
UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
WASHINGTON D.C.

In the Matter of
UNION OIL COMPANY OF CALIFORNIA,
a corporation.

Docket No. 9305

**UNOCAL'S UNOPPOSED MOTION FOR LEAVE TO ADD TWO DOCUMENTS TO
ITS PRIOR MOTION FOR *IN CAMERA* TREATMENT OF DOCUMENTS THAT
COMPLAINT COUNSEL IDENTIFY AS POTENTIAL HEARING EXHIBITS**

On October 10, 2003, Respondent Union Oil Company of California (“Unocal”) filed its Motion for *In Camera* Treatment of Documents Containing Confidential Business Information that Complaint Counsel Identify as Potential Hearing Exhibits (“Motion”), together with a Proposed Order Granting Unocal’s Motion, the supporting Declaration of Charles O. Strathman and the documents requiring *in camera* treatment.

Upon reviewing Complaint Counsel’s 5000 hearing exhibits, Unocal discovered that there are two additional documents which require *in camera* treatment. Complaint Counsel has agreed not to oppose this motion. Accordingly, Unocal requests that Your Honor accept the addition of two documents to Unocal’s prior Motion for *in camera* treatment.

I. *In Camera* Treatment is Required for Two Additional Documents

There are two additional documents that require *in camera* treatment in this proceeding. Complaint Counsel, as required under 16 C.F.R. § 3.45(b), did not give Unocal notice of one of the documents, CX1345, and therefore Unocal did not request *in camera* treatment in its Motion filed on October 10, 2003. *See* CX1345, attached as Ex. A. The other document, CX2000, was on Complaint Counsel’s list of Unocal’s confidential documents, however, it was inadvertently omitted from the Motion. *See* CX2000, attached as Ex. C. These documents contain highly sensitive

information that Unocal needs to maintain in confidence and should be added to the list of documents requiring *in camera* treatment.

A. Document CX1345 Contains Confidential Information With Respect to Unocal's Licensees

Document CX1345 is Respondent Unocal's Answers to Complaint Counsel's Third Set of Interrogatories. Specifically, the answers to Interrogatories 8 and 9 as well as Exhibit A to those answers contain non-public, extremely sensitive, confidential commercial information pertaining to Unocal's licensees. Unocal previously requested in a letter to the FTC dated September 16, 2003, that this document be marked "Restricted Confidential, Attorney's Eyes Only, FTC Docket No. 9305." *See* Sept. 26, 2003 letter, attached as Ex. B. Complaint counsel did not, however, provide Unocal notice of its intent to use this confidential documents. This document should have been included in category C) Confidential Communications With Licensees and Potential Licensees Including for the Purpose of Settlement in Unocal's prior Motion. *See* Motion, pp. 6-7. For the same reasons articulated in the prior Motion, this document should also be granted *in camera* treatment. *See id.*; Strathman Decl. ¶ 10.

B. Document CX2000 Contains Confidential License Royalty Calculations, Schedules and Strategies

Document CX2000 contains highly sensitive information regarding licensing, but more specifically, Unocal's internal calculations and licensing structures. This document should have been included in category B) License Royalty Calculations, Schedules and Strategies in Unocal's prior Motion. *See* Motion, pp. 5-6. For the same reasons articulated in the prior Motion, this document should also be granted *in camera* treatment. *See id.*; Strathman Decl. ¶ 8.

II. The Duration of *In Camera* Treatment Should Be 11 Years

These two documents require *in camera* treatment for at least the next 11 years—until the last patent at issue expires—for the same reasons articulated in the prior Motion. *See* Motion, pp. 13-14.

Conclusion

In light of the discovery of these two additional confidential documents, Unocal respectfully seeks leave under Commission Rules of Practice 3.15(b) and 3.22, 16 C.F.R. §§ 3.15(b) and 3.22, to add two documents to its prior Motion For *In Camera* Treatment filed October 10, 2003. A Proposed Order Granting *In Camera* Treatment to these two additional documents is attached. In the event the Commission intends to disclose in camera Unocal information in a final decision, Unocal respectfully requests that the Commission notify both David W. Beehler of Robins, Kaplan, Miller & Ciresi, L.L.P., 2800 LaSalle Plaza, 800 LaSalle Avenue, Minneapolis, MN 55402, telephone: 612-349-0802, facsimile: 612-339-4181, and Unocal Vice President, Law, Charles O. Strathman, Unocal Corporation, 2141 Rosecrans, Suite 4058, El Segundo, CA 90245, telephone: 310-726-7763, facsimile: 310-726-7815.

Dated: October 31, 2003.

Respectfully submitted,

ROBINS, KAPLAN, MILLER & CIRESI L.L.P.

By: Signature on File with Commission

Martin R. Lueck
David W. Beehler
Sara A. Poulos
Diane L. Simerson
Steven E. Uhr
Bethany D. Krueger
David E. Oslund

2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, Minnesota 55402-2015
Phone: 612-349-8500
Fax: 612-339-4181

and

GIBSON, DUNN & CRUTCHER, LLP

Joseph Kattan, P.C.
Chris Wood

1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5306
Phone: 202-55-8500
Fax: 202-530-9558

ATTORNEYS FOR UNION OIL COMPANY OF
CALIFORNIA

CERTIFICATE OF SERVICE

I hereby certify that on October 31, 2003, I caused the original and two paper copies to be delivered for filing via Federal Express and caused an electronic copy to be delivered for filing via e-mail of the Public version of Unocal's Motion for Leave to Add Two Documents to Its Prior Motion for *In Camera* Treatment of Documents That Complaint Counsel Identify as Potential Hearing Exhibits and Proposed Order to:

C. Landis Plummer, Acting Secretary
Federal Trade Commission
600 Pennsylvania Ave. NW, Rm. H-159
Washington, DC 20580
E-mail: *secretary@ftc.gov*

I hereby certify that on October 31, 2003, I also caused two paper copies of the Public version of Unocal's Motion for Leave to Add Two Documents to Its Prior Motion for *In Camera* Treatment of Documents That Complaint Counsel Identify as Potential Hearing Exhibits and Proposed Order to be delivered via Federal Express to:

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave. NW
Washington, DC 20580

I hereby certify that on October 31, 2003, I also caused one paper copy of the Public version of Unocal's Motion for Leave to Add Two Documents to Its Prior Motion for *In Camera* Treatment of Documents That Complaint Counsel Identify as Potential Hearing Exhibits and Proposed Order to be served upon each person listed below via overnight delivery (Federal Express):

J. Robert Robertson, Esq.
Senior Litigation Counsel
Federal Trade Commission
600 Pennsylvania Avenue NW, Drop 374
Washington, DC 20580

Richard B. Dagen, Esq. through service upon
Chong S. Park, Esq.
Bureau of Competition
Federal Trade Commission
601 New Jersey Avenue NW, Drop 6264
Washington, DC 20001

Signature on File with Commission
Bethany D. Krueger