

UNITED STATES OF AMERICA

05 15 2018

COMMISSIONERS: Maureen Ohlhausen, Acting Chairman

In the Matter of

Tronox Limited  
a corporation,

National Industrialization Company  
(TASNEE)  
a corporation

National Titanium Dioxide  
Company Limited (Cristal),  
a corporation

AND

Cristal USA Inc.  
a corporation

DOCKET NO. 9377

**NON-PARTY AKZO NOBEL INC.'S UNOPPOSED MOTION FOR *IN CAMERA***  
**TREATMENT PURSUANT TO 16 C.F.R. § 3.45**

Akzo Nobel Inc. ("AkzoNobel"), by and through its undersigned counsel and pursuant to 16 C.F.R. § 3.45(h), respectfully moves the Commission for *in camera* treatment of certain

[REDACTED]

competitive disadvantage in the market. AkzoNobel further requests that any hearing testimony regarding these documents be based on [REDACTED]

**BACKGROUND**

AkzoNobel is a Dutch multinational company engaged in the manufacture of paints, performance coatings, and specialty chemical products for both industrial and consumer markets. [REDACTED]

the key raw materials used in many of AkzoNobel's coating products is titanium dioxide ("TiO<sub>2</sub>"). [REDACTED]

[REDACTED]

LEGAL STANDING

[REDACTED]

advantages is a good example of a 'clearly defined, serious injury.'" See *In re Dura Lube Corp.*, No. 9292, 1999 FTC LEXIS 255, at \*7 (Dec. 23, 1999) (quoting *Gen. Foods*, 95 F.T.C. at 355).

[REDACTED]

ARGUMENT

**I. AkzoNobel's Documents are Highly Sensitive Such that their Public Disclosure**

**World Conco Serious and Material Competitive Information**

[REDACTED]

As the Commission has held, "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.

*Second*, as further described in Mr. Post's declaration, the Confidential documents were regarded as highly sensitive within AkzoNobel, and access to these documents was therefore restricted to senior managers and executives within AkzoNobel's integrated supply chain. *See* Post Decl. ¶ 8. Further, AkzoNobel maintains a robust data privacy policy designed to safeguard confidential business information of the kind contained in the Confidential Documents. *See* Post

Decl. ¶ 8. AkzoNobel does not share this information with its customers, suppliers, or other third parties. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

making available any of its key documents for disclosure to [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

disclosure.

**II. Certain AkzoNobel Documents Relating to Communications with the European Commission Should Be Given Permanent In Camera Treatment.**

Where confidential information “is likely to remain sensitive or become more sensitive with the passage of time,” the Commission has found indefinite *in camera* treatment to be appropriate. *In re Dura Lube Corp.*, 1999 FTC LEXIS 255, at \*8-9. Further, the European Commission has very strict rules governing the protection of information provided to it pursuant to an investigation. Under the EC Merger Regulation, information collected from third parties

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Cal. 2007); *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.*, No. 05-MD-1720 (JG)(JO), 2010 WL 3420517, at \*1 (E.D.N.Y. Aug. 27, 2010).

Several documents that Respondents' intend to use at the hearing in this matter represent AkzoNobel's communications with the European Commission covering a wide range of

[REDACTED]

**Five Years.**

The remaining AkzoNobel documents merit *in camera* treatment for five years. *See*

[REDACTED]

to five years.

[REDACTED]

CONCLUSION

[REDACTED]

in this Motion.

Dated: May 15, 2018

Respectfully submitted,

/s/ Daniel G. Swanson

Daniel G. Swanson

[REDACTED]

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7/1/18	2/2018	AKZONORDE 0010926	AKZONORDE 0010926
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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

It is FURTHER ORDERED that the following documents are to be provided permanent

[REDACTED]

PUBLIC

ORIGINAL

**Exhibit A**  
**(Respondents' Letter)**

April 19, 2018

Daniel G. Swanson

Gibson Dunn & Crutcher LLP

[REDACTED]

Los Angeles, CA 90071

Re: In re Tronox Limited (FTC Docket No. 9377)

Dear Daniel:

This letter contains confidential information. It is intended only for the individual named in the header. If you have received this letter in error, please notify the sender immediately by telephone or email. Do not disseminate, distribute, or copy this information. If you are not the named addressee, you should not disseminate, distribute, or copy this information. If you are not the named addressee, you should not disseminate, distribute, or copy this information. If you are not the named addressee, you should not disseminate, distribute, or copy this information.

