

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

IN THE MATTER OF)
)
)

ASPEN TECHNOLOGY, INC.,)
a corporation.)
)
)
_____)

Docket No. 9310
PUBLIC

ANSWER OF RESPONDENT ASPEN TECHNOLOGY, INC.

Respondent Aspen Technology, Inc. (“AspenTech”), by and through its attorneys, Cleary, Gottlieb, Steen & Hamilton, hereby answers the Federal Trade Commission (“FTC”) Complaint as follows:

RESPONDENT ASPEN TECHNOLOGY, INC.

1. AspenTech admits the allegations made in paragraph 1.
2. AspenTech denies the allegations made in paragraph 2 and affirmatively states that: AspenTech, which includes its subsidiary Hyprotech Ltd. (“Hyprotech”), is a developer and worldwide supplier of enterprise software including computer software geared towards manufacturing, engineering and supply chain solutions; AspenTech’s software is used by the refining, oil and gas, petrochemical, specialty chemical, air separation, pharmaceutical, fine chemical and other process manufacturing industries and by engineering and construction companies to support those industries; AspenTech offers steady state and dynamic process engineering simulation software; in fiscal year 2002, AspenTech had revenues of approximately \$320 million and reported a loss of \$83.5

million; and in fiscal year 2003, AspenTech had revenues of approximately \$323 million and reported a loss of \$170 million.

3. AspenTech admits the allegations made in paragraph 3.

THE ACQUISITION OF HYPROTECH, LTD.

4. AspenTech admits the allegations made in paragraph 4.

5. AspenTech admits that Hyprotech had revenues of \$68.5 million in fiscal year 2002. AspenTech denies the remaining allegations made in paragraph 5 and affirmatively states that Hyprotech was founded in 1976 and had been a developer and worldwide supplier of engineering computer software used by certain process manufacturing industries and engineering and construction companies that support those industries.

6. AspenTech denies the allegations made in the first sentence of paragraph 6 and affirmatively states that it purchased Hyprotech from AEA for a purchase price of approximately \$97 million. AspenTech admits the allegations made in the second sentence of paragraph 6.

TRADE AND COMMERCE

7. AspenTech denies the allegations made in paragraph 7 and affirmatively states that process industries are those in which raw material inputs are processed through a highly intensive asset base to create downstream products either for an end-user or for another process industry.

8. AspenTech denies the allegations made in paragraph 8 and affirmatively states that flowsheet simulation software is used to describe all or part of a manufacturing

process. The flowsheet, using established chemical engineering properties or “1st Principles,” can assist in predicting what happens in a process unit or system. Through a graphical user interface, the flowsheet allows its user to take into account, among other things, the specific process units in a plant. Engineers using this software use it in part to improve engineering design and reduce capital costs.

9. AspenTech denies the allegations made in paragraph 9 and affirmatively states that steady-state flowsheets model a process in a static condition. A flowsheet with dynamic capabilities can, among other things, model start-ups, shutdowns, upsets, and changes in a process that occur over time.

10. AspenTech denies the allegations made in paragraph 10 and affirmatively states that flowsheets are designed to represent the processes that they simulate.

11. AspenTech denies the allegations made in paragraph 11 and affirmatively states that batch process software is particularly suited to pharmaceutical and fine chemical production.

12. AspenTech denies the allegations made in paragraph 12 and affirmatively states that customers, including those customers that have operations spanning multiple process industry segments, typically choose different process simulation solutions for different process industry applications. AspenTech affirmatively states that for each industry segment, customers have a variety of alternatives to meet their process simulation needs, including proprietary “in-house” software products (and associated in-house expertise), consulting companies, and software companies.

13. AspenTech denies the allegations made in paragraph 13 and affirmatively states that integrated engineering software facilitates communication among users and

allows users to store and exchange information through a common interface. This software allows users, among other things, to improve the efficiency of engineering workflows.

14. AspenTech denies the allegations made in paragraph 14.

RELEVANT PRODUCT MARKETS

15. AspenTech denies the allegations made in paragraph 15.

RELEVANT GEOGRAPHIC MARKETS

16. AspenTech denies the allegations made in paragraph 16.

CONCENTRATION

17. AspenTech denies the allegations made in paragraph 17.
18. AspenTech denies the allegations made in paragraph 18.
19. AspenTech denies the allegations made in paragraph 19.
20. AspenTech denies the allegations made in paragraph 20.
21. AspenTech denies the allegations made in paragraph 21.
22. AspenTech denies the allegations made in paragraph 22.
23. AspenTech denies the allegations made in paragraph 23.
24. AspenTech denies the allegations made in paragraph 24.
25. AspenTech denies the allegations made in paragraph 25.
26. AspenTech denies the allegations made in paragraph 26.
27. AspenTech denies the allegations made in paragraph 27.

CONDITIONS OF ENTRY

28. AspenTech denies the allegations made in paragraph 28.

ANTICOMPETITIVE EFFECTS OF THE ACQUISITION

29. AspenTech denies the allegations made in paragraph 29.

VIOLATION CHARGED

30. AspenTech denies the allegations made in paragraph 30 and incorporates by references its responses set forth above to paragraphs 1 through 29.

31. AspenTech denies the allegations made in paragraph 31.

32. AspenTech denies the allegations made in paragraph 32.

To the extent that the Complaint can be read to make any other specific allegations that were not admitted or denied above, those allegations are denied.

Date: September 2, 2003

Respectfully submitted by:



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COUNSEL FOR ASPEN TECHNOLOGY, INC.

CERTIFICATE OF SERVICE


I, Tanya N. Dunne, hereby certify that on September 2, 2003, I caused a true and correct copy of the attached *Answer of Respondent Aspen Technology, Inc.* to be served upon the following persons by hand delivery or first-class mail:

Donald S. Clark, Secretary
Federal Trade Commission
Room H-159
600 Pennsylvania Ave., N.W.
Washington, D.C. 20580

Hon. Stephen J. McGuire
Chief Administrative Law Judge
Federal Trade Commission
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Tanya N. Dunne