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

In the Matter of	)	**PUBLIC VERSION**
ASPEN TECHNOLOGY, INC.,	)	
Respondent.	)	Docket No. 9310

COMPLAINT COUNSEL'S OPPOSITION TO RESPONDENT ASPEN TECHNOLOGY, INC.'S MOTION FOR *IN CAMERA* TREATMENT OF CERTAIN TRIAL EXHIBITS

Pursuant to Rule 3.45(b) of the Federal Trade Commission's Rules of Practice, 16 C.F.R. § 3.45(b) (2003), Complaint Counsel oppose Respondent Aspen Technology, Inc.'s ("AspenTech") Motion For *In Camera* Treatment of Certain Trial Exhibits ("*In Camera* Motion"). Although some of Respondent's documents may deserve *in camera* treatment, it is Respondent's obligation, not your Honor's or Complaint Counsel's, to demonstrate which documents should be kept from public view.

Respondent has failed to meet its burden of explaining why this Court should grant confidential treatment to each of the 1,050 documents for which it seeks complete or partial *in camera* status. Rule 3.45(b) and Commission case law require Respondent to show this Court why public disclosure of each document sought to be protected would cause serious injury.[1]

[1] Respondent provided Complaint Counsel with inadequate time to review certain documents for which it seeks *in camera* treatment. First, Respondent did not produce to Complaint Counsel 186 documents bearing the ASP 600XXXXX and ASP 600XXXXX bates ranges, 150 of which Respondent requests be placed *in camera*. In an April 26, 2004, teleconference, Respondent explained that these proposed exhibits were either documents that Respondent had provided during discovery and to which Respondent had subsequently assigned new bates numbers, or documents that Respondent believed were not responsive to any of Complaint Counsel's document subpoenas. Second, Respondent also initially failed to provide those documents for which it sought partial *in camera* treatment, leaving Complaint Counsel with insufficient time to review those portions Respondent wanted to make confidential. Respondent subsequently provided those documents on April 28, 2004, only after Complaint Counsel requested them. Moreover, Respondent did not provide several documents for which it seeks *in camera* status that relate to its

Instead, Respondent has devised six general categories of documents for which Respondent claims *in camera* treatment is always proper, without specifically demonstrating why release of any particular document would cause it harm. Moreover, because Respondent does not attempt to show that disclosure of its documents would result in serious injury, it does not balance the injury against the benefit of making evidence publicly available, as the Commission and public policy require.

If *in camera* treatment is warranted, Respondent has also failed to show why its documents merit extended or indefinite *in camera* treatment beyond the duration granted to ordinary business records. To warrant greater protection, the party requesting extended treatment must demonstrate that each document possesses unique information that does not lose its competitive sensitivity with the passage of time. Respondent has made no effort to do so.

Because Respondent has failed to meet its burden, Complaint Counsel respectfully request this Court deny Respondent's *In Camera* Motion and require Respondent to submit a more detailed brief that discusses with particularity why Respondent's documents deserve *in camera* protection. Further, Complaint Counsel respectfully ask your Honor to deny *in camera* treatment for exhibits CX0004, CX0025, CX0038, CX0092, CX0126, CX0179, CX0190, CX0246, CX0426, CX0427, CX0438, CX0588, and CX0723.[2]

Expert Report until April 23, 2004, the day that Respondent filed its *In Camera* Motion.

[2] After reviewing all of the documents for which Respondent seeks *in camera* treatment, these documents are a sampling of those documents Complaint Counsel do not believe are entitled to such protection based on Respondent's general descriptions. Complaint Counsel reserve the right to ask this Court to deny *in camera* status for other documents if Respondent provides an amended brief.

ARGUMENT

I. The *In Camera* Standard

Commission policy favors public disclosure of the documents used to adjudicate administrative proceedings. *In re Dura Lube Corp.*, 1999 FTC LEXIS 255, *5 (Dec. 23, 1999) (citing *H.P. Hood & Sons, Inc.* 58 F.T.C. 1184 (1961)) (copy appended hereto as Attachment A). Under Rule 3.45(b), documents do not deserve *in camera* status unless "their public disclosure will likely result in a clearly defined, serious injury . . . to the corporation requesting their *in camera* treatment." 16 C.F.R. § 3.45(b) (2003). To demonstrate serious injury, the party seeking *in camera* designation must "make a *clear* showing that the information concerned is sufficiently secret and sufficiently material to [its] business." *In re General Foods Corp.*, 95 F.T.C. 352, 355 (1980) (emphasis added); *see also In re Bristol-Myers Co.*, 90 F.T.C. 455 (1977).

