Despite its resistance, the parties are not as far apart as ANSYS's motion tries to make

the Administrative Law Judge.[1]

First, MSC believes that ANSYS has unreasonably narrowed its search to 19 employees, excluding most of ANSYS's North American Sales Organization.[2] ANSYS's proposed

the customers that are at issue in this case. (*See* Complaint Counsel's Responses to MSC's First Set of Interrogatories (listing a few of the relevant customers)). ANSYS does not deny that these
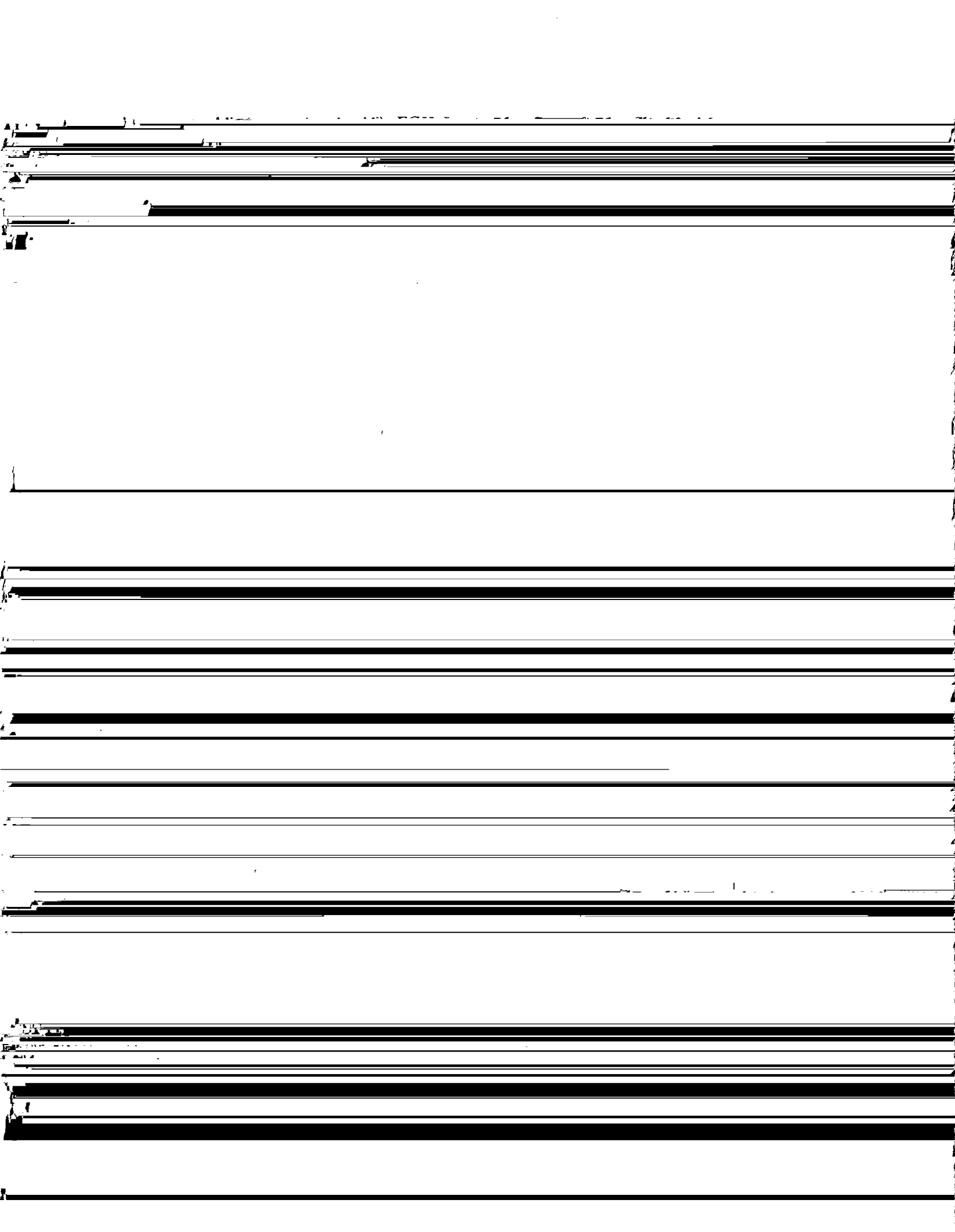
customers, such as Pratt & Whitney (from whom ANSYS has a video testimonial on its website declaring ANSYS's technical superiority over "other software tools"), General Motors, Delphi

Power Systems, and Rolls Royce engines.

