

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION



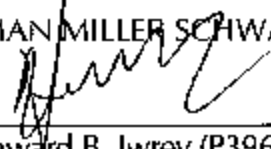
\_\_\_\_\_  
In the matter of \_\_\_\_\_ )  
MSC. Software Corporation \_\_\_\_\_ )  
\_\_\_\_\_) )

Docket No. 9299  
PUBLIC

**ALTAIR ENGINEERING, INC.'S MOTION FOR  
IN CAMERA TREATMENT OF CERTAIN DOCUMENTS**

Altair Engineering, Inc. ("Altair"), which is a privately held company, hereby moves for certain documents and transcripts provided pursuant to a subpoena in the above-captioned matter. The documents contain competitively sensitive trade secret information relating to Altair's: (1) proprietary interface manuals for Altair's HyperMesh pre and post processor with various finite element solvers (which such manuals are available only to licensed users); (2) internal negotiations and contract terms with MSC and CSAR; and (3) quotes to customers. The transcripts contain information relating to Altair's: (1) financial and sales data; (2) budgeting and employee and resource allocations; (3) internal marketing analyses and plans; (4) engineering efforts; (5) customer information; and (6) dealings and contractual negotiations with vendors and customers. The facts and authorities in support of this motion are set forth in the supporting Memorandum and the accompanying declaration of Mr. Tom Perring.

Respectfully submitted,  
HONIGMAN MILLER SCHWARTZ AND COHN

By:   
Howard B. Ivrey (P39635)  
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Attorney for Altair Engineering, Inc.

Dated: June 10, 2002

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION

\_\_\_\_\_  
In the matter of )

MSC. Software Corporation )  
\_\_\_\_\_)

Docket No. 9299

PUBLIC

**MEMORANDUM IN SUPPORT OF**  
**ALTAIR ENGINEERING, INC.'S MOTION FOR**  
**IN CAMERA TREATMENT OF CERTAIN DOCUMENTS**

Altair Engineering, Inc. ("Altair") hereby moves for *in camera* certain documents produced and transcripts of testimony given pursuant to a subpoena in the above-captioned matter. The documents contain competitively sensitive trade secret information relating to Altair's: (1) proprietary interface manuals for Altair's HyperMesh pre and post processor with various finite element solvers (which such manuals are available only to licensed users); (2) internal negotiations and contract terms with MSC and CSAR; and (3) quotes to customers. The transcripts contain information relating to Altair's: (1) financial and sales data; (2) budgeting and employee and resource allocations; (3) internal marketing analyses and plans; (4) engineering efforts; (5) customer information; and (6) dealings and contractual negotiations with vendors and customers.

Specifically, Altair seeks *in camera* treatment for the following documents (as identified by Production Number): Altair 1.0 through 6.3, ALT 5 through 314 and 42002-ALT 5-6, and the pages/lines of the transcripts of the Investigative Hearing of James Scapa and Tom Perring attached hereto as Exhibit A.

### **STANDARD FOR IN CAMERA TREATMENT**

Under Commission Rule 3.45(b) *in camera* production should be afforded to documents upon a showing that “public disclosure will likely result in a clearly defined, serious injury to person, partnership or corporation requesting their *in camera* treatment.” 16 C.F.R. § 3.45(b); see also *In re Dura Lube Corp.*, 1999 FTC LEXIS 255 (Dec. 23, 1999) (same). An applicant faces serious injury “when the documents in question are *secret and material* to the applicant’s business . . .” *In the matter of Bristol-Meyers*, 90 F.T.C. 455, 456 (1977), (articulating 6-factor test for determining secrecy and materiality). Further, “[t]he likely loss of business advantages is a good example of a ‘clearly defined, serious injury.’” *Hoechst Marion Russell, Inc.*, 2000 F.F.C. LEXIS 138, \*6 (2000).

### **THESE DOCUMENTS WARRANT IN CAMERA TREATMENT**

These documents warrant *in camera* treatment and contain Altair’s proprietary cost and profit information and details about Altair’s HyperMesh interfaces which are available only to licensed users. As set forth in the Declaration of Tom Perring, disclosure of documents would allow the public to obtain proprietary information without cost and thus deprive Altair of license revenues. Furthermore, disclosure of information about the terms of Altair’s contracts with vendors and profit margin information set forth in its quotes would substantially prejudice Altair. For example, competitors would be able to use this information to adjust their bids against Altair’s bids.

