UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

	ESCEIVED DOCUMENTS
IN THE MATTER OF	PUBLIC VERSION JAN 3   200
MSC.SOFTWARE CORPORATION,	Docket No. 9299
a corporation.	

## SUPPLEMENTAL MEMORANDUM IN SUPPORT OF ITS MOTION TO COMPEL (BASED UPON COMPLAINT COUNSEL'S BELATED "REVISED" AMENDED INTERROGATORY ANSWERS)

This is not a game. This is government litigation firing a headshot at a relatively small corporation for two *de minimus* (one \$6 million, the other \$11 million) acquisitions, demanding not just divestiture of the acquired assets but the expropriation of MSC's flag ship property:

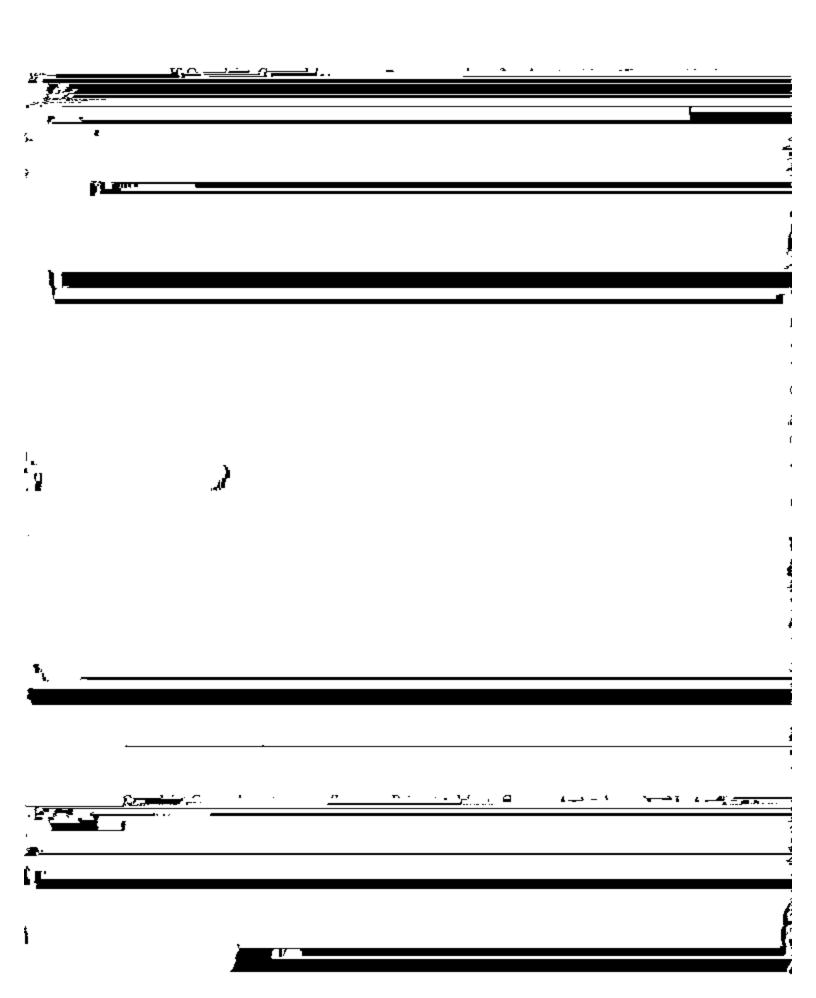
MSC Nastran (See Complaint "Notice of Contemplated Relief" at 8-9)

	This is game playing, plain and simple. The Revised Responses underscore Complaint
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	Complaint Counsel identified the relevant product market not simply as "gravure printing with higher
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	which is approximated by four-color gravure printing jobs with at least five million copies, at least
	sixteen pages, and fewer than four four-color versions (or the equivalent in one-color versions)." In
	re R. R. Donnelly & Sons Co., No. 9243, 1995 WL 461663 (F.T.C. July 21, 1995).