The party seeking *in camera* status must demonstrate that a document is sufficiently secret and sufficiently material "using the most specific information available." *Bristol-Myers*, 90 F.T.C. at 457; *see also Dura Lube*, 1999 FTC LEXIS at *6. Blanket *in camera* orders for applications that lack specificity will not be granted. *Dura Lube*, 1999 FTC LEXIS 255 at *4. An application for *in camera* treatment that "fails to specifically identify or describe the material" for which treatment is sought and "fails to provide reasons for granting materials" *in camera* status is insufficient. *Id.*

Ultimately, the Court grants or denies *in camera* status. The Court weighs the following factors when determining whether information in a document is "sufficiently secret and sufficiently material" under Rule 3.45(b): 1) the extent to which the information is known

outside of Respondent's business; 2) the extent to which the information is known by employees and others involved in Respondent's business; 3) the extent of measures taken by Respondent to guard the secrecy of the information; 4) the value of the information to Respondent and to its competitors; 5) the amount of money or effort expended by Respondent in developing the information; and 6) the ease or difficulty with which the information could be properly acquired or duplicated by others. *Bristol-Myers*, 90 F.T.C. at 456-57 (citing *Restatement of Torts* § 757 cmt. b at 6 (ALI 1939)). Moreover, there is a presumption that documents older than three years do not warrant *in camera* treatment. *General Foods Corp.*, 95 F.T.C. at 353; *see also In re E.I. Dupont de Nemours & Co.*, 2000 FTC LEXIS 177, at *3 (Dec. 21, 2000) (copy appended hereto as Attachment B).

After determining whether *in camera* treatment is appropriate, the Court determines the term of *in camera* protection. Where *in camera* treatment is granted, the applicant has the burden of demonstrating the appropriate duration of *in camera* status. *In re Hoechst Marion Roussel, Inc.*, 2000 FTC LEXIS 138, *7 (Sept. 19, 2000) (copy appended hereto as Attachment C). Ordinary business records generally receive two to five years of *in camera* treatment. *In re Rambus*, 2003 FTC LEXIS 68, *3 (April 23, 2003) (copy appended hereto as Attachment D). A party requesting extended *in camera* treatment, such as ten years, must meet the heavier burden of showing that "unusual circumstances" warrant increased protection. *Id.* at *4-*6. Specifically, the applicant must show that the document "possess[es] a uniqueness that has extended [its] competitive sensitivity."). *Dupont*, 2000 FTC LEXIS 177 at *3.

A party seeking indefinite *in camera* treatment must meet an even greater burden. The applicant must demonstrate "at the 'outset that the need for confidentiality of the material is not

likely to decrease over time.'" *Hoechst Marion Roussel, Inc.*, 2000 FTC LEXIS at *7 (quoting *E.I. DuPont de Nemours & Co.*, 1990 FTC LEXIS 134, *2 (April 25, 1990)) (copy appended hereto as Attachment E). Perpetual *in camera* treatment is restricted to "trade secrets" and requires the applicant to justify overriding Commission policy of providing decision-making guidance to the public. *Id.* at *7 (quoting *Hood*, 58 F.T.C. at 1188). "Trade secret" status is reserved for a "secret formula or process," the secrecy of which exceeds the confidentiality of ordinary business records. *Hood*, 58 F.T.C. at 118.

II. AspenTech Makes No Attempt To Demonstrate That Public Disclosure Of Its Documents Will Cause It Serious Injury.

Respondent fails to explain why the documents for which it seeks *in camera* status should be protected from public view. Although the Commission has clearly articulated that an *in camera* applicant must specifically explain why its documents warrant treatment, Respondent does not describe the documents for which it seeks *in camera* treatment and fails to present support for why the 1,050 documents deserve complete or partial *in camera* protection. Instead, Respondent just sets forth general categories of documents that are allegedly "sufficiently secret and sufficiently material" to deserve *in camera* status. Having identified six such categories, Respondent believes it is sufficient to merely catalogue each document into at least one of the categories. As the *Hood* Court stated, however, "the probability of concrete injury resulting from the disclosure of [confidential] documents cannot be inferred from the nature of the content." 58 F.T.C. at 1189.

