

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION



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

Docket No. 9299

**THIRD-PARTY ANSYS, INC.'S APPLICATION FOR *IN CAMERA*  
TREATMENT OF CERTAIN TRIAL EXHIBITS SOUGHT TO BE  
INTRODUCED BY RESPONDENT AND/OR COMPLAINT COUNSEL**

Third party, ANSYS, Inc. ("ANSYS") moves, pursuant to Rule 3.45(b) of the Federal Trade Commission's Rules of Practice ("Rules"), for *in camera* treatment of certain ANSYS documents sought to be introduced as trial exhibits in this matter by Respondent, MSC.SOFTWARE Corporation ("MSC") and/or Complaint Counsel.

**I. BACKGROUND**

ANSYS is a third party witness. In connection with this matter, ANSYS has received from MSC two subpoenas for documents and six subpoenas for testimony from its employees. As a result, ANSYS has produced over 16,000 pages of documents and ANSYS employees have given over four days of testimony.<sup>1</sup>

On May 28, 2002, ANSYS received notices from MSC and Complaint Counsel identifying certain ANSYS documents that MSC and Complaint Counsel intend to introduce as

<sup>1</sup> Every deposition significantly exceeded the seven hours customarily allotted for depositions. A fifth deposition of James E. Cashman, III, ANSYS's CEO and President, is pending.

trial exhibits in this matter.<sup>2</sup> Complaint Counsel supplemented its list on May 29 to include certain deposition testimony and again on June 10 to include certain data.<sup>3</sup>

## II. STANDARDS FOR *IN CAMERA* TREATMENT

Under the standards set forth in Rule 3.45(b), material is entitled to *in camera* protection upon a showing that “public disclosure will likely result in a clearly defined, serious injury” to the party requesting such treatment. 16 C.F.R. §3.45(b). See also H.P. Hood & Sons, Inc., 58 F.T.C. 1184 (1961). The likely loss of business advantage is a clearly defined, serious injury. See In re Hoechst Marion Roussel, Inc., 2000 F.T.C. LEXIS 138, \*6 (2000). Further, a serious injury will result to an applicant where the material is (i) secret, (ii) material to the applicant’s business and (iii) public disclosure will plausibly discourage future development of similar information. See In re Bristol-Myers Co., 90 F.T.C. 455, 456 (1977).

Six factors are weighed in considering the “secrecy and materiality” of information for which *in camera* treatment is sought:

(1) the extent to which the information is known outside of his business; (2) the extent to which it is known by employees and others involved in his business; (3) the extent of measures taken by him to guard the secrecy of the information; (4) the value of the information to him and to his competitors; (5) the amount of effort or money expended by him in developing the information; (6) the ease or difficulty with which the information could be properly acquired or duplicated by others.

Id. (citing Restatement of Torts § 757, comment b).

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<sup>2</sup> Attached hereto as Exhibits 1 and 2, respectively.

<sup>3</sup> Attached hereto as Exhibits 3 and 4, respectively.

### III. REASONS FOR *IN CAMERA* TREATMENT

As established in the attached Declaration of David S. Secunda<sup>4</sup> (“Secunda Decl.”), the above factors weigh heavily in favor of affording *in camera* protection to a number of the documents sought to be introduced by MSC and Complaint Counsel. These documents are identified in Mr. Secunda’s Declaration.

All of the materials identified in Mr. Secunda’s Declaration meet the standard for *in camera* protection because they are not public and are material to ANSYS’s business. Moreover, the information contained in the documents is not of a type known outside of ANSYS (or, in limited circumstances, its business partners) and is distributed within ANSYS (or, in limited circumstances, its business partners) on a limited basis. ANSYS has taken significant steps to safeguard the secrecy of this information, including limiting distribution within ANSYS. Moreover, the materials could not be duplicated by ANSYS’s competitors since they are based on sensitive, proprietary information. The information contained in these materials would be of significant value to ANSYS’s competitors. Public disclosure of these materials would result in a loss of ANSYS’s business advantage. See Secunda Decl. at ¶ 5.

Consistent with the Rule 3.45, ANSYS has divided the documents for which it seeks protection into two categories. Attachment A to Mr. Secunda’s Declaration lists documents for which ANSYS seeks *in camera* protection until a date certain (typically three years).<sup>5</sup> Attachment B to Mr. Secunda’s Declaration lists a limited number of documents for which ANSYS seeks indefinite *in camera* protection.<sup>6</sup> Mr. Secunda’s declaration, including the attachments thereto, sets forth specific reasons why indefinite *in camera* protection is appropriate for these documents, including:

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<sup>4</sup> Attached hereto as Exhibit 5.

<sup>5</sup> As contemplated in In re Hoechst Marion Roussel, 2000 F.T.C. LEXIS 138 at \*9, copies of these documents have been served under seal on the office of the Administrative Law Judge but not the parties.

<sup>6</sup> As contemplated in In re Hoechst Marion Roussel, 2000 F.T.C. LEXIS 138 at \*9, copies of these documents have been served under seal on the office of the Administrative Law Judge but not the parties.

- They reveal ANSYS's long-term product marketing strategies, which strategies are not likely to diminish in competitive significance for the foreseeable future ("Long Term Marketing Strategy").
- They reveal ANSYS's long-term product development strategies, which strategies are not likely to diminish in competitive significance for the foreseeable future ("Long Term Product Strategy").
- They deal with products that are in development (or which have been in development in the past and may be revived) ("Product in Development"). Public disclosure of this information would give competitors the benefit of ANSYS's past investments.
- They set forth sensitive information, including strategies and formulae used to evaluate business opportunities, the significance of which are not likely to diminish in the foreseeable future ("Long Term Business Opportunity Evaluation"). Public disclosure of this information would compromise ANSYS's negotiating position in future business opportunities.
- They deal with customers' expectations and needs, the significance of which are not likely to diminish for the foreseeable future ("Long Term Customer Needs").

See Secunda Decl. at ¶ 4. These reasons satisfy the requirements of Rule 3.45.

