

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



_____)
IN THE MATTER OF)
MSC.SOFTWARE CORPORATION,)
a corporation.)
_____)

Docket No. 9299

**MSC.SOFTWARE CORPORATION'S MOTION TO QUASH SUBPOENAS AD
TESTIFICANDUM SERVED BY THE FEDERAL TRADE COMMISSION**

Respondent MSC Software Corporation ("MSC") moves to quash the subpoenas *ad testificandum* ("Subpoenas") (attached as Ex. A) relating to this proceeding, directed by Complaint Counsel to various MSC personnel and affiliates on November 26, 2001. As demonstrated below, this relief is necessary to protect MSC from the "annoyance, . . . oppression [and] undue burden or expense" that MSC would endure to comply with the subpoenas, Rule 3.31(d), and can readily be remedied by allowing the depositions to take place in January.

STATEMENT OF FACTS

On June 24 and November 4, 1999, MSC purchased Universal Analytics, Inc. ("UAI") and Computerized Structural Analysis and Research Corporation ("CASR") respectively, in an effort to enhance the quality of its design team, its simulation product, and ultimately, consumer welfare. These acquisitions were of small firms with declining revenues and limited capabilities to compete effectively in the marketplace.

Complaint Counsel began investigating these mergers approximately eighteen months prior to the Commission's issuance of a complaint on October 9, 2001. During that time, MSC provided Complaint Counsel with a voluminous number of documents and offered various persons for depositions in order to cooperate with the investigation of these mergers. Additionally, depositions were taken of various persons, including MSC executives, employees, and affiliates. In short, Complaint Counsel has had the time to investigate thoroughly and gather facts attendant to these mergers.

On November 26, 2001, Complaint Counsel served a series of subpoenas *ad testificandum* to MSC sales personnel, former employees, and a member of the Board of Directors. These subpoenas noticed eight depositions beginning on December 5, 2001, allowing for only one week of notice. Counsel for MSC contacted Complaint Counsel in an effort to negotiate the deposition dates, explaining that MSC is in the midst of its fourth quarter sales effort and that most of the individuals who were served subpoenas are involved in sales, and are therefore integral to this process. Others who were served subpoenas have business and personal commitments that preclude the December deposition dates. Furthermore, the upcoming holidays and family plans interfere with many of the deponents' availability toward the end of December. However, these discussions were to no avail, as Complaint Counsel was adamant that the depositions must occur in December. Accordingly, MSC moves this Court to quash the Subpoenas served by Complaint Counsel.

ARGUMENT

“The Administrative Law Judge may deny discovery or make any order which justice requires to protect a party or other person from annoyance, embarrassment, oppression, or undue burden or expense.” 16 C.F.R. § 3.31(d) This provision of the Federal Trade Commission’s Rules of Practice allows for the protection of a party in the event of unjust conduct on the part of a party to the action. In the instant case, Complaint Counsel’s conduct in refusing to negotiate appropriate dates results in oppressive and undue burden and expense on MSC such that protection by the Court is appropriate.

L Depositions Of MSC’s Key Sales Personnel In The Month Of December Imposes An Undue Expense On The Company At A Critical Point In The Fiscal Year

In its initial round of discovery documents, Complaint Counsel, without first attempting to arrive at dates convenient for anyone involved in this action, noticed the depositions of the following MSC sales personnel: David Beer, Todd Brown, Tom Cully, Bruce Hart, and Robert Louwers. All of the MSC employees subpoenaed to provide deposition testimony are, unfortunately, unavailable during the month of December. MSC’s fiscal year ends December 31, and like many other publicly owned and traded businesses, MSC sets financial projections for each quarter and for the fiscal year. Understandably, a company relies on final sales pushes in order to meet these quarterly and year end projections. To date, none of these deponents has met his fourth quarter sales objective. It would be an economic burden to remove these personnel from their positions for a likely total of three business days a piece—one day for preparation, one day for the deposition, and one - two

days for travel to and from Washington, D.C.¹ Additionally, each deponent's commission is based on his year-end performance. These are economic burdens which no respondent or employee should be forced to endure.