Respondent's claim that all "research and business development plans" amount to trade secrets, and thus warrant *in camera* treatment, is unpersuasive. (*In Camera* Motion at 5). In *Bristol-Myers*, this Court rejected the applicant's argument that "its research falls under the

'trade secrets' rubric and therefore, should be accorded in camera treatment regardless of any discussion of the seriousness of the injury." 90 F.T.C. at 456. Respondent asserts that *in camera* treatment is appropriate because a "competitor could obtain the benefits" of Respondent's research and development plans if they were disclosed. (*In Camera* Motion at 5). The *Bristol-Myers* Court rejected this notion as well, stating that "documents should not be sealed simply because an applicant asserts that its competitors would like to possess the information the documents contain." 90 F.T.C. at 455.

An example of a document labeled "research and development plan" that does not deserve *in camera* protection is exhibit RX-0324. [

REDACTED - SUBJECT TO PROTECTIVE ORDER

]3

Another example of "research and development" information that should not be granted *in camera* treatment is a portion of Complaint Counsel's exhibit CX1002, [

REDACTED - SUBJECT TO PROTECTIVE ORDER

3 Further, Respondent undermines its own categorization of RX-0324 as a "research" document because it labels Complaint Counsel exhibit CX0179, a duplicate of RX-0324, a "strategic business planning document." As further evidence that Respondent failed to thoroughly examine its documents to determine which ones deserved *in camera* status, Respondent requests 5 years of *in camera* treatment for CX-0179 and indefinite treatment for RX-0324 despite the fact that the documents are duplicates. Complaint Counsel do not believe that CX-0179 deserves *in camera* treatment either.

] Although Respondent has labeled this testimony as "research and development plan" information, the passages at issue do not discuss functionality, technical innovation, technical specifications, or product characteristics. Therefore, disclosure of this testimony would not cause Respondent any injury because there is no protected information mentioned.[4] Moreover, this information is integral to the public record because it shows that the merger could negatively affect the development of industry open-standards.

Respondent's contention that all of its "strategic planning documents" warrant *in camera* status is equally flawed. (*In Camera* Motion at 6). The fact that these documents may be "highly sensitive" and "extremely valuable to other industry participants" does not demonstrate that all of the documents Respondent has identified as "strategic planning documents" deserve *in camera* protection. (*In Camera* Motion at 6). As this Court has clearly articulated, "confidentiality is not itself sufficient to warrant *in camera* treatment"; *in camera* status requires a showing that the "information in question is secret and material." *General Foods*, 95 F.T.C. at 356. Respondent's "strategic planning documents" category is especially vulnerable to the presumption that documents older than three years do not deserve *in camera* treatment because projections and business plans lose their competitive sensitivity after the plans are implemented

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[4] Complaint Counsel exhibits CX0426, CX0427, CX0438, CX0588, CX0723, characterized by Respondent as "strategic business planning documents," do not warrant *in camera* treatment either. [

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]

and projections become irrelevant. *General Foods*, 95 F.T.C. at 353 (imposing a higher burden on the applicant when the documents in question are older than three years). Although some of these documents may warrant *in camera* treatment, Respondent makes the blanket assertion that any document relating to strategy deserves protection. Respondent ignores its burden of specifically demonstrating why release of each document would cause it serious injury.

An example of a strategic planning document that does not deserve protected status is exhibit CX0025. [

REDACTED - SUBJECT TO PROTECTIVE ORDER

] This document is also important evidence that Respondent competed for refinery business and helps build a record allowing for "public evaluation of the fairness of the Commission's work." *Dura Lube*, 1999 FTC LEXIS, at *4-*5.

Respondent also fails to demonstrate that disclosure of all 230 documents that it claims relate to "pricing policies, projections, and strategies" would result in serious injury. Instead of specifically explaining which pricing documents deserve *in camera* treatment, Respondent merely repeats that it has attempted to keep this information confidential and offers three examples of pricing documents that should remain confidential. (*In Camera* Motion at 7-8). Although documents that discuss pricing strategies and methods warrant *in camera* status in

many cases, Respondent has the burden of showing this Court when such circumstances exist; simply concluding that any document that mentions pricing should be protected is insufficient.

