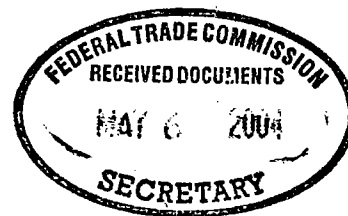


UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES



In the Matter of)
)
)

ASPEN TECHNOLOGY, INC.,)

Docket No. 9310

Respondent.)
_____)

**ORDER ON NON-PARTIES' MOTIONS FOR *IN CAMERA* TREATMENT
OF DOCUMENTS LISTED ON PARTIES' EXHIBIT LISTS**

I.

Pursuant to Commission Rule 3.45(b) and the Scheduling Order entered in this litigation, several non-parties filed motions for *in camera* treatment for materials that the parties have listed on their exhibit lists as materials that might be introduced at trial in this matter. Neither Respondent nor Complaint Counsel have filed any oppositions to the motions filed by these non-parties. The standards by which *in camera* treatment motions are evaluated are set forth in the Order on Respondent's Motion for *In Camera* Treatment, issued in this matter on May 5, 2004.

II.

Non-party BP America, Inc. ("BP"), on April 23, 2004, filed an unopposed motion for *in camera* treatment. BP seeks *in camera* treatment for twenty-four documents for a period of five years. BP has supported its motion with the affidavit of its Supply Chain Advisor. This affidavit demonstrates that most of the documents for which BP seeks *in camera* treatment meet the Commission's standards. However, upon review of the documents, it is clear that some of the documents do not. For example, CX 1040 and portions of CX 1043 do not rise to the level necessary for *in camera* treatment.

Accordingly, BP's motion is **DENIED WITHOUT PREJUDICE**. BP is hereby ORDERED to narrow the list of documents for which it seeks *in camera* treatment to those that meet the Commission's strict standards. The Office of the Administrative Law Judges will retain the documents submitted with BP's April 23, 2004 motion. BP is not required to provide again the documents for which it continues to seek *in camera* treatment when it files its next motion, but is required to identify them by the exhibit letters used in the April 23 motion. The deadline for filing such motion is May 12, 2004.

III.

Non-party Bryan Research and Engineering ("BRE"), on April 26, 2004, filed a motion for leave to file its motion for *in camera* treatment out of time and its unopposed motion for *in camera* treatment. The motion for leave to file out of time is **GRANTED**. BRE seeks *in camera* treatment for two documents for an indefinite period. BRE has supported its motion with the declaration of its founder and President. This affidavit and a review of the documents for which BRE seeks *in camera* treatment reveal that both of the documents for which BRE seeks *in camera* treatment meet the Commission's standards. However, of the two documents for which indefinite *in camera* status is sought, only one of the documents meets the higher standard for indefinite *in camera* status. Accordingly, BRE's motion is **GRANTED IN PART and DENIED IN PART**.

In camera treatment for a period of five years, to expire May 1, 2009, is granted to the following document:

CX 1170-001-002.

In camera treatment for an indefinite period is granted to the following document:

RX 1302 BRE 003302-3.

IV.

Non-party Chemstations, Inc. ("Chemstations"), on April 23, 2004, filed a motion for *in camera* treatment. Chemstations seeks *in camera* treatment for 118 documents for a period of 7 years. Chemstations has supported its motion with the declaration of its President. The declaration provides an excellent summary of each of the documents for which *in camera* treatment is sought. Chemstations has demonstrated that most of the documents meet the Commission's standards. However, a review of the documents reveals that some do not. For example, some of the documents are over three years old, one document relates to a software that no longer exists, some documents are Power Point presentations that may have been widely distributed within the company.

Accordingly, Chemstations' motion is **DENIED WITHOUT PREJUDICE**. Chemstations is hereby **ORDERED** to narrow the list of documents for which it seeks *in camera* treatment to those that meet the Commission's strict standards. The Office of the Administrative Law Judges will retain the documents submitted with Chemstations' April 23, 2004 motion. Chemstations is not required to provide again the documents for which it continues to seek *in camera* treatment when it files its next motion but is required to identify them by the exhibit letters used in the April 23 motion. The deadline for filing such motion is May 12, 2004.

V.

