

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

12 18 2012

In the Matter of)	PUBLIC
)	
McWANE, INC.,)	DOCKET NO. 9351
Respondent.)	

COMPLAINT COUNSEL'S UNOPPOSED MOTION FOR IN CAMERA
TREATMENT OF TELEPHONE RECORDS

Pursuant to Rule 3.45(b) of the Commission's Rules of Practice and the Scheduling Order entered in this case, Complaint Counsel hereby requests that the Court grant in camera treatment of telephone records evidence at CX 1619, CX 1620, CX 1622, and CX 1623 ("Phone Records"). The Phone Records were admitted into evidence under the Joint Stipulation on Admissibility of Patent Prior Art (CX 1619, CX 1620, CX 1622, and CX 1623).

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ARGUMENT

Because the Phone Records contain sensitive personal information under Rule 3.45(b), this Court should grant in camera treatment for all Phone Records for a period of ten years. Rule 3.45(b) of the Federal Trade Commission's Rules of Practice explicitly allows for in camera treatment of evidence that "constitutes sensitive personal information." 16 C.F.R. § 3.45(b). Sensitive personal information under Rule 3.45(b) includes numbers and records identifiable by individual." *Id.* On September 14, 2012, this Court "determined that phone records, especially those that are subpoenaed, constitute sensitive personal information under the FTC Rules." *McWane Tr.* at 2233 (Sept. 14, 2012).

Under Rule 3.45(b)'s definition, and this Court's September 14, 2012 finding, the Phone Records constitute sensitive personal information eligible for in camera treatment. The Phone Records list phone calls to and from specific employees of McWane and
Si[.6M

CONCLUSION

in

camera

Dated: December 18, 2012

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(Proposed) ORDER

After reviewing Complaint Counsel’s Motion for Camera Treatment for Witness Telephone Records, it is ordered that the camera status is hereby GRANTED for a period of 10 years, ending on December 13, 2022, for the following documents: CX 1619; CX 1620; CX 1622; and CX 1623.

ORDERED:

D. Michael Chappell
Chief Administrative Law Judge

Date: December , 2012

CERTIFICATE OF SERVICE

I hereby certify that on December 18, 2012, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

Donald S. Clark
Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580

I also certify that I delivered via electronic mail and hand delivery a copy of the foregoing document to:

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580

I further certify that I delivered via electronic mail a copy of the foregoing document to:

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CERTIFICATE FOR ELECTRONIC FILING

I certify that the electronic ~~copy~~ sent to the Secretary ~~of~~ the Commission is a true and correct copy of the paper original and that I possess ~~paper~~ original of the signed document that is available for review ~~by~~ the parties and the adjudicator.

December 18, 2012

By: s/ Mika Ikeda
Attorney

TAB 1

CX 1619

TAB 2

CX 1620

TAB 3

CX 1622

TAB 4

CX 1623