Indeed, it is clear that many of ANSYS's competitive strategies – from its pricing to

In fact, recognizing that ANSYS and MSC both offer comparable functionality,

ANSYS has now taken the position that the market definition issue rests exclusively on a *Kodak*-style

lock-in argument.[8] (*See* ANSYS Br. at 2, 4). But ANSYS also admits that it ***does compete*** for

existing MSC customers.[9] In fact, in a video testimonial available directly on ANSYS's website, Pratt

"We had used a wide suite of software including NASTRAN, MARC, and ANSYS.
We started looking at ANSYS back in 1989. We got a few seats in for evaluation.
And over about a 10 year period, ANSYS took over and became the tool of choice....
Now it is used almost exclusively.... It's a complete integrated package. You don't
need a separate pre-processor or separate solver or post-processor, like a lot of the

compete against MSC.NASTRAN and MSC's other complementary products and services.[10] Indeed,

ANSYS is continuing its attack on MSC and other solvers by entering into a strategic alliance with

SAS to develop and market a Nastran-based solver.[11] This is further evidence of ANSYS's desire

There are numerous cases that establish that the sale of a package of goods and

Hamilton Chapter of Alpha Delta Phi, Inc. v. Hamilton College, 106 F. Supp. 2d 406, 412 (N.D.N.Y. 2000) (rejecting plaintiffs' narrow market definition because the evidence demonstrates that customers "consider a cluster of services."); *SMS Sys. Maint. Servs.*, 188 F.3d at 18 ("market power ... must be assessed by weighing the complete package of primary equipment, parts, and services.").

others in providing the complete package of software products and services that satisfy customers' FEA solving needs. (*See, e.g.,* ANSYS Br. at 5; Wheeler Aff. ¶ 10 (noting that Dassault also offers a "close[] substitute" for MSC's Nastran Solver)). This is something CSA and UAI could never do, but something on which ANSYS has staked its business model.

Because ANSYS is a strong competitor in the market place, it has highly relevant documents, not only concerning the specific instances of competition between MSC and ANSYS (of

Business Machines Corp., 83 F.R.D. 97, 109 (S.D.N.Y. 1979) (collecting cases). For this reason,

"[l]iberal discovery is particularly appropriate in a government antitrust suit...." *Dentsply*, 2000 WL

654286, at *4.

As explained below, the subpoena MSC served on ANSYS is reasonably calculated

a knowledgeable employee or officer in charge of the search and MDC's failure to conduct an adequate search for the documents goes far beyond the scope of 'oversight.'"); *see also Baltimore Scrap Corp. v. David J. Joseph Co.*, 1996 WL 720785 (D. Md. 1996) (ordering a re-search of third-party's files in part because of the "small volume of documents produced.")

Be that as it may, the most fundamental problem associated with ANSYS's search for documents is not their methodology, but the number of people which ANSYS has asked to produce relevant documents. ANSYS has asked for documents from only the very top levels of its organization, and it has excluded most of its North American Sales Organization. Indeed, ANSYS has not requested documents from any of the people that have direct contact with the customers

discovery is based on the general principle that litigants have a right to 'every man's evidence,'... and

the search for the truth.").

ANSYS cites no authority for its refusal to search for responsive documents in the

places it knows they are likely to be found. The courts require entities "served with a subpoena ...

to conduct a reasonable search to ensure that non-privileged documents that are relevant or likely to

lead to the discovery of admissible evidence are produced." *Alexander v. F.B.I.*, 186 F.R.D. 21, 38

(D.D.C. 1998). The well-settled rule authorizing the production of documents contemplates "the

Thus, MSC requests that ANSYS be ordered to expand its search to include the

following individuals: Bill Bryan, David Sonnet, Lynn Rowles (and her direct reports), Ravi Kumar,

John Priess, Less Stobler, Andy Farrington, Rex Dixon, Scott Hanratty, Bert Murray, John Terese,

Terry Hurley, Gerry Kyle, Peter Kingman, Janet Swaysland, Stephen Scampol, Stephen Meinshein,

Andy Bowe, Mark Swenson, Lisa Kitts, Mike Odel, Robert Bayes, Janet Wolf, Karen Love, Chuck

Norton, Cliff Bliss, Brian Tobert, Jeff Spire, Glenn Hartung, Kim Kirley, and Paige Lelie. In addition,

ANSYS should be ordered to search all marketing or sales people having any responsibility for the

itself to redraft the subpoena. But in so doing, ANSYS has excluded categories of documents that

- Documents relating to ANSYS's consideration of potential acquisitions of competitors in the FEA solver or MCAE market, including, but not limited to MSC;[13]

- A list that identifies the customers currently purchasing ANSYS's Solver, alone or in conjunction with other ANSYS products or services;

- Financial information showing ANSYS's current and future forecasted

- Electronic data that identifies the amounts each customer paid for any ANSYS product or service during the relevant period, so as to permit MSC's experts to conduct cross-elasticity analyses.