The deposition transcripts would allow a competitor to discover Altair’s sensitive cost and profit information, Altair’s internal development and marketing plans, information on what Altair spends on development, which and how many employees participate in such development (and where they are located), and what development efforts Altair has performed or will perform. Should these documents and transcripts be placed in the

public record, it is almost inevitable that Altair's competitors will gain an unfair advantage. It could, for example, permit competitors to have an advantage in bidding against Altair, give competitors the benefit of Altair's planning and development efforts, and potentially provide a roadmap for competitors to "headhunt" Altair's key personnel.

### CONCLUSION

For the reasons set forth herein, Altair respectfully requests *in camera* treatment for the above-noted documents.

Dated: June 10, 2002

Respectfully submitted,

HONIGMAN MILLER SCHWARTZ AND COHN

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Attorney for Altair Engineering, Inc.

**Exhibit A**

***In Camera* Designations for Transcripts of the  
Investigative Hearing of James Scapa & Tom Perring August 18, 2000**

By page and line number

6(18) – 7(5)  
9(15) – 10(16)  
11(12) – 28(15)  
28(16) – 39(11)  
39(18) – 50(7)  
50(14) – 51(5)  
51(24) – 52(16)  
52(21) – 61(24)  
62(11) – 67(1)  
67(14) – 73(5)  
73(7) – 74(13)  
74(17) – 75(24)  
75(25) – 86(18)  
87(10) – 90(9)

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In the matter of )  
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**Docket No. 9299**

**PUBLIC**

**DECLARATION OF TOM PERRING IN SUPPORT OF  
ALTAIR ENGINEERING, INC.'S MOTION FOR  
IN CAMERA TREATMENT OF CERTAIN DOCUMENTS**

Tom Perring, declares as follows:

1. I am the Chief Financial Officer of Altair Engineering, Inc. ("Altair").
2. Based on my personal knowledge I submit this declaration in support of Altair's Motion for *in camera* treatment of certain documents, which the parties have designated as: Altair 1.0 through 6.3, ALT 5 through 314, and 42002-ALT 5-6 and the pages/lines of the transcripts of the Investigative Hearing of James Scapa and Tom Perring attached hereto as Exhibit A.
3. Altair is a privately held company, which does not disclose its financial, sales or marketing data. Disclosure of the sensitive information in the above referenced documents would greatly prejudice Altair, and give competitors an unfair advantage over Altair upon disclosure. Further, disclosure of Altair's proprietary interface data would allow the public to obtain interface data without payment of licensing fees to Altair. Thus, Altair would be deprived of licensing revenues and thus prejudiced.

4. Disclosure of the designated portions of the deposition transcripts would allow a competitor to discover Altair's sensitive cost and profit information, Altair's internal development and marketing plans, information on what Altair spends on development, which and how many employees participate in such development (and where they are located), and what development efforts Altair has performed or may perform. Should these documents and transcripts be placed in the public record, it is almost inevitable that Altair's competitors will gain an unfair advantage. Disclosure could, for example, permit competitors to have an advantage in bidding against Altair, give competitors the benefit of Altair's planning and development efforts, and potentially provide a roadmap for competitors to "headhunt" Altair's key personnel.

5. Altair has diligently maintained the privacy and secrecy of the trade secret information and it is not available outside Altair, except in the case of the interface manuals, upon the payment of licensing fees and the execution of a confidentiality agreement. Within Altair, this information is subject to strict safeguards that control this information, and it is shared only on a need-to-know basis among a limited number of employees, all of whom have signed confidentiality agreements with the company.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 6, 2002, in TROY, Michigan.

Tom M Perring  
Tom Perring



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FEDERAL TRADE COMMISSION

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MSC. Software Corporation )	Docket No. 9299
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**ORDER GRANTING ALTAIR ENGINEERING, INC.'S MOTION FOR  
IN CAMERA TREATMENT OF CERTAIN DOCUMENTS**

Upon consideration of Altair Engineering, Inc.'s motion for *in camera* treatment of certain documents, which have been designated by the parties as Altair 1.0 through 6.3, ALT 5 through 314, and 42002-ALT 5-6 and the pages/lines of the transcripts of the Investigative Hearing of James Scapa and Tom Perring attached hereto as Exhibit A, it is hereby ORDERED that Altair's Motion is GRANTED. Specifically, the following documents have been GRANTED indefinite *in camera* status: Altair 1.0 through 6.3, ALT 5 through 314, and 42002-ALT 5-6 and the pages/lines of the transcripts of the Investigative Hearing of James Scapa and Tom Perring attached hereto as Exhibit A.

Public disclosure of the above-stated materials will likely cause competitive harm to Altair Engineering, Inc.

This Order will expire on \_\_\_\_\_, 200\_\_.

Dated: Washington, D.C.  
\_\_\_\_\_, 2002

\_\_\_\_\_  
D. Michael Chappell  
Administrative Law Judge

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