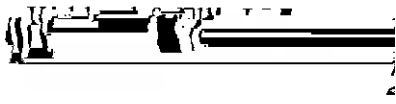




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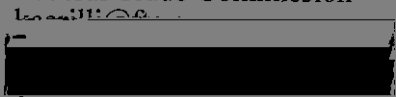
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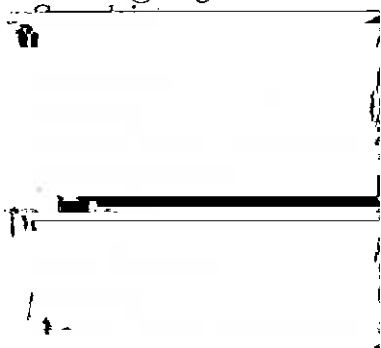




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10/10/10

ORIGINAL

**Exhibit B**  
**(FTC Letter)**



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION

WASHINGTON, D.C. 20580

Bureau of Competition

[REDACTED]

[Keith.Porranaihoon@akzonobel.com](mailto:Keith.Porranaihoon@akzonobel.com)

Akzo Nobel Inc.

[REDACTED]

Suite 1600  
Chicago, IL 60607

[REDACTED]

affidavit) for *in camera* treatment that was filed and granted in an FTC administrative proceeding. If you choose to move for *in camera* treatment, you must provide a copy of the document(s) for which you seek such treatment to the Administrative Law Judge. Also, you or your representative will need to file a Notice of Appearance with the ALJ.

<https://www.ftc.gov/faq/ftc-info/file-documents-adjudicative-proceedings>

<https://www.ftc.gov/enforcement/cases-proceedings/171-0085/tronoxcrystal-usa>

Sincerely,

/s/ Cem Akleman  
Cem Akleman  
Counsel Supporting the Complaint

Attachment

# Attachment A

BegBates	EndBates
AKZONOBEL0000576	AKZONOBEL0000582
AKZONOBEL0006535	AKZONOBEL0006539
AKZONOBEL0000783	AKZONOBEL0000796
AKZONOBEL0004014	AKZONOBEL0004021
PX4228-001	PX4228-008
PX7033-001	PX7033-077



Notice of Electronic Service

On July 15, 2016, I filed an electronic copy of the foregoing Non-Party Akzo Nobel Inc.'s Motion for In Camera Treatment, Exhibit A, Exhibit B, Exhibit C, Exhibit D - Declaration of Michael Post - REDACTED, Exhibit E, Certificate of Service, with:

Judge

On July 15, 2016, I served via E-Service an electronic copy of the foregoing Non-Party Akzo Nobel Inc.'s Motion for In Camera Treatment, Exhibit A, Exhibit B, Exhibit C, Exhibit D - Declaration of Michael Post - REDACTED, Exhibit E, Certificate of Service of

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ORIGINAL

## EXHIBIT C

### List of AkzoNobel's Documents Under In Camera Review

List of AkzoNobel's Documents

Under In Camera Review

[REDACTED]

Exhibit No.	Date	Beginning Bates No.	Ending Bates No.
N/A	N/A	AKZONOBEL 0010373	AKZONOBEL 0010373

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



		<i>(Exhibit 6 to Post Deposition)</i>	
N/A	N/A	AKZONOBEL0011433 <i>(Exhibit 8 to Post Deposition)</i>	AKZONOBEL0011433
PX4228	7/24/17	N/A	N/A
N/A	11/24/17	AKZONOBEL0011445	AKZONOBEL0011490
N/A	1/11/2018	AKZONOBEL0010699 <i>(Exhibit 3 to Post Deposition)</i>	AKZONOBEL0010712
N/A	11/24/17	AKZONOBEL0011444 <i>(Exhibit 9 to Post Deposition)</i>	AKZONOBEL0011490