Non-party ConocoPhillips, on April 23, 2004, filed an unopposed motion for extension of time to file its motion for *in camera* treatment. The motion for an extension of time is **GRANTED**. On April 30, 2004, ConocoPhillips filed its motion for *in camera* treatment. ConocoPhillips seeks *in camera* treatment for three documents for a period of five years. ConocoPhillips has supported its motion with the declaration of its Manager, Controls and Modeling. This declaration and a review of the documents clearly reveal that each of the documents for which ConocoPhillips seeks *in camera* treatment meets the Commission's standards. Accordingly, ConocoPhillips' motion is **GRANTED**.

In camera treatment for a period of five years, to expire May 1, 2009, is granted to the following documents:

RX 1391	COP 000082-104
RX 1394	COP 000081
CX 1069 -1-7	COP 000275.

VI.

Non-party Dow Chemical Company ("Dow"), on April 23, 2004, filed two motions for *in camera* treatment. The first motion seeks *in camera* treatment for seven documents listed by Respondent as potential trial exhibits. The second motion seeks *in camera* treatment for nine documents listed by Complaint Counsel as potential trial exhibits. Both motions seek *in camera* treatment for a period of five years. Dow has supported both motions with declarations from the Dow/Aspentech Relationship Manager. The declarations and a review of the documents reveal that not all of the documents for which Dow seeks *in camera* treatment meet the Commission's strict standards. Accordingly, Dow's motion on Respondent's exhibits is **GRANTED IN PART and DENIED IN PART**. Dow's motion on Complaint Counsel's exhibits is also **GRANTED IN PART and DENIED IN PART**.

In camera treatment for a period of five years, to expire May 1, 2009, is granted to the following documents:

RX 1422	Dow-07-0001-007
RX 1424	Dow-04-0050-126
RX 1427	Dow-01-0001-003
CX 1410	Dow-04-0007-010
CX 1411	Dow-04-0050-126
CX 1414	Dow-04-0200-202
CX 1416	Dow-05-0114-118.

In camera treatment for a period of five years, to expire May 1, 2009 is granted to portions of the following documents:

- RX 1423 Only the three paragraphs on page RX 1423-004 under the heading
 “Commercial Summary and Forecast,” are granted *in camera* treatment;
CX 1413 Only pages Dow-04-0142 to 145 are granted *in camera* treatment.

In camera is not granted to the following documents:

- RX 1426 Dow-05-0119-153
RX 1428 Dow-06-0023-023
RX 1429 Dow-04-0191-192
CX 1412 Dow-04-0128-129
CX 1415 Dow-04-0229-233
CX 1417 Dow-05-0181-312
CX 1418 Dow-08-0003.

VII.

Non-party Praxair, Inc. (“Praxair”), on April 29, 2004, filed a motion for *in camera* treatment. Praxair seeks *in camera* treatment for several documents for a period of four years. Praxair has supported its motion with the declaration of its Director of Research and Development. This declaration and a review of the documents clearly reveals that each of the documents for which Praxair seeks *in camera* treatment meet the Commission’s standards. Accordingly, Praxair’s motion is **GRANTED**.

In camera treatment for a period of five years, to expire May 1, 2009, is granted to the following pages of the following documents:

- RX-1533-001 to 002
RX-1533-003
RX-1533-007 to 008
RX-1533-012
RX-1533-013
RX-1534-004, 006, 007, 009, 010, 011, 012, and 013
RX-1535-001 to 003
RX-1535-004, 007, and 008
RX-1535-011
RX-1536-002 to 004
RX-1537-001
RX-1538-002, 003, 004, 005, 007, and 009.

VIII.

Non-party Rohm and Hass Company ("Rohm and Hass"), on April 22, 2004, filed a motion for *in camera* treatment. Rohm and Hass seeks *in camera* treatment for six documents for an indefinite period, or in the alternative for five years. Rohm and Hass has supported its motion with the declaration of its Process Simulation Manager. This declaration and a review of the documents clearly reveals that each of the documents or portions thereof for which Rohm and Hass seeks *in camera* treatment meet the Commission's standards. Rohm and Hass has met the requirements for indefinite *in camera* treatment for CX 1331 only. Accordingly, Rohm and Hass' motion is **GRANTED** as limited below.

In camera treatment for an indefinite period, is granted to the following portions of the following document:

CX 1331 Sections 2.2.1, 2.2.2 and 2.2.3 and their respective subsections.

In camera treatment for a period of five years, to expire May 1, 2009, is granted to the following documents:

RX 1561
RX 1562
RX 1563
RX 1564
RX 1565.

IX.