It is clear that certain pricing information in Respondent's documents is not sufficiently secret or material to deserve protection. Analyzed under the six *Bristol-Myer* factors, Respondent admits that at least some pricing information is known outside of AspenTech and that AspenTech employees can freely discuss pricing with customers. (*In Camera* Motion at 7). Respondent also has not shown that it implemented any measures to keep the information secret and has not provided information as to how much effort or money was expended in developing its pricing information. Finally, Respondent has made no effort to meet the greater burden for pricing information older than three years.

An example of a document that relates to price but does not deserve complete *in camera* treatment is exhibit CX0126, an August, 2001, electronic mail message discussing a licensing agreement between Respondent and a potential customer.[5] Although the document discusses the price of the contract, there is no information on Respondent's "confidential" pricing policies, projections, or strategies. CX0126 at 002-005. [

REDACTED - SUBJECT TO PROTECTIVE ORDER

] This information is important evidence regarding pre-merger competition and its value to the public record outweighs any injury to Respondent. Respondent cannot meet its burden for *in camera* treatment of all 230 "pricing" documents by

[5] Any concern regarding the release of third party information can be rectified by redacting the customer's name.

merely showing that three of the documents may deserve protection.

Further, by claiming that all "customer-related" documents deserve automatic *in camera* protection, Respondent again ignores the burden assigned to it. Respondent has proffered over 800 documents and portions of documents that it claims warrant *in camera* protection because they fall under the category "confidential customer-related documents." (*In Camera* Motion at 9). To support its claims that each of these documents warrant *in camera* status, Respondent provides two examples that it alleges serve to describe all 800 other documents that contain customer-related information. (*In Camera* Motion at 10). As with the other categories of documents, Respondent argues that these documents should be withheld from the public because they "contain highly sensitive information" and would "seriously prejudice" Respondent's relationship with its customers. *Id.*

Citing two of over 800 exhibits does not adequately illustrate the nature of the Respondent's documents. Furthermore, it is not enough that Respondent does not want customers to know the discounts and licensing terms offered to other customers to keep these documents secret.[6] Moreover, many of these documents show pre-merger competition, evidence that is integral to the adjudicative process and explaining this Court's decision to the public.

An example of a customer-related document that should not be kept secret is Complaint Counsel exhibit CX0246. [

REDACTED - SUBJECT TO PROTECTIVE ORDER

[6] As with documents discussing licensing agreements, much customer-specific information on other documents could be protected by redacting the customer's name.

REDACTED - SUBJECT TO PROTECTIVE ORDER

] The concerns Respondent expresses in its *In Camera* Motion for why customer-related documents should be kept confidential are not present in this document.

Respondent's claim that all of its "sales and marketing plans" deserve *in camera* status is also deficient. (*In Camera* Motion at 8). Respondent asserts that public disclosure of any document relating to sales or marketing would cause serious injury, but does not provide a description of the documents or give the reasons why their disclosure would harm Respondent. Although Respondent cites one document in support of granting the approximately 400 "sales and marketing" documents protected status, that document is not representative of many of the marketing documents for which Respondent seeks *in camera* treatment. For example, a marketing document that should not be granted *in camera* treatment is exhibit CX0092. [

REDACTED - SUBJECT TO PROTECTIVE ORDER

] The only thing that Respondent's competitors would learn if this document were publicly disclosed is the identity of the two companies Respondent considered competitors, information that is hardly secret. *See e.g.* CX0648 at 013 (AspenTech 2001 Annual Report to the SEC naming Hyprotech

and SimSci as its only two "asset optimization software" competitors).

Respondent has also failed to demonstrate that documents "related to corporate development activities" warrant *in camera* protection. (*In Camera* Motion at 10). Although Respondent has described only one of the 155 "corporate development" documents as an example of information deserving *in camera* treatment, even that document does not meet the serious injury standard. *Id.* The document, CX0004, consists entirely of either revenue data older than three years or projected revenue figures. *General Foods* rejected *in camera* treatment for revenue data because the applicant did not demonstrate "that such data would provide significant insight into its strengths and weaknesses." *General Foods*, 95 F.T.C. at 353-54. This type of information would cause serious injury only if disclosed *during* negotiations for the purchase of Hyprotech, not two years after.