MSC is not trying to deprive Complaint Counsel of the opportunity to depose these people. To the contrary, counsel for MSC contacted Complaint Counsel in an effort to negotiate the deposition dates. Counsel explained MSC's situation, and suggested that the depositions be slated for the beginning of January 2002,² after the close of the fourth quarter. Complaint Counsel refused. Rather than attempting to negotiate in good faith, as required by the Rules, Complaint Counsel adamantly asserted that the depositions are necessary in December for the purposes of "fact discovery," despite the fact that the deadline for submission of discovery requests and subpoenas is not until March 8, 2002, leaving plenty of time for the service of requests based on information gleaned from January depositions.³ Furthermore, Complaint Counsel has had eighteen months in which to conduct fact discovery, and eighteen months in which it could have taken depositions pursuant to its investigation, yet now pushes for these dates, regardless of the inconvenience and burden to MSC. Accordingly, MSC moves this Court to quash the Subpoenas served by Complaint Counsel.

¹ Complaint Counsel noticed the depositions for Washington, D.C., away from the deponents' offices, despite its lack of authority to compel the taking of a deposition in a particular place. Counsel for MSC has raised this issue with Complaint Counsel, and the location remains a point of negotiation. Regardless of where the depositions occur, however, each deponent will be away from the field for a minimum of two days.

² David Beer is available for deposition January 2 – January 16; Robert Louwers is available January 2 – January 7, and January 10 – January 16; Todd Brown is available January 3 – January 16; Thomas Cully is available after January 3; and Bruce Hart is available from January 9 – January 16.

³ Complaint Counsel has demanded December dates, arguably in order to compile a preliminary witness list due December 17, 2001. The operative word here is "preliminary"—Complaint Counsel will have ample opportunity to modify and amend that list after the close of discovery; there is no prejudice in adding or removing people from that list at a later date.

II. Depositions Of Former MSC Personnel And Board Member In The Month Of December Imposes Undue Burden

Similarly, the non-MSC employees who were served with notices of their upcoming depositions are unavailable in the month of December. They too have business commitments and end-of-year deadlines, family obligations, and other travel arrangements that preclude their availability during the month of December. However, all are currently available for deposition in January: Thomas Curry is available the weeks of January 7, 21, or 28; Edward Jones is available throughout the month with adequate advance notice; and George Riordan is available January 2-3, 14-18, and 21-23. Complaint Counsel's refusal to negotiate deposition dates convenient for these deponents, despite the certain scheduling chaos that occurs during the holiday time, necessitates the quashing of these subpoenas as well.

III. Complaint Counsel's Failure To Provide MSC With Adequate Notice Of Depositions Or Meaningful Initial Disclosures Imposes Undue Burden On MSC That Outweighs Complaint Counsel's Desire For Expedited Discovery

According to the Federal Trade Commission's Rules of Practice, "[t]he party seeking the deposition shall serve upon each person whose deposition is sought and upon each party to the proceeding *reasonable notice* in writing of the time and place at which it will be taken. . . ." 16 C.F.R. § 3.33 The Subpoenas served on November 26, 2001, requiring appearances a week later do not provide "reasonable notice." In addition, they are grossly overbroad in that there is no substantive identification of the topics to be covered at the deposition. Complaint Counsel merely indicated on the subpoena form that the "Subject of Proceeding" was "In the matter of MSC Software Corporation, Docket No. 9299," thereby

encompassing every aspect of the case into the possible list of deposition topics. It is unreasonable notice and furthermore unduly burdensome to expect that a person can be prepared on the entire universe of possible questions within one week of receipt of the subpoena in his business's busiest time of year. These deponents were not afforded "reasonable notice" as contemplated by the FTC Rules of Procedure.

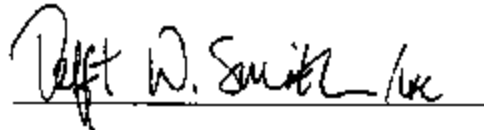
Furthermore, although Complaint Counsel has enjoyed the luxury of over a year's worth of fact discovery, it has yet to fulfill its initial disclosure obligations under 16 CFR § 3.31(b)(2), in that it has failed to supply MSC with "a copy of or description by category and location of all documents, data compilations, and tangible things in the possession, custody or control of the Commission . . . that are relevant to the allegations of the Commission's complaint. . . ." In fact, it is MSC's belief that Complaint Counsel has refused even to provide copies of non-privileged and non-confidential documents, such as customer and competitor affidavits which allegedly form the basis of this lawsuit. As the noticed depositions are of MSC sales personnel, not coincidentally, people associated with large MSC clients, such documents will likely be key to the subject matter of the depositions. To allow Complaint Counsel to take the depositions of MSC personnel and affiliates—to ask questions and show documents that address issues not previously disclosed—would be to controvert the long established principle of fair and open civil proceedings.

CONCLUSION

The burden to MSC of making available the deponents on little notice, during the peak month of its fiscal year, and during the holidays, outweighs the postponement of the depositions until January 2002, a time at which all of the noticed deponents are currently available. For these reasons, MSC respectfully requests that the Court quash the subpoenas issued by Complaint Counsel.

