

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION



\_\_\_\_\_  
In the Matter of \_\_\_\_\_  
MSC.SOFTWARE CORPORATION, \_\_\_\_\_  
a corporation. \_\_\_\_\_

Docket No. 9299

**ORDER ON COMPLAINT COUNSEL'S MOTION TO COMPEL AN EXPEDITED ANSWER AND COMPLIANCE WITH COMPLAINT COUNSEL'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS**

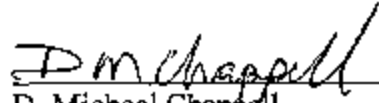
On May 10, 2002, Complaint Counsel filed its Motion to Compel an Expedited Answer and Compliance with Complaint Counsel's First Request for Production of Documents and Things. The motion requested Respondent MSC Software Corporation ("MSC") to file a reply to Complaint Counsel's motion by May 13, 2002. Complaint Counsel's motion to compel asserts that Respondent has not produced the responsive documents, including electronic documents and e-mails, that MSC had promised to produce by May 10, 2002.

On May 21, 2002, MSC filed its opposition to Complaint Counsel's motion to compel. MSC asserts that it has already produced 322 boxes of documents, has already spent over \$1.5 million to comply with Complaint Counsel's document request, and is working on compliance with Complaint Counsel's remaining requests. MSC states that it has collected 306 additional boxes of electronic documents, 32 of which have been produced to Complaint Counsel. MSC asserts that it intends to continue its review of the 274 boxes; however, MSC cannot afford to hire an army of people to review them on an expedited basis. Pursuant to Rule 3.31(d)(1) which provides that the Administrative Law Judge may deny discovery or make any order which justice requires to protect a party from undue burden or expense, MSC seeks an order denying Complaint Counsel's insistence of an expedited review of the remaining documents.

In the certificate of conference attached to the motion, there is no indication that Complaint Counsel attempted to reach an agreement with MSC regarding an expedited response to the motion. Accordingly, Complaint Counsel's request for an expedited answer to its motion is DENIED.

MSC has demonstrated, with reasonable particularity, that it was unable to comply with Complaint Counsel's demands by May 10, 2002. Complaint Counsel's motion to compel is GRANTED in part and DENIED in part. MSC is hereby ordered to produce the responsive documents as soon as practicable and on a rolling basis, but no later than May 28, 2002.

ORDERED:

  
D. Michael Chappell  
Administrative Law Judge

Date: May 22, 2002