#### **IV. CONCLUSION**

For all of the foregoing reasons, ANSYS respectfully requests an Order in the attached form, extending *in camera* treatment to certain ANSYS documents sought to be introduced as trial exhibits by respondent, MSC and/or Complaint Counsel.

Respectfully submitted,  
KIRKPATRICK & LOCKHART LLP



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Thomas A. Donovan, Pa. I.D. No. 20314  
Joseph C. Safar, Pa. I.D. No. 78205

Henry W. Oliver Building  
535 Smithfield Street  
Pittsburgh, PA 15222  
Telephone: (412) 355-6500  
Facsimile: (412) 355-6501

Counsel for ANSYS, Inc.

Dated: June 11, 2002

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

_____	)	
IN THE MATTER OF	)	
	)	
MSC.SOFTWARE CORPORATION,	)	Docket No. 9299
	)	
a corporation	)	
	)	
_____	)	

**ORDER**

AND NOW, this \_\_\_ day of \_\_\_\_\_, 2002, upon consideration of Third Party ANSYS Inc.'s Application for *In Camera* Treatment of Certain Trial Exhibits Sought to be Introduced by Respondent and Complaint Counsel it is hereby ORDERED that said application is GRANTED. For the reasons set forth in the Declaration of David S. Secunda in Support of ANSYS Inc.'s Application for *In Camera* Treatment of Certain Trial Exhibits Sought to be Introduced by Respondent and Complaint Counsel ("Secunda Declaration"), it is further ORDERED:

1. That the documents identified in Exhibit A to the Secunda Declaration (a copy of which is attached hereto) are afforded *in camera* treatment until the corresponding date stated therein; and
2. That the documents identified in Exhibit B to the Secunda Declaration (a copy of which is attached hereto) are afforded indefinite *in camera* treatment for the reasons set forth therein.

\_\_\_\_\_  
D. Michael Chappell  
Administrative Law Judge

**In Re MSC SOFTWARE Corporation (FTC Docket No. 9299)**

**Exhibit A to Declaration of David S. Secunda**

BATES RANGE	DATE SOUGHT
ANSYS 00764 – ANSYS 00773	05/07/04
ANSYS 00810 – ANSYS 00811	03/23/04
ANSYS 00833 – ANSYS 00834	02/07/04
ANSYS 00860 – ANSYS 00863	09/14/04
ANSYS 01415	01/06/03
ANSYS 01416	09/05/03
ANSYS 01417 – ANSYS 01419	09/25/03
ANSYS 01420	06/06/04
ANSYS 01421	04/03/04
ANSYS 01422	07/18/03
ANSYS 01423	09/19/03
ANSYS 01429 – ANSYS 01432	10/30/02
ANSYS 01565 – ANSYS 01575	06/30/05
ANSYS 01875	01/07/05
ANSYS 01877	01/07/05
ANSYS 01889 – ANSYS 01897	06/30/05
ANSYS 02283 – ANSYS 02291	01/10/04
ANSYS 03161 – ANSYS 03170	05/07/04
ANSYS 03231 – ANSYS 03233	05/04/04
ANSYS 03363 – ANSYS 03375	12/31/04
ANSYS 04543 – ANSYS 04556	09/11/03
ANSYS 05154	06/30/05
ANSYS 05411 – ANSYS 05412	03/30/03

BATES RANGE	DATE SOUGHT
ANSYS 05485 – ANSYS 05493	06/30/05
ANSYS 05596 – ANSYS 05598	01/22/05
ANSYS 05623 – ANSYS 05624	06/30/05
ANSYS 05640	06/30/05
ANSYS 06375	06/30/05
ANSYS 06985	07/17/03
ANSYS 06989 – ANSYS 06993	05/26/03
ANSYS 07038 – ANSYS 07039	09/19/03
ANSYS 07195 – ANSYS 07210	06/30/05
ANSYS 08275	12/04/04
ANSYS 08277 – ANSYS 08292	11/20/04
ANSYS 08297 – ANSYS 08300	11/28/04
ANSYS 08312 – ANSYS 08316	12/05/04
ANSYS 08321 – ANSYS 08322	11/14/04
ANSYS 08329 – ANSYS 08363	10/01/04
ANSYS 08422 – ANSYS 08423	12/05/04
ANSYS 08428	12/13/04
ANSYS 08433	11/26/04
ANSYS 08758 – ANSYS 08762	10/22/04
ANSYS 08770 – ANSYS 08773	10/15/04
ANSYS 08790 – ANSYS 08792	09/19/04
ANSYS 08971	12/19/04
ANSYS 09059 – ANSYS 09060	04/19/01
ANSYS 09150 – ANSYS 09151	09/05/03
ANSYS 09152 – ANSYS 09153	09/05/03



BATES RANGE	DATE SOUGHT
ANSYS 09154 – ANSYS 09155	10/15/04
ANSYS 09175 – ANSYS 09177	09/06/03
ANSYS 09204 – ANSYS 09205	01/12/04
ANSYS 09224	09/12/03
ANSYS 09251 – ANSYS 09289	10/30/04
ANSYS 09756 – ANSYS 09774	06/30/05
ANSYS 11273	10/05/04
ANSYS 11300	04/10/04
ANSYS 11338	01/23/04
ANSYS 11339	01/22/04
ANSYS 11379 ANSYS 11380	11/04/03
ANSYS 11401	09/29/03
ANSYS 11409	01/21/03
ANSYS 11429	07/17/03
ANSYS 11465	01/05/04
ANSYS 12557 ANSYS 12568	10/15/04
ANSYS 12763 – ANSYS 12765	02/06/04
ANSYS 12822 – ANSYS 12823	07/30/04
ANSYS 12891 ANSYS 12893	02/22/04
ANSYS 13013 ANSYS 13015	12/15/03
ANSYS 13027 – ANSYS 13045	11/07/04
ANSYS 13075	12/26/04
ANSYS 13076 – ANSYS 13077	06/21/04
ANSYS 13586 – ANSYS 13591	02/06/04
ANSYS 13612 – ANSYS 13613	10/22/04