[REDACTED]

I hereby certify that on May 15, 2018, I filed an electronic copy of the foregoing Non-Party Akzo Nobel Inc.'s

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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EXHIBIT D  
DECLARATION OF MICHAEL POST

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

**COMMISSIONERS: Maureen Ohlhausen, Acting Chairman**

**Tronox Limited  
a corporation,**

**National Industrialization Company  
(TASNEE)  
a corporation**

**DOCKET NO. 9377**

**National Titanium Dioxide  
Company Limited (Cristal),  
a corporation**

**AND**

**Cristal USA Inc.  
a corporation**



3. As the Spend Area Director, I am responsible for all of the commercial aspects of titanium dioxide ("TiO2") procurement within AkzoNobel, which includes negotiating with TiO2 suppliers and strategizing regarding TiO2 sourcing. I have thus become very familiar with how TiO2 is sourced and ultimately used in a variety of AkzoNobel products.

4. It is my understanding that on April 19, 2018, AkzoNobel's outside counsel received notice from Defendants that they intended to file a lawsuit against AkzoNobel.

[REDACTED]

[REDACTED] response to an

[REDACTED]

[REDACTED]

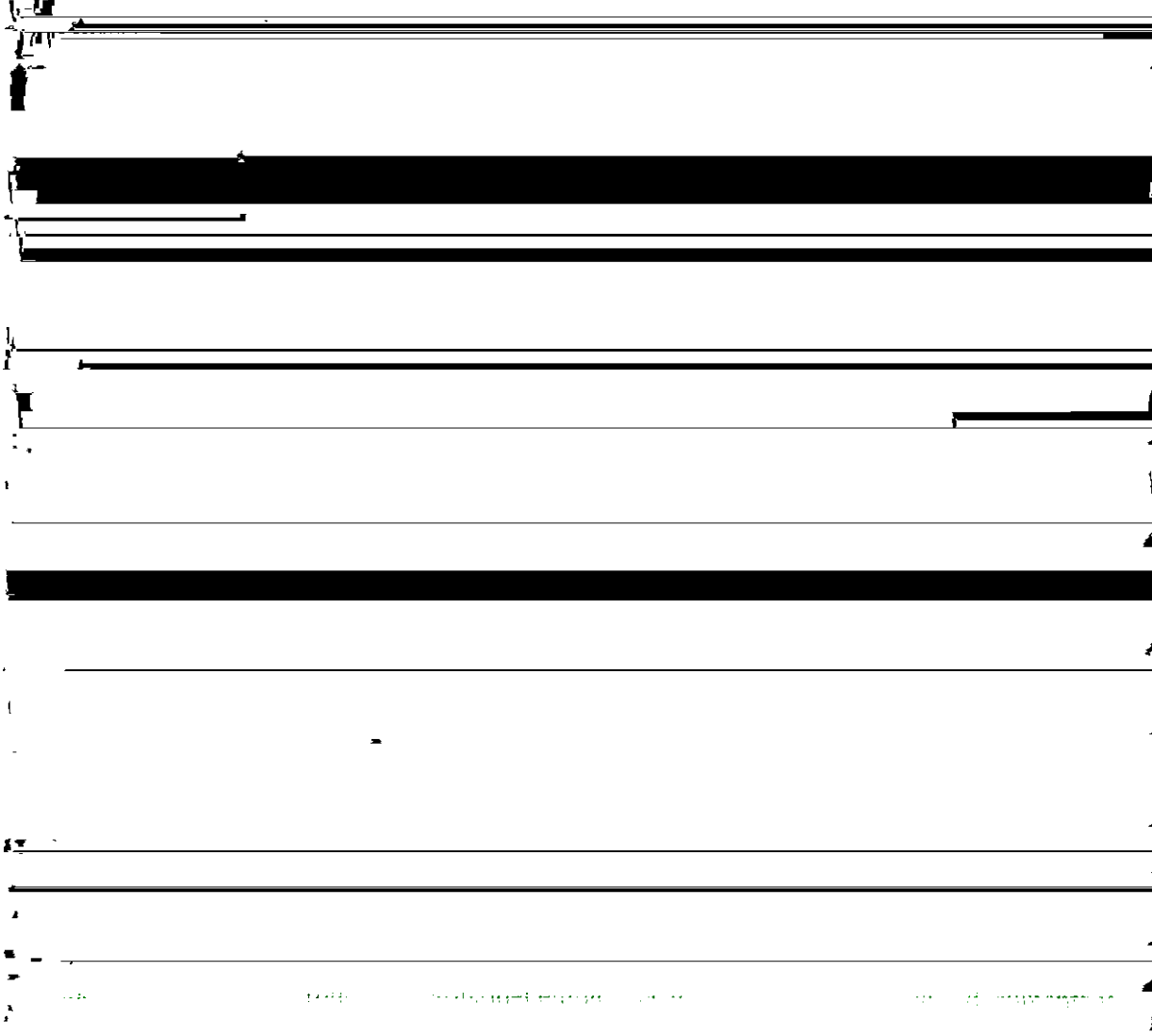
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6. Each of the documents for which AkzoNobel seeks *in camera* review contains competitively sensitive, proprietary, and/or trade secret information about: (a) AkzoNobel's pricing, volume, and other terms and conditions of sale; (b) AkzoNobel's