December 5, 2001

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Teff W. Smith" with a stylized flourish at the end, positioned above a horizontal line.

Teff W. Smith (Bar No. 458441)
Marimichael O. Skubel (Bar No. 294934)
Michael S. Becker (Bar No. 447432)
Bradford E. Biegon (Bar No. 453766)
Larissa Paule-Carres (Bar No. 467907)
KIRKLAND & ELLIS
655 15th Street, N.W.
Washington, D.C. 20005
(202) 879-5000 (tel.)
(202) 879-5200 (fax)

Counsel for Respondents,
MSC Software Corporation

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION


IN THE MATTER OF
MSC.SOFTWARE CORPORATION,
a corporation.

Docket No. 9299

**STATEMENT OF MARIMICHAEL O. SKUBEL, ESQ. PURSUANT
TO SECTION 3.22(F) OF THE CODE OF FEDERAL REGULATIONS**

I am a partner at the law firm of Kirkland & Ellis, 655 Fifteenth St., NW, Washington, D.C. 20005, counsel for Respondent MSC Software Corporation ("MSC") in the above captioned matter. I submit this statement pursuant Rule 3.22(f) of the Federal Trade Commission's Rules of Practice, 16 C.F.R. § 3.22(f), in connection with MSC's motion to quash the subpoenas dated November 26, 2001, and directed by the Federal Trade Commission ("FTC") to various MSC personnel. On the afternoon of November 26, 2001, the FTC served a series of Subpoenas *Duces Tecum* and *Ad Testificandum* on various MSC current and former employees and directors. Throughout the past week, counsel for MSC has conferred with the FTC in an effort in good faith to resolve by agreement the issues raised by the accompanying Motion To Quash, yet was unable to reach agreement. Specifically, I spoke with Karen Mills of the FTC on afternoons of November 27, 2001 and November 28, 2001 (Larissa Paule-Carres of Kirkland & Ellis was also present at this communication), and the evenings of November 29, 2001 and December 4, 2001.

Dated: December 5, 2001



Marimichael O. Skubel, Esq.

CERTIFICATE OF SERVICE

This is to certify that on Wednesday, December 5, 2001, I caused a copy of the attached Motion To Quash Subpoenas *Ad Testificandum* Served By Complaint Counsel in *MSC Software Corporation* to be sent via facsimile and served via hand-delivery upon the following persons:

The Honorable D. Michael Chappell
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Karen A. Mills
Federal Trade Commission
601 Pennsylvania Avenue, N.W.
Suite 3027
Washington, DC 20580



Larissa Paule-Carres

KIRKLAND & ELLIS
655 15th Street, NW
Washington, D.C. 20005
(202) 879-5000 (tel.)
(202) 879-5200 (fax)

Counsel for Respondents,
MSC Software Corporation



SUBPOENA AD TESTIFICANDUM

Issued Pursuant to Rule 3.34(a)(1), 16 C.F.R. § 3.34(a)(1) (1997)

1. TO

David Beer
MSC Software Corporation
2 MacArthur Place
Santa Ana, California 92707

2. FROM

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

This subpoena requires you to appear and give testimony, at the date and time specified in Item 5, at the request of Counsel listed in Item 8, in the proceeding described in Item 6.

3. PLACE OF HEARING

Suite 3001
Federal Trade Commission
601 Pennsylvania Avenue, NW
Washington, DC 20580

4. YOUR APPEARANCE WILL BE BEFORE

Karen A. Mills or other Complaint
Counsel

5. DATE AND TIME OF HEARING OR DEPOSITION

December 10, 2001, at 9:30 a.m.

6. SUBJECT OF PROCEEDING

In the matter of MSC Software Corporation, Docket No. 9299

7. ADMINISTRATIVE LAW JUDGE

The Honorable D. Michael Chappell

Federal Trade Commission
Washington, D.C. 20580

8. COUNSEL REQUESTING SUBPOENA

Karen A. Mills
Complaint Counsel
Federal Trade Commission
601 Pennsylvania Avenue, NW, Suite 3027
Washington, DC 20580

DATE ISSUED

NOV 23 2001

SECRETARY'S SIGNATURE

GENERAL INSTRUCTIONS

APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed with the Secretary of the Federal Trade Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 8, and upon all other parties prescribed by the Rules of Practice.

TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to Counsel listed in Item 8 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from Counsel listed in Item 8.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

RETURN OF SERVICE

I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)

- in person.*
- by registered mail.*
- by leaving copy at principal office or place of business, to wit:*

.....
.....
.....
.....

on the person named herein on:

.....
(Month, day, and year)

.....
(Name of person making service)

.....
(Official title)

CERTIFICATE OF SERVICE

This is to certify that on November 24, 2001, I caused a copy of the attached Subpoena *Ad Testificandum* Issued on Behalf of Complaint Counsel in *MSC.Software Corporation* to be sent by overnight express delivery for service on November 26, 2001, upon the following person:

David Beer
MSC.Software Corporation
2 MacArthur Place
Santa Ana, California 92707

This is to further certify that on November 26, 2001, I caused a copy of the attached Subpoena *Ad Testificandum* Issued on Behalf of Complaint Counsel in *MSC.Software Corporation* to be served by hand delivery upon the following person:

Marimichael O. Skubel, Esquire
KIRKLAND & ELLIS
655 Fifteenth Street, N.W.
Washington, D.C. 20005
(202) 879-5034
Facsimile (202) 879-5200

Counsel for MSC.Software Corporation



P. Abbott McCartney
Counsel Supporting the Complaint
Bureau of Competition
Federal Trade Commission
Washington, D.C. 20580
(202) 326-2695
Facsimile (202) 326-3496



SUBPOENA AD TESTIFICANDUM

Issued Pursuant to Rule 3.34(a)(1), 16 C.F.R. § 3.34(a)(1) (1997)

1. TO

Todd L. Brown
MSC Software Corporation
2 MacArthur Place
Santa Ana, California 92707

2. FROM

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

This subpoena requires you to appear and give testimony, at the date and time specified in Item 5, at the request of Counsel listed in Item 8, in the proceeding described in Item 6.

3. PLACE OF HEARING

Suite 3001
Federal Trade Commission
601 Pennsylvania Avenue, NW
Washington, DC 20580

4. YOUR APPEARANCE WILL BE BEFORE

Karen A. Mills or other
Complaint Counsel

5. DATE AND TIME OF HEARING OR DEPOSITION

December 12, 2001, at 9:30 a.m.

6. SUBJECT OF PROCEEDING

In the matter of MSC Software Corporation, Docket No. 9299

7. ADMINISTRATIVE LAW JUDGE

The Honorable D. Michael Chappell

Federal Trade Commission
Washington, D.C. 20580

8. COUNSEL REQUESTING SUBPOENA

Karen A. Mills
Complaint Counsel
Federal Trade Commission
601 Pennsylvania Avenue, NW, Suite 3027
Washington, DC 20580

DATE ISSUED

NOV 23 2001

SECRETARY'S SIGNATURE

GENERAL INSTRUCTIONS

APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed with the Secretary of the Federal Trade Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 8, and upon all other parties prescribed by the Rules of Practice.

TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to Counsel listed in Item 8 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from Counsel listed in Item 8.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

RETURN OF SERVICE

I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)

- in person.*
- by registered mail.*
- by leaving copy at principal office or place of business, to wit:*

.....
.....
.....
.....

on the person named herein on:

.....
(Month, day, and year)

.....
(Name of person making service)

.....
(Official title)

CERTIFICATE OF SERVICE

This is to certify that on November 24, 2001, I caused a copy of the attached Subpoena *Ad Testificandum* Issued on Behalf of Complaint Counsel in *MSC.Software Corporation* to be sent by overnight express delivery for service on November 26, 2001, upon the following person:

Todd L. Brown
MSC.Software Corporation
2 MacArthur Place
Santa Ana, California 92707

This is to further certify that on November 26, 2001, I caused a copy of the attached Subpoena *Ad Testificandum* Issued on Behalf of Complaint Counsel in *MSC.Software Corporation* to be served by hand delivery upon the following person:

Marimichael O. Skubel, Esquire
KIRKLAND & ELLIS
655 Fifteenth Street, N.W.
Washington, D.C. 20005
(202) 879-5034
Facsimile (202) 879-5200

Counsel for MSC.Software Corporation



P. Abbott McCartney
Counsel Supporting the Complaint
Bureau of Competition
Federal Trade Commission
Washington, D.C. 20580
(202) 326-2695
Facsimile (202) 326-3496



SUBPOENA AD TESTIFICANDUM

Issued Pursuant to Rule 3.34(a)(1), 16 C.F.R. § 3.34(a)(1) (1997)

1. TO

Thomas Cully
MSC Software Corporation
2 MacArthur Place
Santa Ana, California 92707

2. FROM

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

This subpoena requires you to appear and give testimony, at the date and time specified in Item 5, at the request of Counsel listed in Item 8, in the proceeding described in Item 6.