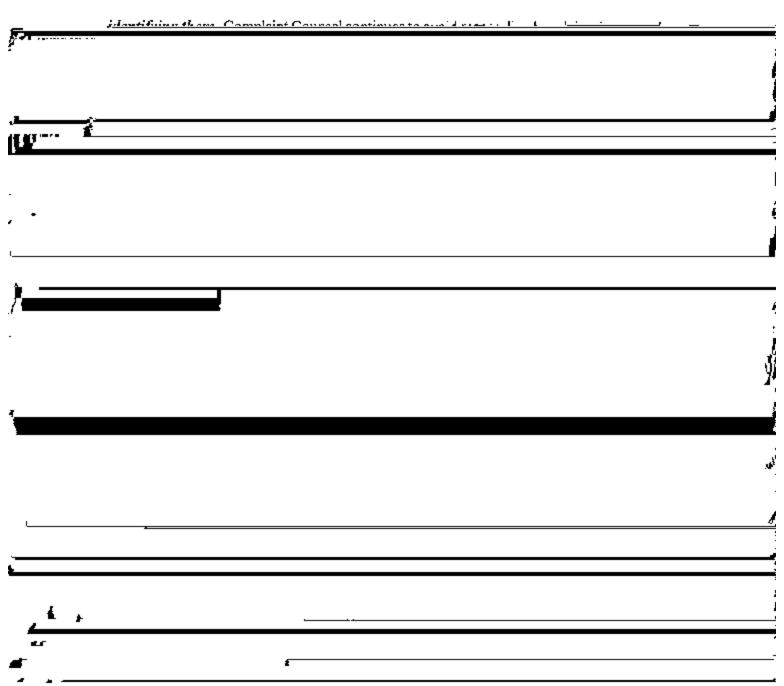
ander for MEC to conduct disco-

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	that MSC can price discriminate to those customers (i.e. charge a higher price)?
	Second, Complaint Counsel may not continue to use qualifying language to avoid
	Secona, Compaint Counsel may not continue to use qualifying tanguage to avoid
	disclosing information. Throughout its responses, Complaint Counsel sprinkles the terms:
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Counsel's or the FTC's investigation in any way, the fact of the matter is that Complaint Counsel is simply gaming its response to withhold key information.<sup>2</sup>

Fifth, Complaint Counsel cannot continue to rely on documents without specifically



and general references to documents. For example, in response to Interrogatory No. 2, Complaint Counsel makes reference to as "Respondent's employees and documents show" with *no* specific citations or document identification. As discussed in MSC's opening brief, both Rule 3.35(c) and the

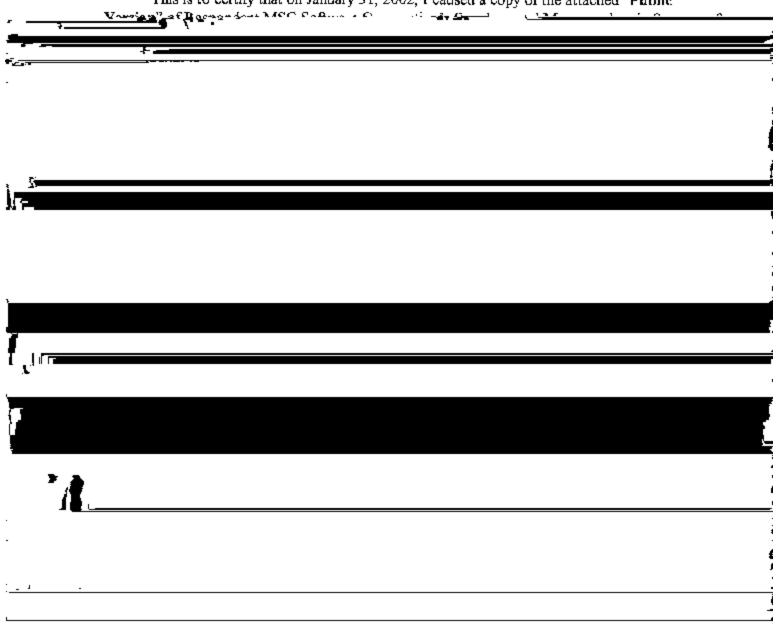
Therefore, despite -- and, indeed, because of -- Complaint Counsel's "revised interrogatory responses," MSC continues to seek the relief identified in its brief in support of its Motion to Compel.

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Responses -- but affirmatively abandoned many of its earlier "responses," substituting new ones -- is an acknowledgment of the inadequacy of the Interrogators Responses Complaint Counsel has

## CERTIFICATE OF SERVICE

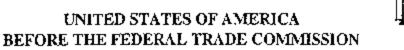
This is to certify that on January 31, 2002, I caused a copy of the attached "Public



its Motion to Compel (Based Upon Complaint Counsel's Belated "Revised" Amended Interrogatory Answers) to be served upon the following persons by hand:

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

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





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COMPLAINT COUNSEL'S REVISED RESPONSES AND OBJECTIONS TO RESPONDENT MSC.SOFTWARE CORPORATION'S FIRST SET OF INTERROGATORIES

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Facsimile (202) 326-3496

Dated: January 25, 2002

## CERTIFICATE OF SERVICE

This is to certify that on January 25, 2002, I caused a copy of Complaint Counsel's Revised Responses and Objections to Respondent MSC.Software Corporation's First Set of Interrogatories to be served via facsimile transmission and followed by hand-delivery of a copy to the following person:

Marimichael O. Skubel, Esquire KIRKLAND & ELLIS 655 Fifteenth Street, N.W.