TiO<sub>2</sub>, including potential substitutes; or (c) AkzoNobel's product formulas, production processes, and strategic decisions regarding TiO<sub>2</sub>.

7. The information contained in these documents regarding TiO<sub>2</sub> is materially significant to AkzoNobel's business of manufacturing coating products, because TiO<sub>2</sub> is an ingredient in most of AkzoNobel's products and formulations

Document Title/Description	Date	Beginning Bates No.	Ending Bates No.
Preferred Resins Supplier Strategy	N/A	AKZONOBEL0010373	AKZONOBEL0010373
Pigments & TIO2 Supplier Strategies	N/A	AKZONOBEL0010374	AKZONOBEL0010374
Email to re	12/09/16	AKZONOBEL0010398	AKZONOBEL0010402

	1/29/16		AKZONOBEL
(2) Strategic Sourcing Methodology			
			AKZONOBEL
	2/2018	AKZONOBEL0010848	AKZONOBEL0010853
	4/1/2014		AKZONOBEL001149
Supply Framework Agreement with	1/1/2000	AKZONOBEL0011430	AKZONOBEL
	1/1/2014		
			0011433

by Supplier			
by Supplier			

with Pricing Info

(to Deposition)

Email to re

AKZONOBEL001

(Exhibit 8 to Deposition)

Demand

10. books camera treatment the following

documents related to communications with the European

Document Title/Description	Date	Registration Ref No.	
AkzoNobel's Response to the European Commission	11/24/17	AKZONOBEL0011445	FE170911490

European Commission	1/1		AKZONOBEL0010712
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to the European Commission (Exhibit 9 to Post Deposition)



tightly safeguards the information contained in this presentation, because it could easily be used by AkzoNobel's suppliers to game AkzoNobel's procurement system and to raise prices on AkzoNobel for some of its most important raw materials, including TiO2. As discussed above,

[REDACTED]

13. AKZONOBEL0010398-10402 is an email chain discussing AkzoNobel's TiO2 suppliers. It provides specific information concerning pricing from individual suppliers, and

[REDACTED]

14. AKZONOBEL0010403 is a presentation that lists AkzoNobel's performance on a number of key performance indicators within the TiO2 Spend Area in Q4 of 2016. It also

[REDACTED]

contained in this presentation goes to the heart of AkzoNobel's pricing strategy. If it were disseminated widely, it would severely undercut AkzoNobel's ability to negotiate TiO2 prices with suppliers, as the suppliers would be privy both to AkzoNobel's forecasts, as well as to what it has paid other suppliers for TiO2 in the same or similar regions. This would not only severely harm AkzoNobel's business, but it would likely disrupt the competitive market for TiO2.

