

UNITED STATES OF AMERICA

FEDERAL TRADE COMMISSION

In the Matter of

and the Matter of

ON,
KETING, INC

DURA LUBE CORPORATI
AMERICAN DIRECT MAR

HOWE LABORATORIES, INC

CRESCENT MANUFACTURING, INC

NAL COMMUNICATIONS CORPORATION

Docket No. 9292

NATIO

THE MEDIA GROUP, INC.,
corporations, and

oficers

ST. JOHN'S UNIVERSITY

individually and as

for the corporations.

Administrative Law Judge's scheduling orders for this proceeding which
status: counsel must follow for confidential material to be granted *in camera*

pending to Respondents' Complaint. Counsel failed to provide Respondents with notice
tended to file or introduce Respondents' confidential materials prior to [REDACTED] and Complainant Counsel
[REDACTED] during Complainant Counsel's Opposition to Respondents' Motion to Exclude Witnesses and
Complainant Counsel's failure to follow the [REDACTED] Motion for Partial Summary Decision. Despite Complainant
Respondents' have attempted to comply with the [REDACTED] procedures contained in the Pretrial Scheduling Order
Respondents' Application On Motion for *In Camera* [REDACTED] with the Pretrial Scheduling Order by filing the [REDACTED]
in this case. Respondents' have [REDACTED] in this case.

considered, Respondents must strictly comply with the Commission's rules on *in camera*
treatment.

Because Respondents' pending requests do not comply with the Commission's express
rules on *in camera* treatment, they are **DENIED** WITHOUT PREJUDICE, as described herein.

II.

Respondents' Complaint, p. 2-459) pursuant to Commission rule 2-509,
of offered [REDACTED] If the Administrative Law Judge may order material or portions thereof

camera status, specify the time period for which *in camera* treatment is sought for each

document, and attach as exhibits to the application the specific documents for which *in camera* treatment is sought. In addition, to sustain the burden of proof an application must be supported

by proper evidence, such as affidavits, in support of factual issues.

III.

The Trade Commission strongly favors making available to the public the full record of its adjudicative proceedings to permit public evaluation of the fairness of the

work, and to provide guidance to persons affected by its actions.

71 F.T.C. 1714-1715 (1967); *H.P. Hood & Son, Inc.*, 58 F.T.C. 1184, 1186.

Seal Co., Inc.

in Rule 3.45 (1976) in which the Commission explained

the reasons for the requirement that proceedings of this sort be decided. On the

to evaluate the fairness and wisdom with which the

have been made, and to permit interested parties to

decisions of public agencies have

appropriate where the

prospective injury to a serious outweighs the public interest in knowledge.

Id. at 134-36.

To clarify, all applications for *in camera* treatment will be evaluated by the standards set forth in Rule 3.45(b) and described in this Order. "The party seeking *in camera* treatment must make a clear showing that 'the information concerned is sufficiently secret and sufficiently

that disclosure would cause harm to a governmental

material to a litigant's business

in 1988 (applicant has burden of showing that the

public disclosure will result in a release

applicant seeks *in camera* treatment, it should

whenever an ap

demonstrate the necessity thereof by using the most specific information available.

Myers Co., 90 F.T.C. 455, 457 (1977).

applicant's business, to the extent that the information is known by employees and officers

355. To warrant *in-camera* treatment, an application must include a complete analysis and evidence in support of these factors.

A determination that information should be accorded *in-camera* treatment does not end the inquiry. The next step is to determine the duration for which material will be held *in-camera*.

Again, the applicant has the burden of proof on this issue. In making this determination, the

business records is important since, ordinarily,

See *Hood*, 58 F.T.C. at 1189.

processes, and other secret technical

F.T.C. at 352. "Ordinary business

records" includes names of customers, prices to certain customers, and costs of doing business.

distinction between trade secrets and ordinary business

business records are granted less protection than trade secrets.

"Trade secrets" are primarily limited to secret formulas, processes,

information. *Hood*, 58 F.T.C. at 1189; *General Foods*, 95

IV.

IT IS HEREBY ORDERED that Respondents shall refile their application for *In Camera* treatment in accordance with the standards set forth in Rule 3.45(b) and this Order by January 14, 2000.

IT IS FURTHER ORDERED that the deadline set forth in the Second Revised Scheduling Order for filing motions for *in camera* treatment of proposed trial exhibits is extended to January 14, 2000. Such motions shall comply with the standards set forth in Rule 3.45(b) and this Order.

information for *In Camera* Treatment, the

Should Respondents choose to refile their Application

information contained in the Complaint Counsel's opposition to Respondent's motion to

information