MSC believes that, by supplementing ANSYS's Proposed Search in this way, ANSYS

MODIFIED AS DISCUSSED ABOVE.

A. ANSYS's Request to Redefine the term "Relevant Product or Service" Should be Denied.

ANSYS argues that the subpoena should be modified to alter the definition of "Relevant Product or Service." As now defined, the definition of relevant product or service includes those products that constitute an FEA solver or are sold in connection with FEA solvers. This definition is perfectly appropriate.

First, MSC believes that this is a more appropriate market in which to analyze MSC's acquisition of UAI and CSA that Complaint Counsel's made up "Advanced Nastran market." ANSYS's effort to redefine the term "Relevant Product or Service" assumes that MSC has lost the market definition battle on the merits. It has not, and MSC is entitled to obtain and present evidence

- Documents relating to competition for new customers, of which ANSYS admits it has an enormous volume;

- Documents that discuss competition between ANSYS and MSC as a whole, or which discuss ANSYS's strategies at an abstract level, without mentioning Nastran-based solvers by name;

- Documents that discuss competition between ANSYS's products and services

that compete against MSC.NASTRAN for Windows (Request Nos. 3, 21);

- Top level documents relating to ANSYS's competitive strategies in the FEA solver market, and even many of ANSYS's efforts to compete against MSC within that market (Request Nos. 14-15, 18);

ANSYS claims that it sells some products that do not compete against MSC.NASTRAN. Those products include ANSYS Consulting Services, the DesignSpace family of products, the AI*SOLUTIONS family of products (AI*EMAX and AI*WORKBENCH), the ICEM

does not object to ANSYS's request to exclude documents that relate exclusively to the sale of AI*EMAX, the ICEM CFD family of products, or the family of products developed by ANSYS's

information, then it will have nothing to produce. But in that case it does not need an Order from the

Administrative Law Judge quashing this perfectly reasonable request.

V.   CONCLUSION

For the foregoing reasons, ANSYS's Motion to Limit the Subpoena should be denied, and ANSYS should be ordered to comply with the subpoena with the modifications detailed in the attached Proposed Order.

Respectfully submitted,

Michael S. Becker (Bar No. 447432)
Bradford E. Biegon (Bar No. 453766)
Larissa Paule-Carres (Bar No. 467907)

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In the Matter of:)
)
)   Docket No. 9299
MSC.SOFTWARE CORPORATION,   )
)
a corporation.   )
)

[PROPOSED] ORDER

Subpoena *Duces Tecum* Served by MSC.Software Corporation,

IT IS HEREBY ORDERED that ANSYS's Motion is Granted In Part, and Denied

In Part.

- Documents relating to ANSYS's consideration of potential acquisitions of competitors in the FEA solver or MCAE market, including but not limited to

- A list that identifies the customers currently purchasing ANSYS's Solver, alone or in conjunction with other ANSYS products or services;

- Financial information showing ANSYS's current and future forecasted revenues, profits, and margins for each product; and

- Electronic data that identifies the amounts each customer paid for any ANSYS product or service during the relevant period, so as to permit MSC's experts to conduct cross-elasticity analyses.

IT IS FURTHER ORDERED that this search shall include the files of the 19

individuals identified by ANSYS, as well as the following additional employees: Bill Bryan, David

Sonnet, Lynn Rowles (and her direct reports), Ravi Kumar, John Priess, Less Stobler, Andy

Farrington, Rex Dixon, Scott Hanratty, Bert Murray, John Terens, Terry Hurley, Gerry Kyle, Peter

IT IS FURTHER ORDERED

CERTIFICATE OF SERVICE

This is to certify that on January 25, 2002, I caused a copy of the attached MSC's
~~Response to ANSYS's Motion to Limit Subpoena Duces Tecum, and Proposed Order to be~~

served upon the following persons by hand:

Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, N.W.

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

Richard B. Dagen, Esquire
Federal Trade Commission
601 Pennsylvania Avenue, N.W.
Washington, DC 20580

Via Facsimile and Federal Express:
Thomas A. Donovan, Esquire
Joseph C. Safar, Esq.
Kirkpatrick & Lockhart, LLP

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HOME · PRODUCTS & SERVICES · CORPORATE · EDUCATION · MY ANSYS

Search | International | Contacts

mechanical load on the duct, stresses develop due to the
severe thermal gradient of the engine environment. This
part is particularly vulnerable because it is the first to
experience the hot gas as it exits the turbine.