15. AKZONOBEL0010836 is a presentation that shows AkzoNobel's strategic sourcing methodology for TiO2 in [REDACTED] as of February 2018. It starts by discussing AkzoNobel's TiO2 sourcing history and requirements [REDACTED], including a breakdown by individual supplier. It also shows AkzoNobel's current buying practices from each individual



put AkzoNobel at a significant competitive disadvantage, critically undermining AkzoNobel in

[REDACTED]

16. AKZONOBEL0010837 is another presentation regarding AkzoNobel's strategic sourcing methodology. It contains much of the same information as AKZONOBEL0010836, but in the context of the [REDACTED] markets. As outlined above,

presentations that contain information that is sensitive to AkzoNobel's competitive position.

[REDACTED]

The document is a

roadmap of AkzoNobel's strategic approach to the TiO2 market, and is thus closely guarded within the company. As with all strategically or competitively sensitive documents, access to this document is restricted to a small number of people within AkzoNobel who are tasked with managing AkzoNobel's broader TiO2 sourcing strategy.



18. AKZONOBEL0011072-11118 is a contract with [REDACTED] one of AkzoNobel's TiO2 suppliers. AkzoNobel maintains strict confidentiality over its contracts with suppliers, and does not share them with other suppliers. If other suppliers were able to learn this information, it would give them a significant competitive advantage in future negotiations with AkzoNobel. This contract is still in effect, so its disclosure would significantly impair

AkzoNobel's ability to secure competitive TiO2 pricing. [REDACTED]

19. AKZONOBEL0011119-11134 is a contract with [REDACTED] one of AkzoNobel's TiO2 suppliers. AkzoNobel maintains strict confidentiality over its contracts with suppliers, and does not share them with other suppliers. If other suppliers were

able to learn this information, it would give them a significant competitive advantage in future negotiations with AkzoNobel. This contract is still in effect, so its disclosure would significantly impair

AkzoNobel's ability to secure competitive TiO2 pricing. [REDACTED]

[REDACTED]

[REDACTED]

maintained as strictly confidential, as it contains negotiated contract terms that could put

supra, ¶ 19.

21. AKZONOBEL0011150–11176 is a contract with

one of AkzoNobel's TiO<sub>2</sub> suppliers. AkzoNobel

AkzoNobel's competitors could also use this information to estimate a key cost input of many of AkzoNobel's products, which would allow them to undermine AkzoNobel in the market and disrupt AkzoNobel's TiO<sub>2</sub> supply.

22. AKZONOBEL0011177–11224 is a contract with

one of AkzoNobel's TiO<sub>2</sub> suppliers. AkzoNobel maintains strict confidentiality over its contracts with suppliers, and does not share them with other suppliers. If other suppliers were able to learn this information, it would give them a significant competitive advantage in future negotiations with AkzoNobel. This contract is still in effect, so its disclosure would significantly impair AkzoNobel's ability to secure competitive TiO<sub>2</sub> pricing and other terms of sale. Further, this contract is especially sensitive sinc

AkzoNobel's competitors could also use this information to estimate a key cost input of many of

AkzoNobel's products, which would allow them to undermine AkzoNobel in the market and disrupt AkzoNobel's TiO2 supply.

