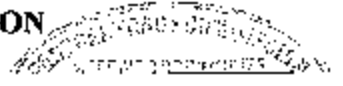


UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION



MSC.SOFTWARE CORPORATION, )  
)  
)

Docket No. 9299

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

MSC SOFTWARE CORPORATION  
1000 ...  
...

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,

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\_\_\_\_\_ thoroughly and gather facts attendant to these mergers.

On November 26, 2001, Complaint Counsel served a series of subpoenas *ad*

\_\_\_\_\_

ARGUMENT

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 16 C.F.R. § 3.31(d) This provision of the Federal

days for travel to and from Washington, D.C.<sup>1</sup> Additionally, each deponent's commission is

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**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 are not available to attend their depositions in the month of December.~~

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

~~they cannot hide their availability at this time.~~

[REDACTED]


[REDACTED]

[REDACTED]


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

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CONCLUSION

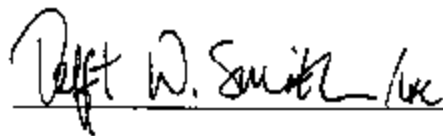
The burden to MSC of making available the deponents on little notice, during  
~~the peak month of its fiscal year, and during the holidays, outweighs the cost of~~



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,



Tefft W. Smith (Bar No. 458441)  
Marimichael O. Skubel (Bar No. 294934)  
Michael P. D. [unclear] (Bar No. 113122)

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

IN THE MATTER OF

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 Defendant MSC Software Corporation ("MSC").



CERTIFICATE OF SERVICE

This is to certify that on Wednesday, December 5, 2001, I caused a copy of the attached  
Motion To Quash Subpoena, Ad Testimony Summons, Deposition, Complaint, Case No. 01-1802, to

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]





# **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

This subpoena requires you to appear and give testimony, at the date and time specified in Item 5, at the

**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

No. \_\_\_\_\_ Date: \_\_\_\_\_ 2001 Issued by \_\_\_\_\_

[REDACTED]

*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

[REDACTED]





# SUBPOENA AD TESTIFICANDUM

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

1. TO

2. FROM

[REDACTED]  
MSC. Software Corporation

[REDACTED] UNITED STATES OF AMERICA

[REDACTED]  
Santa Ana, California 92707

**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:*

.....  
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.....

*on the person named herein on:*

.....  
(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

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





# 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 of the

subject of Cause listed in Item 8 in the proceeding described in Item 9

3. PLACE OF HEARING

4. YOUR APPEARANCE WILL BE RECORD

**RETURN OF SERVICE**

I hereby certify that a duplicate original of the within

[REDACTED]

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:

.....  
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.....

on the person named herein on:

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

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

.....  
(Official title)







CONFIDENTIAL

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**RETURN OF SERVICE**

U.S. District Court for the District of Columbia

*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:*

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*on the person named herein on:*

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

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



CERTIFICATE OF SERVICE

FILED IN Case No. 01-1001, Docket No. 1001, Filed 10/10/01, Page 1 of 1

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FILED IN Case No. 01-1001, Docket No. 1001, Filed 10/10/01, Page 1 of 1

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SECRETARY OF THE ARMY

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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**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:*

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*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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

sent by overnight express delivery for service on November 26, 2001, upon the following person:

Bruce Hart  
MSC Software Corporation  
2 MacArthur Place





-----

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]





CERTIFICATE OF SERVICE

FILED IN CASE NO. 03-00017

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

FILED IN CASE NO. 03-00017

[REDACTED]

[REDACTED]





# **SUBPOENA AD TESTIFICANDUM**

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

1. TO

Robert E. Louwers  
MSC Software Corporation  
2 MacArthur Place

2. FROM

UNITED STATES OF AMERICA

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 11, 2001, at 9:30 a.m.

6. SUBJECT OF PROCEEDING

**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:*

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*on the person named herein on:*

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(Month, day, and year)

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

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(Official title)

CERTIFICATE OF SERVICE

This is to certify that on November 24, 2001, I caused a copy of the attached Subpoena

[REDACTED]

[REDACTED]

*Testimony taken on behalf of Complainant Counsel by J.P.C.P. [REDACTED]*

[REDACTED]

[REDACTED]





[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

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[Redacted text]

**PETITION 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:

.....  
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.....

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, \_\_\_\_\_, CA No. \_\_\_\_\_

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*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

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