BATES RANGE	DATE SOUGHT
ANSYS 13623 – ANSYS 13628	02/01/04
ANSYS 13886 – ANSYS 13888	11/30/04
ANSYS 13934 – ANSYS 13949	11/30/04
ANSYS 13958 – ANSYS 13963	03/19/05
ANSYS 14069 – ANSYS 14070	04/11/03
ANSYS 14073	05/24/03
ANSYS 14486	08/31/04
ANSYS 14487 – ANSYS 14488	12/12/04
ANSYS 14492	02/19/05
ANSYS 15575 – ANSYS 15591	12/12/04
ANSYS 16032 – ANSYS 16033	10/04/04
ANSYS 16090 – ANSYS 16117	05/23/04

**In Re MSC.SOFTWARE Corporation (FTC Docket No. 9299)**

**Exhibit B to Declaration of David S. Secunda**

BATES RANGE	REASON
ANSYS 00676 – ANSYS 00688	Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 00816 ANSYS 00817	Product in Development
ANSYS 00818 – ANSYS 00823	Product in Development
ANSYS 00825 – ANSYS 00839	Product in Development
ANSYS 00857 - ANSYS 00859	Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 00924 – ANSYS 01012	Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 01094 – ANSYS 01095	Long Term Business Opportunity Evaluation
ANSYS 01096 – ANSYS 01098	Long Term Business Opportunity Evaluation; Long Term Product Development
ANSYS 01099 ANSYS 01146	Products in Development; Long Term Product Strategy
ANSYS 01424 – ANSYS 01426	Product in Development; Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 01443 – ANSYS 01466	Long Term Marketing Strategy
ANSYS 01467 - ANSYS 01558	Long Term Marketing Strategy
ANSYS 01586 – ANSYS 01588	Long Term Customer Needs
ANSYS 01912 – ANSYS 01925	Long Term Customer Needs
ANSYS 02267; ANSYS 02271; ANSYS 02281-ANSYS 02282	Long Term Business Opportunity Evaluation
ANSYS 02292 – ANSYS 02296	Long Term Business Opportunity Evaluation
ANSYS 03029 – ANSYS 03036	Product in Development; Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 03143 – ANSYS 03151	Product in Development
ANSYS 03158	Long Term Customer Needs
ANSYS 03255 – ANSYS 03256	Product in Development
ANSYS 03576 – ANSYS 03583	Product in Development; Long Term Marketing Strategy

BATES RANGE	REASON
ANSYS 03587	Long Term Business Opportunity Evaluation
ANSYS 03596	Long Term Business Opportunity Evaluation
ANSYS 03651 – ANSYS 03653	Long Term Business Opportunity Evaluation
ANSYS 03661 – ANSYS 03669	Long Term Business Opportunity Evaluation
ANSYS 03753 – ANSYS 03761	Long Term Marketing Strategy; Long Term Product Strategy; Product in Development
ANSYS 03762 – ANSYS 03765	Long Term Business Opportunity Evaluation
ANSYS 03766 – ANSYS 03770	Long Term Business Opportunity Evaluation
ANSYS 04458 – ANSYS 04499	Long Term Marketing Strategy
ANSYS 04896 – ANSYS 04962	Long Term Marketing Strategy
ANSYS 04963 – ANSYS 05030	Long Term Marketing Strategy
ANSYS 06134 – ANSYS 06198	Long Term Product Strategy
ANSYS 06584 – ANSYS 06605	Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 06606 – ANSYS 06609	Product in Development
ANSYS 06610 – ANSYS 06637	Long Term Marketing Strategy
ANSYS 06747 – ANSYS 06774	Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 06788 – ANSYS 06806	Long Term Marketing Strategy
ANSYS 06842 – ANSYS 06849	Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 07047 – ANSYS 07050	Long Term Customer Needs
ANSYS 07244 – ANSYS 07252	Long Term Customer Needs; Long Term Marketing Strategy
ANSYS 08326 – ANSYS 08328	Long Term Marketing Strategy; Product in Development
ANSYS 08749 – ANSYS 08750	Long Term Customer Needs
ANSYS 08793 – ANSYS 08795	Long Term Business Opportunity Evaluation
ANSYS 08802 – ANSYS 08804	Long Term Business Opportunity Evaluation
ANSYS 09202 – ANSYS 09203	Long Term Business Opportunity Evaluation
ANSYS 09685 – ANSYS 09755	Long Term Marketing Strategy; Long Term Product Strategy

BATES RANGE	REASON
ANSYS 10433 - ANSYS 10854	Long Term Marketing Strategy
ANSYS 11330	Long Term Marketing Strategy
ANSYS 11331 - ANSYS 11332	Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 11349 - ANSYS 11350	Long Term Marketing Strategy; Long Term Product Strategy; Long Term Customer Needs
ANSYS 11436 - ANSYS 11439	Long Term Product Strategy
ANSYS 11459 - ANSYS 11460	Product in Development; Long Term Product Strategy
ANSYS 11501 ANSYS 11502	Long Term Marketing Strategy
ANSYS 11505 - ANSYS 11508	Long Term Marketing Strategy
ANSYS 11519 - ANSYS 11520	Long Term Product Strategy
ANSYS 12107 - ANSYS 12129	Product in Development; Long Term Product Strategy
ANSYS 12181 ANSYS 12200	Long Term Product Strategy
ANSYS 12201 - ANSYS 12230	Long Term Product Strategy
ANSYS 12581 ANSYS 12600	May compromise certain customer relationships
ANSYS 12639 - ANSYS 12762	Long Term Business Opportunity Evaluation
ANSYS 12814 ANSYS 12821	Long Term Business Opportunity Evaluation
ANSYS 12825 - ANSYS 12828	Product in Development; Long Term Product Strategy
ANSYS 12829	Product in Development; Long Term Marketing Strategy
ANSYS 12854 - ANSYS 12860	Long Term Business Opportunity Evaluation
ANSYS 12861 ANSYS 12867	Long Term Business Opportunity Evaluation
ANSYS 12868 ANSYS 12872	Long Term Business Opportunity Evaluation
ANSYS 12873 ANSYS 12877	Long Term Business Opportunity Evaluation
ANSYS 12878	Long Term Business Opportunity Evaluation
ANSYS 12879	Long Term Business Opportunity Evaluation
ANSYS 13046 - ANSYS 13054	Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 13056	Long Term Business Opportunity Development

