Scott McConchie  
Scott McConchie