3. PLACE OF HEARING

Suite 3001
Federal Trade Commission
601 Pennsylvania Avenue, NW
Washington, DC 20580

4. YOUR APPEARANCE WILL BE BEFORE

Karen A. Mills or other Complaint
Counsel

5. DATE AND TIME OF HEARING OR DEPOSITION

December 17, 2001, at 9:30 a.m.

6. SUBJECT OF PROCEEDING

In the matter of MSC Software Corporation, Docket No. 9299

7. ADMINISTRATIVE LAW JUDGE

The Honorable D. Michael Chappell

Federal Trade Commission
Washington, D.C. 20580

8. COUNSEL REQUESTING SUBPOENA

Karen A. Mills
Complaint Counsel
Federal Trade Commission
601 Pennsylvania Avenue, NW, Suite 3027
Washington, DC 20580

DATE ISSUED

NOV 23 2001

SECRETARY'S SIGNATURE

GENERAL INSTRUCTIONS

APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed with the Secretary of the Federal Trade Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 8, and upon all other parties prescribed by the Rules of Practice.

TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to Counsel listed in Item 8 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from Counsel listed in Item 8.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

RETURN OF SERVICE

I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)

- in person.*
- by registered mail.*
- by leaving copy at principal office or place of business, to wit:*

.....
.....
.....

on the person named herein on:

.....
(Month, day, and year)

.....
(Name of person making service)

.....
(Official title)

CERTIFICATE OF SERVICE

This is to certify that on November 24, 2001, I caused a copy of the attached Subpoena *Ad Testificandum* Issued on Behalf of Complaint Counsel in *MSC Software Corporation* to be sent by overnight express delivery for service on November 26, 2001, upon the following person:

Thomas Cully
MSC Software Corporation
2 MacArthur Place
Santa Ana, California 92707

This is to further certify that on November 26, 2001, I caused a copy of the attached Subpoena *Ad Testificandum* Issued on Behalf of Complaint Counsel in *MSC Software Corporation* to be served by hand delivery upon the following person:

Marimichael O. Skubel, Esquire
KIRKLAND & ELLIS
655 Fifteenth Street, N.W.
Washington, D.C. 20005
(202) 879-5034
Facsimile (202) 879-5200

Counsel for MSC Software Corporation



P. Abbott McCartney
Counsel Supporting the Complaint
Bureau of Competition
Federal Trade Commission
Washington, D.C. 20580
(202) 326-2695
Facsimile (202) 326-3496



SUBPOENA AD TESTIFICANDUM

Issued Pursuant to Rule 3.34(a)(1), 16 C.F.R. § 3.34(a)(1) (1997)

1. TO
Thomas C. Curry
LMS International
Suite 102
15061 Springdale Street
Huntington Beach, California 92649

2. FROM

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

This subpoena requires you to appear and give testimony, at the date and time specified in Item 5, at the request of Counsel listed in Item 8, in the proceeding described in Item 6.

3. PLACE OF HEARING

Suite 3001
Federal Trade Commission
601 Pennsylvania Avenue, NW
Washington, DC 20580

4. YOUR APPEARANCE WILL BE BEFORE
Karen A. Mills or other Complaint
Counsel

5. DATE AND TIME OF HEARING OR DEPOSITION
December 5, 2001, at 9:30 a.m.

6. SUBJECT OF PROCEEDING

In the matter of MSC Software Corporation, Docket No. 9299

7. ADMINISTRATIVE LAW JUDGE

The Honorable D. Michael Chappell

Federal Trade Commission
Washington, D.C. 20580

8. COUNSEL REQUESTING SUBPOENA

Karen A. Mills
Complaint Counsel
Federal Trade Commission
601 Pennsylvania Avenue, NW, Suite 3027
Washington, DC 20580

DATE ISSUED

NOV 23 2001

SECRETARY'S SIGNATURE

GENERAL INSTRUCTIONS

APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed with the Secretary of the Federal Trade Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 8, and upon all other parties prescribed by the Rules of Practice.

TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to Counsel listed in Item 8 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from Counsel listed in Item 8.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

RETURN OF SERVICE

I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)

- in person.*
- by registered mail.*
- by leaving copy at principal office or place of business, to wit:*

.....
.....
.....
.....

on the person named herein on:

.....
(Month, day, and year)

.....
(Name of person making service)

.....
(Official title)

CERTIFICATE OF SERVICE

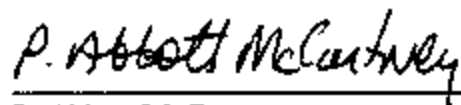
This is to certify that on November 24, 2001, I caused a copy of the attached Subpoena *Ad Testificandum* Issued on Behalf of Complaint Counsel in *MSC Software Corporation* to be sent by overnight express delivery for service on November 26, 2001, upon the following person:

Thomas C. Curry
LMS International
Suite 102
15061 Springdale Street
Huntington Beach, California 92649

This is to further certify that on November 26, 2001, I caused a copy of the attached Subpoena *Ad Testificandum* Issued on Behalf of Complaint Counsel in *MSC Software Corporation* to be served by hand delivery upon the following person:

Marimichael O. Skubel, Esquire
KIRKLAND & ELLIS
655 Fifteenth Street, N.W.
Washington, D.C. 20005
(202) 879-5034
Facsimile (202) 879-5200

Counsel for *MSC Software Corporation*



P. Abbott McCartney
Counsel Supporting the Complaint
Bureau of Competition
Federal Trade Commission
Washington, D.C. 20580
(202) 326-2695
Facsimile (202) 326-3496



SUBPOENA AD TESTIFICANDUM

Issued Pursuant to Rule 3.34(a)(1), 16 C.F.R. § 3.34(a)(1) (1997)

1. TO

Bruce Hart
MSC Software Corporation
2 MacArthur Place
Santa Ana, California 92707

2. FROM

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

This subpoena requires you to appear and give testimony, at the date and time specified in Item 5, at the request of Counsel listed in Item 8, in the proceeding described in Item 6.

3. PLACE OF HEARING

Suite 3001
Federal Trade Commission
601 Pennsylvania Avenue, NW
Washington, DC 20580

4. YOUR APPEARANCE WILL BE BEFORE

Karen A. Mills or other
Complaint Counsel

5. DATE AND TIME OF HEARING OR DEPOSITION

December 18, 2001, at 9:30 a.m.

6. SUBJECT OF PROCEEDING

In the matter of MSC Software Corporation, Docket No. 9299

7. ADMINISTRATIVE LAW JUDGE

The Honorable D. Michael Chappell

Federal Trade Commission
Washington, D.C. 20580

8. COUNSEL REQUESTING SUBPOENA

Karen A. Mills
Complaint Counsel
Federal Trade Commission
601 Pennsylvania Avenue, NW, Suite 3027
Washington, DC 20580

DATE ISSUED

NOV 23 2001

SECRETARY'S SIGNATURE

GENERAL INSTRUCTIONS

APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed with the Secretary of the Federal Trade Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 8, and upon all other parties prescribed by the Rules of Practice.

TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to Counsel listed in Item 8 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from Counsel listed in Item 8.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

RETURN OF SERVICE

I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)

- in person.*
- by registered mail.*
- by leaving copy at principal office or place of business, to wit:*

.....
.....
.....

on the person named herein on:

.....
(Month, day, and year)

.....
(Name of person making service)

.....
(Official title)

CERTIFICATE OF SERVICE

This is to certify that on November 24, 2001, I caused a copy of the attached Subpoena *Ad Testificandum* Issued on Behalf of Complaint Counsel in *MSC Software Corporation* to be sent by overnight express delivery for service on November 26, 2001, upon the following person:

Bruce Hart
MSC Software Corporation
2 MacArthur Place
Santa Ana, California 92707

This is to further certify that on November 26, 2001, I caused a copy of the attached Subpoena *Ad Testificandum* Issued on Behalf of Complaint Counsel in *MSC Software Corporation* to be served by hand delivery upon the following person:

Marimichael O. Skubel, Esquire
KIRKLAND & ELLIS
655 Fifteenth Street, N.W.
Washington, D.C. 20005
(202) 879-5034
Facsimile (202) 879-5200

Counsel for MSC Software Corporation



P. Abbott McCartney
Counsel Supporting the Complaint
Bureau of Competition
Federal Trade Commission
Washington, D.C. 20580
(202) 326-2695
Facsimile (202) 326-3496



SUBPOENA AD TESTIFICANDUM
Issued Pursuant to Rule 3.34(a)(1), 16 C.F.R. § 3.34(a)(1) (1997)

1. TO
 Edward Jones
 MSC Software Corporation
 2 MacArthur Place
 Santa Ana, California 92707

2. FROM
 UNITED STATES OF AMERICA
 FEDERAL TRADE COMMISSION

This subpoena requires you to appear and give testimony, at the date and time specified in Item 5, at the request of Counsel listed in Item 8, in the proceeding described in Item 6.

