

2. "Commission" or "FTC" means the Federal Trade Commission, or any of its employees, agents, attorneys, and all other persons acting on its behalf, excluding persons retained as consultants or experts for purposes of this Matter.

3. "Basic Research" means Basic Research, L.L.C. [REDACTED]

14 "Counsel of Record" means counsel who have filed notices of appearance in this

matter.

15 "Producing Party" means a Party or Third Party that produces or is to produce

examples of information that likely will qualify for treatment as Confidential Discovery Material: customer names; customer contact information; consumer complaints received by the Federal Trade Commission; strategic plans (involving pricing, marketing, research and development, product roadmaps, corporate alliances, or mergers and acquisitions) that have not been fully implemented or revealed to the public; trade secrets; customer specific evaluations or data; [REDACTED]

containing such Confidential Discovery Material as Confidential. Such designations shall be made within fourteen days from the initial production or deposition and constitute a good-faith representation by counsel for the Party or Third Party making the designations that the document constitutes or contains Confidential Discovery Material.

- (b) Designation of Documents as "RESTRICTED CONFIDENTIAL, ATTORNEY EYES ONLY – FTC Docket No. 9318."

In order to permit Producing Parties to provide additional context, the following information is provided:

[REDACTED]

faith in an attempt to determine the terms of disclosure to the identified individual. If at the end of five business days of negotiating the parties have not resolved their differences or if counsel determines in good faith that negotiation is not likely to be successful, the parties may proceed to litigation.

Qualification to the Administrative Law Judge as provided by 16 C.F.R. 101.11(b):

4. Confidential Discovery Material shall not, directly or indirectly, be disclosed or otherwise provided to anyone except to:

(a) Complainant Counsel and the Commission

- (b) Outside Counsel;
- (c) Experts/Consultants (in accordance with paragraphs 5 and 7 hereto);
- (d) witnesses or deponents at trial or deposition (in accordance with paragraph 7 hereto);
- (e) the Administrative Law Judge and personnel assisting him;
- (f) court reporters and deposition transcript reporters;

(g) judges and other court personnel of any court having jurisdiction

judicial or administrative proceedings arising out of this Matter.

6. This paragraph governs the procedures for the following specified disclosures and challenges to designations of confidentiality:

[REDACTED]

Law Judge of the proprietary of a requested disclosure or change in designation.

7. Confidential Discovery Material shall not be disclosed to any person described in
subparagraphs 4(c) and 4(d) of this Protective Order until such time as


transmitted to Respondents' Counsel or Complaint Counsel, as the case may be, a declaration or
declarations, as applicable, in the form attached hereto as Exhibit "A," which is incorporated

production. Nothing herein shall be construed as requiring the recipient of the subpoena or discovery request or anyone else covered by this Order to challenge or appeal any such order requiring production of Confidential Discovery Material, or to subject itself to any penalties for noncompliance with any such order, or to seek any relief from the Administrative Law Judge or the Commission.

16. The production or disclosure of any Discovery Material made after entry of this

produced or disclosed because of [REDACTED]

ORDERED:



Stephen J. McGuire
Chief Administrative Law Judge

August 11, 2004