BATES RANGE	REASON
ANSYS 13067 – ANSYS 13071	Long Term Business Opportunity Development
ANSYS 13306	Product in Development; Long Term Business Opportunity Evaluation; Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 13569 – ANSYS 13570	Long Term Business Opportunity Evaluation
ANSYS 13847 – ANSYS 13868	Long Term Business Opportunity Evaluation
ANSYS 14470 – ANSYS 14471	Long Term Customer Needs
ANSYS 14493 – ANSYS 14518	Product in Development; Long Term Product Strategy
ANSYS 14520-ANSYS 15574 (CD No. ANSYS 16671)	Proprietary Revenue Data Affecting Long Term Marketing Strategy and Long Term Product Strategy
ANSYS 15607 – ANSYS 15620	Product in Development; Long Term Product Strategy
ANSYS 15625 – ANSYS 15646	Product in Development; Long Term Product Strategy
ANSYS 15977	Product in Development



# KIRKLAND & ELLIS

PARTNERSHIPS INCLUDING PROFESSIONAL CORPORATIONS

855 Fifteenth Street, N.W.  
Washington, D.C. 20005

202 879-5000

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202 879-5200

To Call Writer Directly:  
(202) 879-5172  
onlin\_kass@dc.kirkland.com

May 28, 2002

VIA Facsimile

Thomas A. Donovan  
Kilpatrick & Lockhart LLP  
535 Smithfield Street  
Pittsburgh, PA 15222-2312

Re: In the Matter of MSC Software  
Docket No. 9299

Dear Mr. Donovan:

Pursuant to the Court's Scheduling Order, this letter is to provide notice that MSC Software intends to introduce into evidence in the above-captioned matter the following documents: ANSYS 09178 - 09179; ANSYS 01433 - 01442; ANSYS 11512 - 11514; ANSYS 01420 - 01420; ANSYS 01416 - 01416; ANSYS 03587 - 03589; ANSYS 03039; ANSYS 11501 - 11502; ANSYS 04896 - 04962; ANSYS 03651 - 03653; ANSYS 01417 - 01419; ANSYS 06989 - 06993; ANSYS 12814 - 12821; ANSYS 01587 - 01588; ANSYS 03161 - 03170; ANSYS 00676 - 00688; ANSYS 11505 - 11508; ANSYS 09202 - 09203; ANSYS 01415 - 01415; ANSYS 01565 - 01575; ANSYS 11459 - 11460; ANSYS 07095 - 07099; ANSYS 12873 - 12877; ANSYS 09175 - 09177; ANSYS 11550 - 11553; ANSYS 12557 - 12568; ANSYS 08275; ANSYS 03042 - 03065; ANSYS 08326 - 08328; ANSYS 01427 - 01428; ANSYS 12825 - 12828; ANSYS 16518 - 16557; ANSYS 01429 - 01432; ANSYS 09224; ANSYS 02292 - 02296; ANSYS 16032 - 16033; ANSYS 15625 - 15646; ANSYS 00860 - 00863; ANSYS 11379 - 11380; ANSYS 13076 - 13077; ANSYS 00825 - 00839; ANSYS 14486; ANSYS 09756 - 09774; ANSYS 14493 - 14518; ANSYS 13969 - 13970; ANSYS 14073; ANSYS 05623 - 05624; ANSYS 13995 - 13997; ANSYS 01443 - 01466; ANSYS 08749 - 08750; ANSYS 01269 - 01311; ANSYS 06747 - 06774; ANSYS 07442 - 07456; ANSYS 07043; ANSYS 03363 - 03375; ANSYS 05485 - 05493; ANSYS 12581 - 12600; ANSYS 11331 - 11332; ANSYS 04458 - 04499; ANSYS 08971; ANSYS 08793 - 08795; ANSYS 03063 - 03064; ANSYS 03842; ANSYS 00816 - 00817; ANSYS 12201 - 12230; ANSYS 01100 - 01104; ANSYS 01099 - 01145; ANSYS 07896; ANSYS 06584 - 06605; ANSYS 01423 - 01423; ANSYS 13013 - 13014; ANSYS 03805 - 03816; ANSYS 09318 - 09319; ANSYS 13992 - 13994; ANSYS 01889 - 01897; ANSYS 08277 - 08292; ANSYS 09251 - 09289; ANSYS 10433 - 10854; ANSYS 11349 - 11350; ANSYS 13979 - 13980; ANSYS 15575 - 15591; ANSYS 14492; ANSYS 08433; ANSYS 14487 - 14488; ANSYS 08312 - 08316; ANSYS 08422 - 08423; ANSYS 08297 - 08300; ANSYS 08770 - 08773; ANSYS 16090 - 16117; ANSYS 03762 - 03763; ANSYS 02283 - 02291; ANSYS 14100 - 14467; ANSYS 06985; ANSYS 13072 - 13074; ANSYS 13058 - 13066; ANSYS 13847 - 13868; ANSYS 09122 - 09124; ANSYS 11519 - 11520; ANSYS 09204 - 09205; ANSYS 13998 - 14000; ANSYS 00810 - 00811; ANSYS 11588 - 11592; ANSYS 15607 - 15620; ANSYS 08884 - 08890; ANSYS 04060 - 04083; ANSYS 00818 - 00823; ANSYS 00764 - 00773; ANSYS 01094 - 01095; ANSYS 03143 - 03151; ANSYS 12107 - 12129; ANSYS 03766 - 03770; ANSYS 03661 - 03669; ANSYS 09131 - 09134; ANSYS 13886 - 13888; ANSYS 03029 - 03036; ANSYS 08758 - 08762; ANSYS



