

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

KEURIG GREEN MOUNTAIN, INC.

Plaintiff,

v.

TOUCH COFFEE & BEVERAGES, LLC,

Defendant.

CIVIL ACTION NO.: 1:16-CV-10142-DJC

**KEURIG'S ASSENTED-TO MOTION FOR AN ORDER OF
IMPOUNDMENT OF CONFIDENTIAL MATERIALS**

Pursuant to Local Rule 7.2 and paragraph 12 of the Stipulated Protective Order in this matter (D.I. 22), Plaintiff, Keurig Green Mountain, Inc. (“Keurig”), requests an order of impoundment to file under seal its Opposition to the Motion for Preliminary Injunction filed by Defendant, Touch Coffee & Beverages, LLC (“Touch”), the Declaration of Mark Wood in Support of that Opposition and its Exhibits A-R, and Exhibits A, D, J-O, and R-AM to the Declaration of Hunter D. Keeton in Support of that Opposition. In support of this request, Keurig states as follows:

1. Later today, Keurig will file a redacted version of its Opposition to Touch’s Motion for Preliminary Injunction (D.I. 7). In support of the Opposition and among other evidence, Keurig relies on documents, a deposition transcript, and deposition exhibits that Touch has designated CONFIDENTIAL – OUTSIDE COUNSEL ONLY under the Stipulated Protective Order. (D.I. 22 ¶ 3.) Keurig express no opinion about whether Touch’s designations are proper. Keurig also relies on the Declaration of Mark Wood (a redacted version of which

Keurig will file later today) and its exhibits, portions of which disclose information confidential to Keurig. (D.I. 22 ¶ 2.1.) Keurig therefore seeks permission to file under seal un-redacted versions of its papers discussing and quoting these confidential materials, as well as declaration exhibits attaching those materials.

2. The Stipulated Protective Order provides, in part, that any “party wishing to make of record any CONFIDENTIAL – OUTSIDE COUNSEL ONLY information shall file a motion for leave to file under seal the filing containing the Confidential material,.... [The party] shall [file] such paper in a sealed envelope, or other appropriately sealed container, which includes the title of the Action, the party filing the materials, the nature of the materials filed, and the legend CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO PROTECTIVE ORDER: TO BE OPENED ONLY BY OR AS DIRECTED BY THE COURT.” (D.I. 22 ¶ 12.)

3. Pursuant to paragraph 12 of the Stipulated Protective Order, Keurig hereby files this Motion seeking permission from the Court to file un-redacted versions of its Opposition to the Motion for Preliminary Injunction filed by Touch, the Declaration of Mark Wood in Support of that Opposition and its Exhibits A-R, and Exhibits A, D, J-O, and R-AM to the Declaration of Hunter D. Keeton in Support of that Opposition, in sealed envelopes marked with the title of the Action, the party filing the materials, the nature of the materials filed, and the legend “CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO PROTECTIVE ORDER: TO BE OPENED ONLY BY OR AS DIRECTED BY THE COURT.”

4. The earliest date on which the impounding order should be lifted and custody arrangements for the post-impoundment period are addressed in the Stipulated Protective Order: “At the conclusion of this case, any materials filed with the Court under seal shall be kept under seal or be returned to the party filing it for disposition as provided for in ¶ 20 [of the

Stipulated Protective Order, D.I. 22].” (D.I. 22 ¶ 12.)

CONCLUSION

WHEREFORE, Keurig requests that this motion be granted and that Keurig be permitted to file under seal: (i) Un-Redacted Keurig’s Opposition to Touch’s Motion for Preliminary Injunction, (ii) Un-Redacted Declaration of Mark Wood in Support of Keurig’s Opposition to Touch’s Motion for Preliminary Injunction and its Exhibits A-R, and (iii) Exhibits A, D, J-O, and R-AM to the Declaration of Hunter D. Keeton in Support of Keurig’s Opposition to Touch’s Motion for Preliminary Injunction.

LOCAL RULE 7.1(A)(2) CERTIFICATE

Undersigned counsel for Keurig certifies that he conferred with counsel for Touch, and that counsel for Touch indicated that Touch assented to the relief requested in this motion.

Respectfully submitted,

Date: April 1, 2016

/s/ Hunter D. Keeton
Michael A. Albert, BBO # 558566
malbert@wolfgreenfield.com
Gerald B. Hrycyszyn, BBO # 675201
ghrycyszyn@wolfgreenfield.com
Justin C. Colannino, BBO # 679473
jcolannino@wolfgreenfield.com
Hunter D. Keeton, BBO # 660609
hkeeton@wolfgreenfield.com
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Ave.
Boston, MA 02210
Tel: (617) 646-8000
Fax: (617) 646-8646

Counsel for Keurig Green Mountain, Inc.

CERTIFICATE OF SERVICE

I certify that I am causing this document to be filed through the Court's electronic filing system, which serves counsel for other parties who are registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Gerald B. Hrycyszyn

Gerald B. Hrycyszyn