3. PLACE OF HEARING
 Suite 3001
 Federal Trade Commission
 601 Pennsylvania Avenue, NW
 Washington, DC 20580

4. YOUR APPEARANCE WILL BE BEFORE
 Karen A. Mills or other
 Complaint Counsel
 5. DATE AND TIME OF HEARING OR DEPOSITION
 December 13, 2001, at 9:30 a.m.

6. SUBJECT OF PROCEEDING
 In the matter of MSC Software Corporation, Docket No. 9299

7. ADMINISTRATIVE LAW JUDGE
 The Honorable D. Michael Chappell
 Federal Trade Commission
 Washington, D.C. 20580

8. COUNSEL REQUESTING SUBPOENA
 Karen A. Mills
 Complaint Counsel
 Federal Trade Commission
 601 Pennsylvania Avenue, NW, Suite 3027
 Washington, DC 20580

DATE ISSUED
 NOV 23 2001

SECRETARY'S SIGNATURE

GENERAL INSTRUCTIONS

APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed with the Secretary of the Federal Trade Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 8, and upon all other parties prescribed by the Rules of Practice.

TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to Counsel listed in Item 8 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from Counsel listed in Item 8.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

RETURN OF SERVICE

I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)

- in person.*
- by registered mail.*
- by leaving copy at principal office or place of business, to wit:*

.....
.....
.....
.....

on the person named herein on:

.....
(Month, day, and year)

.....
(Name of person making service)

.....
(Official title)

CERTIFICATE OF SERVICE

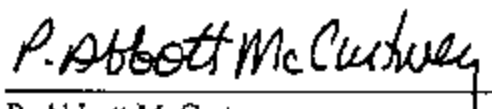
This is to certify that on November 24, 2001, I caused a copy of the attached Subpoena *Ad Testificandum* Issued on Behalf of Complaint Counsel in *MSC.Software Corporation* to be sent by overnight express delivery for service on November 26, 2001, upon the following person:

Edward Jones
MSC.Software Corporation
2 MacArthur Place
Santa Ana, California 92707

This is to further certify that on November 26, 2001, I caused a copy of the attached Subpoena *Ad Testificandum* Issued on Behalf of Complaint Counsel in *MSC.Software Corporation* to be served by hand delivery upon the following person:

Marimichael O. Skubel, Esquire
KIRKLAND & ELLIS
655 Fifteenth Street, N.W.
Washington, D.C. 20005
(202) 879-5034
Facsimile (202) 879-5200

Counsel for MSC.Software Corporation



P. Abbott McCartney
Counsel Supporting the Complaint
Bureau of Competition
Federal Trade Commission
Washington, D.C. 20580
(202) 326-2695
Facsimile (202) 326-3496



SUBPOENA AD TESTIFICANDUM
Issued Pursuant to Rule 3.34(a)(1), 16 C.F.R. § 3.34(a)(1) (1997)

<p>1. TO</p> <p>Robert E. Louwers MSC Software Corporation 2 MacArthur Place Santa Ana, California 92707</p>	<p>2. FROM</p> <p align="center">UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION</p>
---	---

This subpoena requires you to appear and give testimony, at the date and time specified in Item 5, at the request of Counsel listed in Item 8, in the proceeding described in Item 6.

<p>3. PLACE OF HEARING</p> <p>Suite 3001 Federal Trade Commission 601 Pennsylvania Avenue, NW Washington, DC 20580</p>	<p>4. YOUR APPEARANCE WILL BE BEFORE</p> <p align="center">Karen A. Mills or other Complaint Counsel</p> <hr/> <p>5. DATE AND TIME OF HEARING OR DEPOSITION</p> <p align="center">December 11, 2001, at 9:30 a.m.</p>
---	--

6. SUBJECT OF PROCEEDING

In the matter of MSC Software Corporation, Docket No. 9299

<p>7. ADMINISTRATIVE LAW JUDGE</p> <p>The Honorable D. Michael Chappell</p> <p align="center">Federal Trade Commission Washington, D.C. 20580</p>	<p>8. COUNSEL REQUESTING SUBPOENA</p> <p align="center">Karen A. Mills Complaint Counsel Federal Trade Commission 601 Pennsylvania Avenue, NW, Suite 3027 Washington, DC 20580</p>
--	--

DATE ISSUED

NOV 23 2001

SECRETARY'S SIGNATURE

Richard I. Berens

GENERAL INSTRUCTIONS

APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed with the Secretary of the Federal Trade Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 8, and upon all other parties prescribed by the Rules of Practice.

TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to Counsel listed in Item 8 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from Counsel listed in Item 8.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

RETURN OF SERVICE

I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)

- in person.*
- by registered mail.*
- by leaving copy at principal office or place of business, to wit:*

.....
.....
.....

on the person named herein on:

.....
(Month, day, and year)

.....
(Name of person making service)

.....
(Official title)

CERTIFICATE OF SERVICE

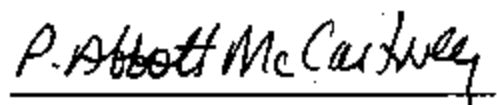
This is to certify that on November 24, 2001, I caused a copy of the attached Subpoena *Ad Testificandum* Issued on Behalf of Complaint Counsel in *MSC Software Corporation* to be sent by overnight express delivery for service on November 26, 2001, upon the following person:

Robert E. Louwers
MSC Software Corporation
2 MacArthur Place
Santa Ana, California 92707

This is to further certify that on November 26, 2001, I caused a copy of the attached Subpoena *Ad Testificandum* Issued on Behalf of Complaint Counsel in *MSC Software Corporation* to be served by hand delivery upon the following person:

Marimichael O. Skubel, Esquire
KIRKLAND & ELLIS
655 Fifteenth Street, N.W.
Washington, D.C. 20005
(202) 879-5034
Facsimile (202) 879-5200

Counsel for MSC Software Corporation



P. Abbott McCartney
Counsel Supporting the Complaint
Bureau of Competition
Federal Trade Commission
Washington, D.C. 20580
(202) 326-2695
Facsimile (202) 326-3496



SUBPOENA AD TESTIFICANDUM

Issued Pursuant to Rule 3.34(a)(1), 16 C.F.R. § 3.34(a)(1) (1997)

1. TO
George N. Riordan
MSC Software Corporation
2 MacArthur Place
Santa Ana, California 92707

2. FROM

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

This subpoena requires you to appear and give testimony, at the date and time specified in Item 5, at the request of Counsel listed in Item 8, in the proceeding described in Item 6.

3. PLACE OF HEARING

Suite 3001
Federal Trade Commission
601 Pennsylvania Avenue, NW
Washington, DC 20580

4. YOUR APPEARANCE WILL BE BEFORE
Karen A. Mills or other
Complaint Counsel

5. DATE AND TIME OF HEARING OR DEPOSITION
December 6, 2001, at 9:30 a.m.

6. SUBJECT OF PROCEEDING

In the matter of MSC Software Corporation, Docket No. 9299

7. ADMINISTRATIVE LAW JUDGE

The Honorable D. Michael Chappell

Federal Trade Commission
Washington, D.C. 20580

8. COUNSEL REQUESTING SUBPOENA

Karen A. Mills
Complaint Counsel
Federal Trade Commission
601 Pennsylvania Avenue, NW, Suite 3027
Washington, DC 20580

DATE ISSUED
NOV 23 2001

SECRETARY'S SIGNATURE

GENERAL INSTRUCTIONS

APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed with the Secretary of the Federal Trade Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 8, and upon all other parties prescribed by the Rules of Practice.

TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to Counsel listed in Item 8 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from Counsel listed in Item 8.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

RETURN OF SERVICE

I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)

- in person.*
- by registered mail.*
- by leaving copy at principal office or place of business, to wit:*

.....
.....
.....
.....

on the person named herein on:

.....
(Month, day, and year)

.....
(Name of person making service)

.....
(Official title)

CERTIFICATE OF SERVICE

This is to certify that on November 24, 2001, I caused a copy of the attached Subpoena *Ad Testificandum* Issued on Behalf of Complaint Counsel in *MSC.Software Corporation* to be sent by overnight express delivery for service on November 26, 2001, upon the following person:

George N. Riordan
MSC.Software Corporation
2 MacArthur Place
Santa Ana, California 92707

This is to further certify that on November 26, 2001, I caused a copy of the attached Subpoena *Ad Testificandum* Issued on Behalf of Complaint Counsel in *MSC.Software Corporation* to be served by hand delivery upon the following person:

Marimichael O. Skubel, Esquire
KIRKLAND & ELLIS
655 Fifteenth Street, N.W.
Washington, D.C. 20005
(202) 879-5034
Facsimile (202) 879-5200

Counsel for MSC.Software Corporation



P. Abbott McCartney
Counsel Supporting the Complaint
Bureau of Competition
Federal Trade Commission
Washington, D.C. 20580
(202) 326-2695
Facsimile (202) 326-3496