Complaint Counsel exhibit CX0038 is another example of a document that Respondent labels "corporate development activity" that should not be kept confidential. [

REDACTED - SUBJECT TO PROTECTIVE ORDER

] Because any competitive information contained in this document, whether or not subject to a non-disclosure agreement, was sent to Hyprotech's competitors, the competitive damage is already done.

The inadequacy of categorically alleging that documents deserve *in camera* status without providing specific information as to whether each document deserves *in camera* status is made more evident by the apparently arbitrary nature in which Respondent assigned labels to its

documents. There are at least 12 occurrences of Respondent sorting a Complaint Counsel exhibit into one category, and the duplicate document used as an exhibit by the Respondent into another. For example, Respondent labels Complaint Counsel exhibit CX0190 as a "confidential customer-specific document," while Respondent's exhibit RX-0286, the same document, is labeled as a "corporate development activity" document.[7]

III. AspenTech Fails To Explain Why Its Documents Deserve Extended *In Camera* Treatment.

Respondent has not explained what "unusual circumstances" warrant extended *in camera* treatment for its documents, protecting them beyond the two to five years generally provided to ordinary business records. *Rambus*, 2003 FTC LEXIS at *3. Respondent merely categorically assigns an *in camera* duration without discussing why the documents should be kept confidential for an extended period of time. Respondent's "shortcut" results in at least six instances where it requests five years of *in camera* protection for a Complaint Counsel exhibit and either ten years or indefinite treatment for the duplicate document used as a Respondent exhibit.[8] Further, Respondent does not explain why some documents labeled "corporate development activities" should receive five years of *in camera* protection while other documents with the same label deserve ten years of treatment.[9]

Respondent also fails to explain why almost 100 of its documents deserve indefinite *in camera* treatment. The applicant must demonstrate "at the 'outset that the need for

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[7] *E.g.* CX0821 and RX-0393-39; CX0085 and RX-0261; CX0078 and RX-0371; CX0127 and RX-0330; CX0179 and RX-0324; CX0190 and RX-0286; CX0817 and RX-0408; CX0818 and RX-0381; CX0819 and RX-0407; CX0820 and RX-0392; CX0822 and RX-0395.

[8] Including: CX0127 and RX-0330; CX0179 and RX-0324; CX0190 and RX-0286; CX0817 and RX-0408; CX0818 and RX-0381; CX0819 and RX-0407.

[9] *Compare, e.g.,* RX-0113 and RX-0381 (ten years) *with* to RX-0407 and RX-0408 (five years).

confidentiality of the material is not likely to decrease over time.'" *Hoechst*, 2000 FTC LEXIS at *7 (internal quotation omitted). Respondent fails to "include evidence to provide justification as to why the document[s] should be withheld from the public's purview in perpetuity." *Dura Lube*, 1999 FTC LEXIS at *9. Citing one document as its only support for why all documents with the same label deserve perpetual confidentiality, as Respondent does, is insufficient to demonstrate that all of the documents merit indefinite *in camera* treatment.

CONCLUSION

For the foregoing reasons, Complaint Counsel respectfully request that your Honor deny Respondent's *In Camera* Motion and require Respondent to file a brief that explains why Respondent's documents deserve *in camera* treatment and why certain documents deserve extended or indefinite treatment. Complaint Counsel also respectfully ask that your Honor deny *in camera* treatment for all documents older than three years unless Respondent has shown that the documents' competitive sensitivity does not decrease with the passage of time. Although it is not Complaint Counsel's burden to argue against Respondent's non-specific claims, Complaint Counsel has provided specific examples of why *in camera* status is not warranted for many of Respondent's documents. Accordingly, we request that this Court specifically deny *in camera* treatment as to exhibits CX0004, CX0025, CX0038, CX0092, CX0126, CX0179, CX0190, CX0246, CX0426, CX0427, CX0438, CX0588, and CX0723.

Respectfully Submitted,

/s/

_____

Peter Richman
Lesli C. Esposito
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Counsel Supporting the Complaint

Bureau of Competition
Federal Trade Commission
Washington, D.C.