## KIRKLAND &amp; ELLIS

Thomas A. Donovan  
May 28, 2002  
Page 2

01096 - 01098; ANSYS 09685 - 09755; ANSYS 01467 - 01558; ANSYS 13612 - 13613; ANSYS 08428; ANSYS 09154 - 09155; ANSYS 15977; ANSYS 09231; ANSYS 14468 - 14469; ANSYS 08321 - 08322; ANSYS 03841; ANSYS 15956 - 15972; ANSYS 13984 - 13985; ANSYS 04543 - 04556; ANSYS 12601 - 12620; ANSYS 08329 - 08363; ANSYS 12879; ANSYS 13586 - 13591; ANSYS 14069 - 14070; ANSYS 12829; ANSYS 12891 - 12893; ANSYS 05411 - 05412; ANSYS 12181 - 12200; ANSYS 01147 - 01148; ANSYS 08772 - 08773; ANSYS 13569 - 13570; ANSYS 10433 - 10494; ANSYS 05596 - 05598; ANSYS 01229 - 01268; ANSYS 03158; ANSYS 09152 - 09153; ANSYS 09141 - 09143; ANSYS 09028 - 09031; ANSYS 13075; ANSYS 13623 - 13628; ANSYS 12861 - 12867; ANSYS 09059 - 09060; ANSYS 00925 - 01012; ANSYS 06131 - 06198; ANSYS 12822 - 12823; ANSYS 12868 - 12872; ANSYS 13027 - 13043; ANSYS 00833 - 00834; ANSYS 01912 - 01925; ANSYS 12878; ANSYS 01875; ANSYS 03576 - 03583; ANSYS 06842 - 06849; ANSYS 03050 - 03053; ANSYS 13046 - 13054; ANSYS 05149 - 05150; ANSYS 01422 - 01422; ANSYS 13958 - 13963; ANSYS 01424 - 01426; ANSYS 13934 - 13949; ANSYS 11465; ANSYS 00857 - 00859; ANSYS 01877; ANSYS 02267 - 02282; ANSYS 13067 - 13071; ANSYS 14470 - 14471; ANSYS 06788 - 06806; ANSYS 07038 - 07039; ANSYS 01421 - 01421; ANSYS 12621 - 12638; ANSYS 14003 - 14004; ANSYS 06606 - 06609; ANSYS 08802 - 08804; ANSYS 12854 - 12860; ANSYS 07047 - 07050; ANSYS 12763 - 12765. In addition, MSC Software may introduce portions of the depositions of Ansys employees.

Pursuant to 16 C.F.R. § 3.45(b) you have the right to petition the court to request *in camera* treatment. For your convenience we have attached a copy of 16 C.F.R. § 3.45 which sets forth the standard under which *in camera* treatment will be given.

The deadline for filing a motion for *in camera* treatment is June 11, 2002. If you should have any questions please feel free to call me.

Sincerely,

  
Colin R. Kass /HKT

Enclosures





UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Bureau of Competition  
Anticompetitive Practices Division

Peggy D. Bayer, Attorney  
(202) 326-3088

May 28, 2002

Via Federal Express

Thomas A. Donovan, Esquire  
Kirkpatrick & Lockhart LLP  
Henry W. Oliver Building  
535 Smithfield Street  
Pittsburgh, PA 15222

Re: MSC Software Corporation  
Docket Number: 9299

Dear Mr. Donovan:

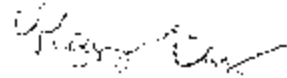
As you know, the Federal Trade Commission issued an administrative complaint against MSC Software Corporation in October 2001. We are contacting you now because you have produced documents to the Federal Trade Commission in connection with this Matter. By this letter we are providing formal notice, pursuant to 16 C.F.R. § 3.45(b), that complaint counsel intend to place the documents referenced on the enclosed list on our exhibit list and intend to offer these documents into evidence in the administrative trial in this Matter, which is scheduled to begin on July 9, 2002. All exhibits admitted into evidence become part of the public record unless *in camera* status is granted.

Under § 4.10(g) of the Commission's Rules of Practice, 16 C.F.R. § 4.10(g), you have "an opportunity to seek an appropriate protective or *in camera* order." Pursuant to the Commission's Rules, the Administrative Law Judge may order that material, whether admitted or rejected as evidence, be placed *in camera* only after finding that its public disclosure will likely result in a clearly defined, serious injury to the person, partnership or corporation requesting *in camera* treatment. For the standards applicable to the granting of *in camera* treatment, please see 16 C.F.R. § 3.45(b) as well as the decisions of the Commission in *H.P. Hood & Sons, Inc.*, 58 F.T.C. 1184, 1188 (1961); *Bristol-Myers Co.*, 90 F.T.C. 455, 456 (1977); and *General Foods Corp.*, 95 F.T.C. 352, 355 (1980).

Under Administrative Law Judge Chappell's May 3, 2002, Second Revised Scheduling Order, the deadline for *in camera* motions is June 11, 2002. Should you have any questions,

please do not hesitate to contact me at (202) 326-3086.

Sincerely,

  
Peggy D. Bayer  
Complaint Counsel

Enclosures

ANSYS	
BATES BEGINNING	BATES ENDING
ANSYS 00825	839
ANSYS 01571	
ANSYS 02281	
ANSYS 03231	3233
ANSYS 03255	256
ANSYS 03481	
ANSYS 03587	
ANSYS 03596	
ANSYS 03753	
ANSYS 04486	
ANSYS 04953	5030
ANSYS 05149	
ANSYS 05154	
ANSYS 05485	
ANSYS 05596	
ANSYS 05640	
ANSYS 06375	
ANSYS 06510	
ANSYS 06985	
ANSYS 07038	39
ANSYS 07045	
ANSYS 07195	
ANSYS 08258	266
ANSYS 08275	
ANSYS 08891	
ANSYS 09028	
ANSYS 09122	124
ANSYS 09150	151
ANSYS 09231	
ANSYS 11273	
ANSYS 11300	
ANSYS 11330	
ANSYS 11331	
ANSYS 11338	
ANSYS 11339	
ANSYS 11379	
ANSYS 11401	
ANSYS 11409	
ANSYS 11429	
ANSYS 11436	
ANSYS 11465	
ANSYS 11501	
ANSYS 11629	
ANSYS 12639	762
ANSYS 12676	
ANSYS 13028	
ANSYS 13046	
ANSYS 13055	
ANSYS 13306	
ANSYS 13886	

