

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



_____)
In the Matter of)

1-800 Contacts, Inc.,)
a corporation,)

Respondent.)
_____)

DOCKET NO. 9372

ORDER ON LENSFAST'S MOTION FOR *IN CAMERA* TREATMENT

I.

Pursuant to Rule 3.45(b) of the Commission's Rules of Practice, non-party Lensfast, LLC ("Lensfast") filed a motion for *in camera* treatment for materials that Federal Trade Commission ("FTC") Complaint Counsel has listed on its exhibit list as materials that might be introduced into evidence at the trial in this matter. The legal standards governing this motion are set forth in the Order on Non-Parties' Motions for *In Camera* Treatment, issued on April 4, 2017.

II.

Non-party Lensfast seeks *in camera* treatment for six documents that Complaint Counsel intends to introduce into evidence. Lensfast seeks indefinite *in camera* treatment. In support of its motion, Lensfast provides a declaration from an LLC Member. The declaration does not provide the information necessary to support a finding that the documents are sufficiently secret and sufficiently material to the applicant's business that disclosure would result in serious competitive injury, and should therefore receive *in camera* treatment.¹ Further, "there is a presumption that *in camera* treatment will not be accorded to information that is more than three years old." *In re Polypore Int'l, Inc.*, 2009 FTC LEXIS 100, *4 (May 6, 2009). With respect to the documents that are more than three years old, Lensfast has not demonstrated that public disclosure is likely to cause serious competitive injury.

For these reasons, Lensfast's motion is DENIED WITHOUT PREJUDICE. By April 10, 2017, Lensfast may file a renewed motion for *in camera* treatment which

¹ Instead, the declaration provides information relative to whether the documents are business records.

includes an affidavit or declaration from an individual within the company who has reviewed the documents demonstrating that the documents for which it seeks *in camera* treatment are sufficiently secret and material to the applicant's business that disclosure would result in serious competitive injury.

ORDERED:

Dm Chappell

D. Michael Chappell

Chief Administrative Law Judge

Date: April 6, 2017

Notice of Electronic Service

I hereby certify that on April 06, 2017, I filed an electronic copy of the foregoing Order on Lenfast's Motion for In Camera Treatment, with:

D. Michael Chappell
Chief Administrative Law Judge
600 Pennsylvania Ave., NW
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Donald Clark
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I hereby certify that on April 06, 2017, I served via E-Service an electronic copy of the foregoing Order on Lenfast's Motion for In Camera Treatment, upon:

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