The designer of the duct modeled it using the
Pro/ENGINEER solid modeling system. Metrisin, who was

responsible for the analysis of the duct, worked directly
from the Pro/ENGINEER model. In fact, that was one of the
reasons he chose ANSYS for this analysis. "I can use any
analysis package I want," Metrisin explains. "I chose ANSYS
for this project in part because it was easy to interface to
Pro/ENGINEER." Metrisin created the finite element mesh

ANSYS.

His next step was applying thermal boundary conditions to
the duct surfaces. This information came from programs
developed by Pratt & Whitney using computation fluid
dynamics to determine gas temperatures in simulated
shuttle missions. After supplying ANSYS with this data,
Metrisin had the software perform a transient thermal
analysis of the duct over the course of an entire space
shuttle mission.

When that was complete, he converted the heat transfer
model to a stress model. According to Metrisin, the ability to
use the same model for heat transfer and structural analysis
was another reason he wanted ANSYS for this project. Using
temperatures generated from the heat transfer analysis,
along with other minor mechanical loads on the duct,
Metrisin used ANSYS to perform the thermal analysis of the

ANSYS
INCORPORATED

- Laminar or turbulent
- Newtonian or non-Newtonian
- Free, forced, or mixed convection heat transfer

- Surface-to-surface radiation heat transfer
- Multiple species transport
- Free surface boundaries

- Stationary or rotating reference frames

Acoustics

- Near- and far-field
- Harmonic, transient, and modal

Electromagnetics

- Magnetostatics
- Low-frequency electromagnetics
  - Harmonic or transient
  - High frequency electromagnetics
  - Harmonic or modal
- Current conduction
- Circuit coupling

Coupled Field

- Thermal/structural

- Electrostatic/structural

4.0, Windows Me, Windows 98, and Linux)

ANSYS/Multiphysics New Features

- High Frequency Electromagnetics Post Processing
- Enhancements to the computation and display of:
  - o Near & Far field:
- Electric & Magnetic Field component in Cartesian, cylindrical or spherical coordinate systems at a spatial point or along a path.
- Electric & Magnetic Cartesian or spherical coordinate systems.
  - o Radar Cross Section:
- Total and pq-polarization plots
  - o Antenna radiation pattern:
- Rectangular and polar plots

directivity
- Power Gain
- Radiation Power & Efficiency
- Piezoelectric Element Improvements (PLANE13 & SOLID5):
- Geometric nonlinear capability. Important enhancement for MEMS engineers needing to account for stress-stiffening effects that exist in surface-bonded piezoelectric actuators.
- Enhanced shape formulation for more accurate electric field calculation in bending dominated problems.
- Direct input of the piezoelectric strain matrix material property.

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ΛΝSYS
INCORPORATED

ANSYS Inc. and SAS LLC enter into strategic NASTRAN partnership

Agreement Includes Joint Development of New NASTRAN Solution and Exclusive OEM Distribution

Canonsburg, PA - November 27, 2001 - ANSYS®, Inc. (NASDAQ: ANSS), the global innovator of simulation software ar
technologies designed to optimize product development processes, today announced a strategic OEM partnership with (

ANSYS is registered in the U.S. Patent and Trademark Office. All other trademarks and registered trademarks are the p
their respective owners.

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                         UNITED STATES
              SECURITIES AND EXCHANGE COMMISSION
                    WASHINGTON, D.C. 20549
                         FORM 10-K
(Mark One)
[X]  ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE
     ACT OF 1934

          For the Fiscal Year Ended December 31, 1999

[_]  TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES
     EXCHANGE ACT OF 1934

     Commission file number:  0-20853


                         ANSYS, Inc.
        (Exact name of registrant as specified in its charter)


           DELAWARE                           04-3219960
     (State or other jurisdiction of         (I.R.S. Employer
       incorporation or organization)        Identification No.)


     275 Technology Drive, Canonsburg, PA         15317
     (Address of principal executive offices)   (Zip Code)


                       724-746-3304
          (Registrant's telephone number, including area code)


          Securities registered pursuant to Section 12(b) of the Act:
```

ANSYS INC filed this 10-K405 on 03/28/2000.

bundled products are marketed worldwide as CivilFEM for ANSYS. The Company also recently announced a partnership with Mechanical Dynamics, Inc. ("MDI"), the goal of which is to combine the structural analysis of DesignSpace with the motion analysis of MDI's Dynamic Designer Motion software into one tightly integrated modeling system.

PROPRIETARY RIGHTS AND LICENSES:

trade secret, copyright and trademark laws, license agreements, nondisclosure
and other contractual provisions, and technical measures to protect its
proprietary rights in its products. The Company distributes its ANSYS software