Non-party Shell Global Solutions (US) Inc., ("Shell"), on April 22, 2004, filed a motion for *in camera* treatment. Shell seeks *in camera* treatment for one document for an indefinite period. Shell has supported its motion with the declaration of its Consultancy Services Program Lead. This declaration and a review of the document clearly reveals that the document for which Shell seeks *in camera* treatment meets the Commission's standards for *in camera* treatment, but does not meet the higher standards for indefinite *in camera* status. Accordingly, Shell's motion is **GRANTED IN PART and DENIED IN PART**.

In camera treatment for a period of five years, to expire May 1, 2009, is granted to the following document:

RX 1574-001 ASP-SGS-003319.

X.

Non-party SimSci-Esscor, ("SimSci"), on April 26, 2004, filed an unopposed motion for *in camera* treatment. SimSci seeks *in camera* treatment for 99 documents for a period of five years. SimSci has supported its motion with the declaration of its Vice President & General Manager of the SimSci business unit of Invensys plc. The declaration provides an excellent summary of each of the documents for which *in camera* treatment is sought. SimSci has demonstrated that most of the documents meet the Commission's standards. However, a review of the documents reveals that some documents, or portions thereof, do not.

Accordingly, SimSci's motion is **DENIED WITHOUT PREJUDICE**. SimSci is hereby ORDERED to narrow the list of documents for which it seeks *in camera* treatment. The Office of the Administrative Law Judges will retain the documents submitted with SimSci's April 26, 2004 motion. SimSci is not required to provide again the documents for which it continues to seek *in camera* treatment when it files its next motion, but is required to identify them by the exhibit numbers used in the April 26 motion. The deadline for filing such motion is May 12, 2004.

XI.

Non-party Solutia, Inc., ("Solutia"), on April 23, 2004, filed a motion for *in camera* treatment. Solutia seeks *in camera* treatment for numerous documents for a period of five years. The declaration provided by Solutia does not provide adequate support to justify withholding these documents from the public record. Solutia appears to have simply moved for *in camera* treatment for all documents it labeled "restricted confidential" when it produced the documents without regard to whether the documents meet the Commission's stringent standards. A review of the documents reveals that some documents do not. For example, SOL-008, an e-mail to all SIMVOX users, appears to be a marketing pitch.

Accordingly, Solutia's motion is **DENIED WITHOUT PREJUDICE**. Solutia is hereby ORDERED to narrow the list of documents for which it seeks *in camera* treatment. The deadline for filing Solutia's motion is May 12, 2004.

XII.

Non-party WinSim, Inc., ("WinSim"), on April 22, 2004, filed a motion for *in camera* treatment. WinSim seeks *in camera* treatment for four documents for a period of three years and for one document for an indefinite period. WinSim has supported its motion with the declaration of its President. This declaration and a review of the documents reveal that all but one of the documents (RX 1319) for which WinSim seeks *in camera* treatment meet the Commission's standards for *in camera* treatment. Within RX 1319, one page meets the standards. In addition, the document for which WinSim seeks indefinite *in camera* status (RX 1326) does not meet the

higher standard for indefinite *in camera* status. Accordingly, WinSim's motion is **GRANTED IN PART and DENIED IN PART**.

In camera treatment for a period of five years, to expire May 1, 2009, is granted to the following documents:

CX 1247-001	CC-FTC-0224
CX 1251-001	WINSIM 0046
CX 1252-001	WINSIM 0044
RX 1313	WINSIM 0027-43
RX 1326	WINSIM 0813-1301.

In camera treatment for a period of five years is granted to the following page of this document:

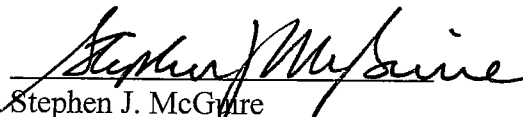
RX 1319 WINSIM 008 only.

XIII.

Each non-party that has documents that have been granted *in camera* treatment by this Order shall inform its testifying current or former employees that *in camera* treatment has been extended to the material described in this Order. At the time that any documents that have been granted *in camera* treatment are offered into evidence or before any of the information contained therein is referred to in court, the parties shall identify such documents and the subject matter therein as *in camera*, inform the court reporter of the trial exhibit number(s) of such documents, and request that the hearing go into an *in camera* session.

The parties are required to prepare a joint exhibit that lists by exhibit number the documents that have been granted *in camera* treatment and that sets forth the expiration date of *in camera* treatment for each exhibit.

ORDERED:


Stephen J. McGuire
Chief Administrative Law Judge

Date: May 6, 2004