ANSYS 14069	70
ANSYS 14095	4467
ANSYS 14493	
ANSYS 15625	





UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Bureau of Competition  
Anticompetitive Practices Division

Peggy D. Bayer, Attorney  
(202) 326-3088

May 29, 2002

Via Federal Express

Thomas A. Donovan, Esquire  
Kirkpatrick & Lockhart LLP  
Henry W. Oliver Building  
535 Smithfield Street  
Pittsburgh, PA 15222

Re: MSC Software Corporation  
Docket Number: 9299

Dear Mr. Donovan:

In addition to the documents listed in our letter dated May 28, 2002, regarding *in camera* treatment, we would also like to include the following transcripts:

Deposition of Michael J. Wheeler, April 4, 2002  
Deposition of Joe Solecki, April 11, 2002  
Deposition of Brian Butcher, April 23, 2002  
Deposition of Bud Dunbar, April 25, 2002

Please don't hesitate to contact me at (202) 326-3086 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Peggy D. Bayer / DDH".

Peggy D. Bayer  
Complaint Counsel







UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Bureau of Competition  
Anticompetitive Practices Division

Peggy D. Bayer, Attorney  
(202) 326-3096

June 10, 2002

Via Facsimile

Tad Donovan, Esquire  
Joe Safar, Esquire  
Henry W. Oliver Building  
535 Smithfield Street  
Pittsburgh, PA 15222-2312

Re: MSC Software Corporation  
Docket Number: 9299

Dear Mr. Donovan and Mr. Safar:

In addition to the documents listed in our letter dated May 28, 2002, regarding *in camera* treatment, we would also like to include the Ansys CD with the bates number Ansys 16671, containing Ansys's revenue data.

Please don't hesitate to contact me at (202) 326-3086 if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Peggy D. Bayer".

Peggy D. Bayer  
Complaint Counsel

Enclosures



UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

_____	)	
	)	
IN THE MATTER OF	)	
	)	
MSC.SOFTWARE CORPORATION,	)	Docket No. 9299
	)	
a corporation	)	
	)	
_____	)	

**DECLARATION OF DAVID S. SECUNDA IN SUPPORT OF ANSYS INC.'S APPLICATION FOR *IN CAMERA* TREATMENT OF CERTAIN TRIAL EXHIBITS SOUGHT TO BE INTRODUCED BY RESPONDENT AND COMPLAINT COUNSEL**

Commonwealth of Pennsylvania	)
	) ss:
Washington County	)

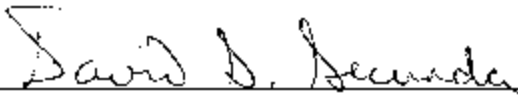
DAVID S. SECUNDA, being duly sworn, deposes and says:

1. My name David S. Secunda. I am employed as Corporate Counsel and Secretary of ANSYS, Inc. ("ANSYS").
2. Based on personal knowledge, I submit this declaration in support of *in camera* treatment of certain ANSYS materials produced in this case.
3. Attached hereto as Exhibit A is a table identifying the materials for which *in camera* treatment is sought for a specified period, and the date until which *in camera* treatment is sought.
4. Attached hereto as Exhibit B is a table identifying the materials for which indefinite *in camera* treatment is sought and the reasons for which indefinite *in camera* treatment is sought. The documents and information identified in Exhibit B entitled to *in camera* protection for one or more of the following reasons:

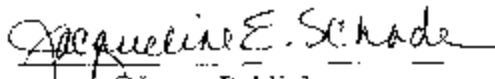
- They reveal ANSYS's long-term product marketing strategies, which strategies are not likely to diminish in competitive significance for the foreseeable future ("Long Term Marketing Strategy").
- They reveal ANSYS's long-term product development strategies, which strategies are not likely to diminish in competitive significance for the foreseeable future ("Long Term Product Strategy").
- They deal with products that are in development (or which have been in development in the past and may be revived) ("Product in Development"). Public disclosure of this information would give competitors the benefit of ANSYS's past investments.
- They set forth sensitive information, including strategies and formulae used to evaluate business opportunities, the significance of which are not likely to diminish in the foreseeable future ("Long Term Business Opportunity Evaluation"). Public disclosure of this information would compromise ANSYS's negotiating position in future business opportunities.
- They deal with customers' expectations and needs, the significance of which are not likely to diminish for the foreseeable future ("Long Term Customer Needs").

5. In addition to the reasons set forth above, the materials identified in attachments A and B are secret to ANSYS and are material to its business. Public disclosure of these materials would discourage ANSYS from developing similar information in the future and would significantly harm ANSYS's business advantage. These materials are generally not known outside ANSYS (or, in limited circumstances, its business partners). The distribution and disclosure of these materials within ANSYS is limited. ANSYS takes significant measures to safeguard the secrecy of these materials. ANSYS has expended significant resources developing and safeguarding these materials. These materials would have great value to ANSYS's competitors, who could not easily acquire or duplicate these materials. Public disclosure of these materials would result in a loss of ANSYS's business advantage.

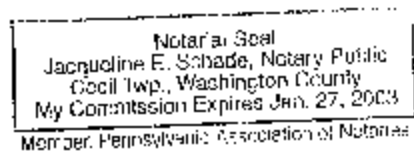
FURTHER, affiant sayeth not.

  
\_\_\_\_\_  
David S. Secunda

Sworn to and subscribed before  
me this 10th day of June, 2002.