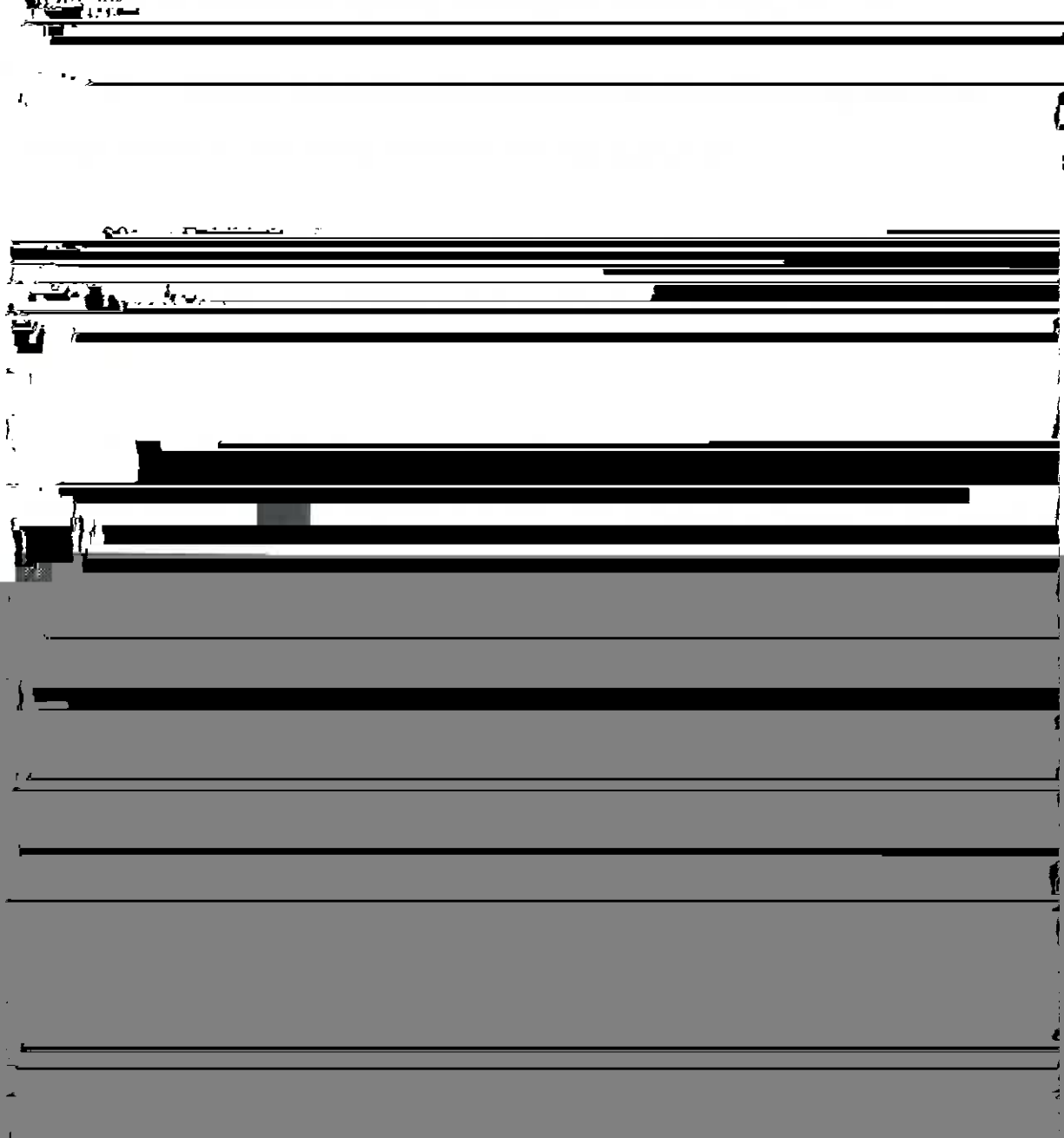
23. AKZONOBEL0011433 is AkzoNobel's strategic forecast of TiO2 pricing, broken down by supplier and region. This is an extremely important and sensitive document, and is only

allowed to be accessed by senior executives and their...  
[Redacted]

24. [Redacted]

25. Exhibit 5 to Post Deposition (AKZONOBEL0010835-10863) is a duplicate of the TiO2 Strategic Sourcing Methodology and Paints & Coating TiO2 Strategy presentations discussed supra, ¶¶ 15-17.

26. Exhibit 6 to Post Deposition (AKZONOBEL0010398-10403) is a duplicate of the email chain and presentation regarding TiO2





I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 15, 2018

*Michael Post*

Michael Post

Notice of Electronic Service

I hereby certify that on May 15, 2018, I filed an electronic copy of the foregoing Non-Party Akzo Nobel Inc.'s Motion for In Camera Treatment, [Proposed] Order, Exhibit A, Exhibit B, Exhibit C, Exhibit D - Declaration of Michael Post, REDACTED, Exhibit E, Certificate of Service, and

D. Michael Chappell  
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I hereby certify that on May 15, 2018, I served via E-Service an electronic copy of the foregoing

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Andrew Brown  
Attorney

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PUBLIC

**ORIGINAL**

**Exhibit E**  
**(Documents Marked Confidential –**  
**In Camera Review Required)**

**[REDACTED IN FULL]**

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