

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



_____)
In the Matter of _____)
MSC SOFTWARE CORPORATION, _____)
a corporation. _____)
_____)

Docket No. 9299

**RESPONDENT MSC SOFTWARE CORPORATION'S
REPLY TO COMPLAINT COUNSEL'S MOTION TO COMPEL RESPONDENT TO
COMPLETE ITS RESPONSE TO COMPLAINT COUNSEL'S
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS**

Complaint Counsel's Motion to Compel Respondent to Complete its Response to Complaint Counsel's First Request for Production of Documents and Things is now moot. While MSC believes that it was in full compliance with Your Honor's order by providing imaged copies of some of its electronic production, MSC has arranged for an outside vendor to create a Summation database that will provide both the searchable text "of the responsive documents submitted on CD's, along with bibliographical information and load files necessary to make them useable" for which Complaint Counsel has moved. In short, Complaint Counsel has received everything it requested in its Motion to Compel and Complaint Counsel should have withdrawn its June 7 Motion to Compel.

Complaint Counsel, however, has represented to MSC that until they have the Summation database in hand, the Motion to Compel is not moot. Notably, however, Complaint Counsel, after having specifically requested MSC's permission to do so, is coordinating directly with the vendor that MSC had been using to accomplish the completion of this database, thus any further timing or other database issues are now out of MSC's control.

For these reasons, MSC respectfully requests that this Court deny Complaint Counsel's Motion to Compel Respondent to Complete its Response to Complaint Counsel's First Request for Production of Documents and Things.

Respectfully submitted,



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Counsel for Respondents,
MSC Software Corporation

Dated: June 17, 2002

CERTIFICATE OF SERVICE


This is to certify that on June 17, 2002, I caused a copy of the **Respondent MSC Software Corporation's Reply to Complaint Counsel's Motion to Compel Respondent to Complete its Response to Complaint Counsel's First Request for Production of Documents and Things** to be served upon the following persons by hand delivery:

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

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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 an 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 for Extension of Time To Seek *In Camera* Treatment for Proposed Trial Exhibits, dated June 17, 2002. On Saturday, June 15, I contacted Karen Mills of Complaint Counsel's office, in order to discuss the timing issues relevant to MSC's obligation to submit its motion for *in camera* treatment of documents listed on complaint counsel's witness list. Having heard no response, my colleague, Larissa Paule-Carrs and I again left several messages on Monday, June 17 requesting discussions. Finally, on the afternoon of June 17, not having heard from Ms. Mills, I contacted Pat Roach, also of Complaint Counsel's office, and explained the issues to him. After having taken some time to think about MSC's proposal, Mr. Roach called and left a message that Complaint Counsel was not in a position to oppose or agree with the motion at hand. Despite MSC's efforts to confer and in an effort in good faith to resolve by agreement the issues raised by the accompanying Motion for Extension of Time To Seek *In Camera* Treatment for Proposed Trial Exhibits, MSC and Complaint Counsel remain at an impasse.

Dated: June 17, 2002


Marimichael O. Skubel, Esq.

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ORDER

For the reasons stated in MSC's Reply, filed on June 17, 2002, Complaint Counsel's Motion to Compel Respondent to Complete Its Response to Complaint Counsel's First Request For Production of Documents And Things is hereby DENIED.

ORDERED:

_____)
D. Michael Chappell
Administrative Law Judge