  
\_\_\_\_\_  
[Notary Public]

My commission expires: 1-27-03



**In Re MSC SOFTWARE Corporation (FTC Docket No. 9299)**

**Exhibit A to Declaration of David S. Secunda**

BATES RANGE	DATE SOUGHT
ANSYS 00764 - ANSYS 00773	05/07/04
ANSYS 00810 - ANSYS 00811	03/23/04
ANSYS 00833 - ANSYS 00834	02/07/04
ANSYS 00860 - ANSYS 00863	09/14/04
ANSYS 01415	01/06/03
ANSYS 01416	09/05/03
ANSYS 01417 - ANSYS 01419	09/25/02
ANSYS 01420	06/06/04
ANSYS 01421	04/03/04
ANSYS 01422	07/18/03
ANSYS 01423	09/19/03
ANSYS 01429 - ANSYS 01432	10/30/02
ANSYS 01565 - ANSYS 01575	06/30/05
ANSYS 01875	01/07/05
ANSYS 01877	01/07/05
ANSYS 01880 - ANSYS 01897	06/30/05
ANSYS 02283 - ANSYS 02291	01/10/04
ANSYS 03161 - ANSYS 03170	05/07/04
ANSYS 03231 - ANSYS 03233	05/04/04
ANSYS 03363 - ANSYS 03375	12/31/04
ANSYS 04543 - ANSYS 04556	09/11/03
ANSYS 05154	06/30/05
ANSYS 05411 - ANSYS 05412	03/30/03

BATES RANGE	DATE SOUGHT
ANSYS 05485 ANSYS 05493	06/30/05
ANSYS 05596 – ANSYS 05598	01/22/05
ANSYS 05623 ANSYS 05624	06/30/05
ANSYS 05640	06/30/05
ANSYS 06375	06/30/05
ANSYS 06985	07/17/03
ANSYS 06989 – ANSYS 06993	05/26/03
ANSYS 07038 – ANSYS 07039	09/19/03
ANSYS 07195 – ANSYS 07210	06/30/05
ANSYS 08275	12/04/04
ANSYS 08277 – ANSYS 08292	11/20/04
ANSYS 08297 ANSYS 08300	11/28/04
ANSYS 08312 – ANSYS 08316	12/05/04
ANSYS 08321 ANSYS 08322	11/14/04
ANSYS 08329 – ANSYS 08363	10/01/04
ANSYS 08422 ANSYS 08423	12/05/04
ANSYS 08428	12/13/04
ANSYS 08433	11/26/04
ANSYS 08758 – ANSYS 08762	10/22/04
ANSYS 08770 – ANSYS 08773	10/15/04
ANSYS 08790 - ANSYS 08792	09/19/04
ANSYS 08971	12/19/04
ANSYS 09059 – ANSYS 09060	04/19/04
ANSYS 09150 – ANSYS 09151	09/05/03
ANSYS 09152 ANSYS 09153	09/05/03



BATES RANGE	DATE SOUGHT
ANSYS 09154 ANSYS 09155	10/15/04
ANSYS 09175 – ANSYS 09177	09/06/03
ANSYS 09204 ANSYS 09205	01/12/04
ANSYS 09224	09/12/03
ANSYS 09251 – ANSYS 09289	10/30/04
ANSYS 09756 – ANSYS 09774	06/30/05
ANSYS 11273	10/05/04
ANSYS 11300	04/10/04
ANSYS 11338	01/23/04
ANSYS 11339	01/22/04
ANSYS 11379 – ANSYS 11380	11/04/03
ANSYS 11401	09/29/03
ANSYS 11409	01/21/03
ANSYS 11429	07/17/03
ANSYS 11465	01/05/04
ANSYS 12557 ANSYS 12568	10/15/04
ANSYS 12763 – ANSYS 12765	02/06/04
ANSYS 12822 – ANSYS 12823	07/30/04
ANSYS 12891 ANSYS 12893	02/22/04
ANSYS 13013 – ANSYS 13015	12/15/03
ANSYS 13027 ANSYS 13045	11/07/04
ANSYS 13075	12/26/04
ANSYS 13076 – ANSYS 13077	06/21/04
ANSYS 13586 – ANSYS 13591	02/06/04
ANSYS 13612 ANSYS 13613	10/22/04

BATES RANGE	DATE SOUGHT
ANSYS 13623 - ANSYS 13628	02/01/04
ANSYS 13886 - ANSYS 13888	11/30/04
ANSYS 13934 - ANSYS 13949	11/30/04
ANSYS 13958 - ANSYS 13963	03/19/05
ANSYS 14069 - ANSYS 14070	04/11/03
ANSYS 14073	05/24/03
ANSYS 14486	08/31/04
ANSYS 14487 - ANSYS 14488	12/12/04
ANSYS 14492	02/19/05
ANSYS 15575 - ANSYS 15591	12/12/04
ANSYS 16032 - ANSYS 16033	10/04/04
ANSYS 16090 - ANSYS 16117	05/23/04

**In Re MSC.SOFTWARE Corporation (FTC Docket No. 9299)**

**Exhibit B to Declaration of David S. Secunda**

BATES RANGE	REASON
ANSYS 00676 – ANSYS 00688	Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 00816 – ANSYS 00817	Product in Development
ANSYS 00818 – ANSYS 00823	Product in Development
ANSYS 00825 – ANSYS 00839	Product in Development
ANSYS 00857 – ANSYS 00859	Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 00924 – ANSYS 01012	Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 01094 – ANSYS 01095	Long Term Business Opportunity Evaluation
ANSYS 01096 – ANSYS 01098	Long Term Business Opportunity Evaluation; Long Term Product Development
ANSYS 01099 – ANSYS 01146	Products in Development; Long Term Product Strategy
ANSYS 01424 – ANSYS 01426	Product in Development; Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 01443 – ANSYS 01466	Long Term Marketing Strategy
ANSYS 01467 – ANSYS 01558	Long Term Marketing Strategy
ANSYS 01586 – ANSYS 01588	Long Term Customer Needs
ANSYS 01912 – ANSYS 01925	Long Term Customer Needs
ANSYS 02267; ANSYS 02271; ANSYS 02281-ANSYS 02282	Long Term Business Opportunity Evaluation
ANSYS 02292 – ANSYS 02296	Long Term Business Opportunity Evaluation
ANSYS 03029 – ANSYS 03036	Product in Development; Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 03143 – ANSYS 03151	Product in Development
ANSYS 03158	Long Term Customer Needs
ANSYS 03255 – ANSYS 03256	Product in Development
ANSYS 03576 – ANSYS 03583	Product in Development; Long Term Marketing Strategy