Dated: May 3, 2004

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

In the Matter of	)	**PUBLIC VERSION**
ASPEN TECHNOLOGY, INC.,	)	
Respondent.	)	Docket No. 9310

COMPLAINT COUNSEL'S OPPOSITION TO RESPONDENT ASPEN TECHNOLOGY, INC.'S MOTION FOR *IN CAMERA* TREATMENT OF CERTAIN TRIAL EXHIBITS

ATTACHMENT A

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

In the Matter of	)	**PUBLIC VERSION**
ASPEN TECHNOLOGY, INC.,	)	
Respondent.	)	Docket No. 9310

COMPLAINT COUNSEL'S OPPOSITION TO RESPONDENT ASPEN TECHNOLOGY, INC.'S MOTION FOR *IN CAMERA* TREATMENT OF CERTAIN TRIAL EXHIBITS

ATTACHMENT B

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

In the Matter of	)	**PUBLIC VERSION**
ASPEN TECHNOLOGY, INC.,	)	
Respondent.	)	Docket No. 9310

COMPLAINT COUNSEL'S OPPOSITION TO RESPONDENT ASPEN TECHNOLOGY, INC.'S MOTION FOR *IN CAMERA* TREATMENT OF CERTAIN TRIAL EXHIBITS

ATTACHMENT C

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

In the Matter of	)	**PUBLIC VERSION**
ASPEN TECHNOLOGY, INC.,	)	
Respondent.	)	Docket No. 9310

COMPLAINT COUNSEL'S OPPOSITION TO RESPONDENT ASPEN TECHNOLOGY, INC.'S MOTION FOR *IN CAMERA* TREATMENT OF CERTAIN TRIAL EXHIBITS

ATTACHMENT D

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

In the Matter of	)	**PUBLIC VERSION**
ASPEN TECHNOLOGY, INC.,	)	
Respondent.	)	Docket No. 9310

COMPLAINT COUNSEL'S OPPOSITION TO RESPONDENT ASPEN TECHNOLOGY, INC.'S MOTION FOR *IN CAMERA* TREATMENT OF CERTAIN TRIAL EXHIBITS

ATTACHMENT E

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

In the Matter of	)	**PUBLIC VERSION**
ASPEN TECHNOLOGY, INC.,	)	
Respondent.	)	Docket No. 9310

PROPOSED ORDER DENYING RESPONDENT ASPEN TECHNOLOGY, INC.'S MOTION FOR *IN CAMERA* TREATMENT OF CERTAIN TRIAL EXHIBITS

On April 23, 2004, Respondent Aspen Technology, Inc. moved for an order placing *in camera* certain AspenTech documents. Pursuant to FTC Rule 3.45(b), Complaint Counsel opposed Respondent's *In Camera* Motion on May 3, 2004. Because Respondent has failed to demonstrate why the documents for which it seeks *in camera* treatment deserve protection and why certain documents deserve extended *in camera* status, Respondents Motion is **Denied**. **IT IS HEREBY ORDERED** that Respondent submit an amended brief that specifically demonstrates why the documents for which it seeks *in camera* treatment should be placed *in camera* for the requested duration. All documents older than three years are denied *in camera* status absent a showing of unusual circumstances that extend their competitive sensitivity. *In camera* treatment is denied as to exhibits CX0004, CX0025, CX0038, CX0092, CX0126, CX0179, CX0190, CX0246, CX0426, CX0427, CX0438, CX0588, and CX0723.

ORDERED:

Stephen J. McGuire
Chief Administrative Law Judge

Date:

CERTIFICATE OF SERVICE

I, Vadim M. Brusser, hereby certify that I caused a copy of the public version of the attached Complaint Counsel's Opposition to Respondent Aspen Technology, Inc.'s Motion For *In Camera* Treatment of Certain Trial Exhibits to be delivered this day:

Two copies by hand delivery:

Hon. Stephen J. McGuire
Chief Administrative Law Judge
Federal Trade Commission
Room H-112
600 Pennsylvania Ave., N.W.
Washington, DC 20580

By electronic mail and hand delivery:

Donald S. Clark, Secretary
Federal Trade Commission
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/s/
_____
Vadim M. Brusser
Attorney
Federal Trade Commission

Dated: May 10, 2004