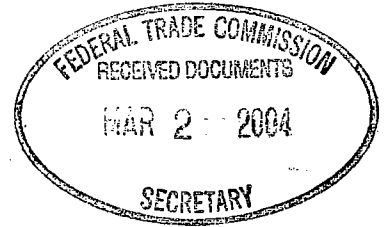


UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES



\_\_\_\_\_  
In the Matter of )  
 )  
 )

ASPEN TECHNOLOGY, INC., )

Docket No. 9310

Respondent. )  
\_\_\_\_\_  
 )

**ORDER ON RESPONDENT'S MOTION  
FOR EXTENSION OF DISCOVERY DEADLINE**

**I.**

On February 25, 2004, Respondent Aspen Technology, Inc. ("AspenTech") filed a motion for an extension of the discovery deadline to allow for discovery on what Respondent calls a new theory of competitive harm. Complaint Counsel filed its opposition on February 27, 2004. For the reasons set forth below, Respondent's motion is **GRANTED in part and DENIED in part**.

**II.**

Complaint Counsel recently added a new witness, Mr. Fernando Aguirre, Vice President Business Development of Heat Transfer Research Inc. ("HTRI"). Complaint Counsel added Aguirre after the deadline for serving its revised witness lists, but before the deadline for serving its final witness list. The close of discovery in this case is March 2, 2004.

Respondent seeks an extension of time from the close of discovery to serve subpoenas *duces tecum* and subpoenas *ad testificandum* to obtain discovery from HTRI and any other person or company that might have evidence related to what Respondent describes as a new theory of competitive harm. In addition, Respondent requests leave to add to its final witness list after the March 15, 2004 deadline one or more witnesses who will testify to this theory of harm.

Complaint Counsel does not oppose Respondent's request for an extension of discovery for the limited purpose of obtaining documents from HTRI and deposition testimony of Aguirre. Complaint Counsel does oppose all other relief requested.

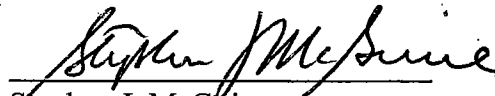
### III.

Respondent's motion for an extension of the discovery deadline is **GRANTED IN PART** to allow Respondent to serve subpoenas *duces tecum* and subpoenas *ad testificandum* to obtain discovery from HTRI on heat transfer software. Respondent is granted an extension until March 25, 2004 for this limited purpose. If it appears that there is another individual associated with HTRI who has relevant information on heat transfer software, Respondent may also take the deposition of that individual by March 25, 2004.

Respondent's motion for an extension of the discovery deadline is **DENIED** with respect to Respondent's request to serve subpoenas *duces tecum* or subpoenas *ad testificandum* to obtain discovery from any other company that might have evidence on heat transfer software.

Respondent's request for leave to add to its final witness list is **DENIED WITHOUT PREJUDICE**. Respondent's request is too indefinite to rule on at this time. In the event that Respondent finds it necessary to add to its final witness list after completing the discovery allowed by this Order, Respondent may file a motion at that time, but no later than by March 30, 2004.

ORDERED:

  
\_\_\_\_\_  
Stephen J. McGuire  
Chief Administrative Law Judge

Date: March 2, 2004