BATES RANGE	REASON
ANSYS 03587	Long Term Business Opportunity Evaluation
ANSYS 03596	Long Term Business Opportunity Evaluation
ANSYS 03651 - ANSYS 03653	Long Term Business Opportunity Evaluation
ANSYS 03661 - ANSYS 03669	Long Term Business Opportunity Evaluation
ANSYS 03753 - ANSYS 03761	Long Term Marketing Strategy; Long Term Product Strategy; Product in Development
ANSYS 03762 - ANSYS 03765	Long Term Business Opportunity Evaluation
ANSYS 03766 - ANSYS 03770	Long Term Business Opportunity Evaluation
ANSYS 04458 - ANSYS 04499	Long Term Marketing Strategy
ANSYS 04896 - ANSYS 04962	Long Term Marketing Strategy
ANSYS 04963 - ANSYS 05030	Long Term Marketing Strategy
ANSYS 06134 - ANSYS 06198	Long Term Product Strategy
ANSYS 06584 - ANSYS 06605	Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 06606 - ANSYS 06609	Product in Development
ANSYS 06610 - ANSYS 06637	Long Term Marketing Strategy
ANSYS 06747 - ANSYS 06774	Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 06788 - ANSYS 06806	Long Term Marketing Strategy
ANSYS 06842 - ANSYS 06849	Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 07047 - ANSYS 07050	Long Term Customer Needs
ANSYS 07244 - ANSYS 07252	Long Term Customer Needs; Long Term Marketing Strategy
ANSYS 08326 - ANSYS 08328	Long Term Marketing Strategy; Product in Development
ANSYS 08749 - ANSYS 08750	Long Term Customer Needs
ANSYS 08793 - ANSYS 08795	Long Term Business Opportunity Evaluation
ANSYS 08802 - ANSYS 08804	Long Term Business Opportunity Evaluation
ANSYS 09202 - ANSYS 09203	Long Term Business Opportunity Evaluation
ANSYS 09685 - ANSYS 09755	Long Term Marketing Strategy; Long Term Product Strategy

BATES RANGE	REASON
ANSYS 10433 – ANSYS 10854	Long Term Marketing Strategy
ANSYS 11330	Long Term Marketing Strategy
ANSYS 11331 – ANSYS 11332	Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 11349 – ANSYS 11350	Long Term Marketing Strategy; Long Term Product Strategy; Long Term Customer Needs
ANSYS 11436 – ANSYS 11439	Long Term Product Strategy
ANSYS 11459 – ANSYS 11460	Product in Development; Long Term Product Strategy
ANSYS 11501 – ANSYS 11502	Long Term Marketing Strategy
ANSYS 11505 – ANSYS 11508	Long Term Marketing Strategy
ANSYS 11519 – ANSYS 11520	Long Term Product Strategy
ANSYS 12107 – ANSYS 12129	Product in Development; Long Term Product Strategy
ANSYS 12181 – ANSYS 12200	Long Term Product Strategy
ANSYS 12201 – ANSYS 12230	Long Term Product Strategy
ANSYS 12581 – ANSYS 12600	May compromise certain customer relationships
ANSYS 12639 – ANSYS 12762	Long Term Business Opportunity Evaluation
ANSYS 12814 – ANSYS 12821	Long Term Business Opportunity Evaluation
ANSYS 12825 – ANSYS 12828	Product in Development; Long Term Product Strategy
ANSYS 12829	Product in Development; Long Term Marketing Strategy
ANSYS 12854 – ANSYS 12860	Long Term Business Opportunity Evaluation
ANSYS 12861 – ANSYS 12867	Long Term Business Opportunity Evaluation
ANSYS 12868 – ANSYS 12872	Long Term Business Opportunity Evaluation
ANSYS 12873 – ANSYS 12877	Long Term Business Opportunity Evaluation
ANSYS 12878	Long Term Business Opportunity Evaluation
ANSYS 12879	Long Term Business Opportunity Evaluation
ANSYS 13046 – ANSYS 13054	Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 13056	Long Term Business Opportunity Development

BATES RANGE	REASON
ANSYS 13067 - ANSYS 13071	Long Term Business Opportunity Development
ANSYS 13306	Product in Development; Long Term Business Opportunity Evaluation; Long Term Marketing Strategy; Long Term Product Strategy
ANSYS 13569 - ANSYS 13570	Long Term Business Opportunity Evaluation
ANSYS 13847 - ANSYS 13868	Long Term Business Opportunity Evaluation
ANSYS 14470 - ANSYS 14471	Long Term Customer Needs
ANSYS 14493 - ANSYS 14518	Product in Development; Long Term Product Strategy
ANSYS 14520-ANSYS 15574 (CD No. ANSYS 16671)	Proprietary Revenue Data Affecting Long Term Marketing Strategy and Long Term Product Strategy
ANSYS 15607 - ANSYS 15620	Product in Development; Long Term Product Strategy
ANSYS 15625 - ANSYS 15646	Product in Development; Long Term Product Strategy
ANSYS 15977	Product in Development

**CERTIFICATE OF SERVICE AND ELECTRONIC FILING**

The undersigned certifies that a true and correct copy of the foregoing **THIRD-PARTY ANSYS, INC.'S APPLICATION FOR *IN CAMERA* TREATMENT OF CERTAIN TRIAL EXHIBITS SOUGHT TO BE INTRODUCED BY RESPONDENT AND COMPLAINT COUNSEL** was served this 11th day of June, 2002, upon the following persons by hand:

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
601 Pennsylvania Avenue, N.W.  
Washington, DC 20580

Karen Mills, Esquire  
Federal Trade Commission  
601 Pennsylvania Avenue, N.W.  
Washington, DC 20580

Richard H. Dagen, Assistant Director  
Federal Trade Commission  
601 Pennsylvania Avenue, N.W.  
Washington, DC 20580

P. Abbot McCartney  
Bureau of Competition  
Federal Trade Commission  
601 Pennsylvania Avenue, N.W.  
Washington, DC 20580

**and by Facsimile and First Class Mail upon:**

Tell W. Smith, Esq.  
Kirkland & Ellis  
655 15<sup>th</sup> Street, NW  
Washington, DC 20005  
(202) 879-5000 (telephone)  
(202) 879-5200 (facsimile)

and that a true and correct electronic copy of the same, minus exhibits, was transmitted to the Secretary of the Commission.



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