

CAUSE NO. _____

DSC COMMUNICATIONS CORPORATION,

Plaintiff,

v.

EVAN BROWN,

Defendants.

§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT OF

COLLIN COUNTY, TEXAS

___ JUDICIAL DISTRICT

PLAINTIFF'S MOTION FOR EXPEDITED DISCOVERY

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW DSC Communications Corporation ("DSC"), and pursuant to Rule 200 of the Texas Rules of Civil Procedure, files this its Motion for the entry of an Order authorizing expedited discovery in this proceeding, and in support of same would respectfully submit the following:

1. On April 22, 1997, DSC filed its Original Petition and Application for Injunctive Relief ("Petition"). DSC seeks the issuance of a Temporary Restraining Order and the issuance of a Temporary Injunction based on potential irreparable harm it will suffer as fully described in the Petition, which is incorporated by reference.

2. Pursuant to the Texas Rules of Civil Procedure, if the Court grants DSC's application for a temporary injunction, it will expire by its terms within fourteen (14) days if a hearing has not been set on the injunction. Tex. R. Civ. P. 680. Regardless of whether a temporary restraining order is granted, DSC has requested that a hearing on its application for the issuance of a temporary



injunction order be set by the District Court on or before the expiration of fourteen (14) days from the date hereof.

3. Given the potential hearing schedule, DSC requests the Court allow DSC to schedule the oral deposition Defendant Evan Brown, to be taken on April 30, 1997, in order that DSC may be adequately prepared for the hearing on its Application for a Temporary Injunction.

4. DSC further requests that it be permitted to serve a Notice Duces Tecum, in the form attached hereto as Exhibit "A," compelling the production of documents and other things relevant to this case, and that Defendant's production of documents and other things in response to such Notice Duces Tecum be due concurrently with the scheduling of the above-listed oral depositions on April 30, 1997. *See* Tex. R. Civ. P. 167(2). Such documents will be crucial to the prosecution of this case, and are therefore necessary to DSC's preparation of the injunction hearing.

WHEREFORE, PREMISES CONSIDERED, DSC moves the District Court to issue an Order expediting discovery in this case in order to allow DSC to take the oral deposition of Evan Brown to request the production of documents relevant to DSC's application for injunctive relief in this proceeding on or before the date specified herein.

Respectfully submitted,

LYNN STODGHILL MELSHEIMER & TILLOTSON, L.L.P.

By: 

Michael P. Lynn, P.C.
State Bar No. 12738500
Eric W. Pinker
State Bar No. 16016550

750 North St. Paul Street
Suite 1400
Dallas, Texas 75201
(214) 981-3800 - Telephone
(214) 981-3839 - Telecopy

**ATTORNEYS FOR PLAINTIFF
DSC COMMUNICATIONS CORPORATION**

EXHIBIT "A"

CAUSE NO. _____

DSC COMMUNICATIONS
CORPORATION,

Plaintiff,

v.

EVAN BROWN,

Defendant.

§
§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT OF

COLLIN COUNTY, TEXAS

_____ JUDICIAL DISTRICT

**NOTICE OF INTENTION TO TAKE ORAL AND VIDEOTAPED
DEPOSITION DUCES TECUM OF EVAN BROWN**

TO: Defendant Evan Brown, 2705 Chadbourne Drive, Plano, Texas 75023

PLEASE TAKE NOTICE that pursuant to Rules 200 and 201 of the Texas Rules of Civil Procedure and the order to accelerate discovery, DSC Communications Corporation ("DSC"), by and through its attorneys of record in the above-styled cause, will take the oral and videotaped deposition of Defendant EVAN BROWN ("Brown"), commencing on Wednesday, April 30, 1997, at 9:30 a.m., at the offices of Lynn Stodghill Melsheimer & Tillotson, L.L.P., 750 North St. Paul Street, Suite 1400, Dallas, Texas 75201. Said deposition will continue from day-to-day until completed.

Brown is requested to produce at the time of the scheduled deposition all documents and things described in Exhibit "A" attached hereto, not previously produced in conjunction with the above-captioned case. You shall consider the documents herein to also be requested pursuant to Rule 167 of the Texas Rules of Civil Procedure.

This deposition is noticed, and will be taken, without prejudice to DSC's right to depose Brown in the future during the course of merits discovery.

DEFINITIONS

The following definitions are applicable to the duces tecum.

1. The term “you,” or any variant thereof, means the party to whom this notice is directed.
2. Any reference to an individual person, either singularly or as part of a defined group, includes that person’s employees, agents, successors, assigns, heirs, and personal representatives.
3. Any reference to a nonnatural person includes that person’s directors, officers, employees, agents, predecessors, successors, assigns, legal representatives, and subsidiaries.
4. The term “DSC” means Plaintiff DSC Communications Corporation.
5. The term “Brown” means Defendant Evan Brown.
6. The term “Petition” means Plaintiff’s Original Petition and Application for Injunctive Relief filed in this action on or about April 22, 1997.
7. The term “Employee Patent, Copyright and Proprietary Information Agreement” means the Agreement by and between DSC Communication Corporation and Evan Brown executed on or about April 27, 1987, which is attached to the Petition as Exhibit “1.”
8. The term “concerning” includes, but is not limited to, the following meanings: relating to; referring to; pertaining to; discussing; mentioning; containing; reflecting; evidencing; describing; displaying; showing; identifying; proving; disproving; consisting of; supporting; contradicting; in any way legally, logically or factually connected with the matters referenced; or having a tendency to prove or disprove the matter referenced.

9. The term **“person”** refers to any individual, corporation, general partnership, limited partnership, joint venture, association, joint-stock company, trust, incorporated organization, government or political subdivision thereof, and other nonnatural person of whatever nature.

10. The term **“all”** includes and encompasses **“any.”** The word **“and”** as well as **“or”** shall be construed disjunctively or conjunctively as necessary to bring within the scope of these requests all facts, documents, things, or communications that might otherwise be construed as outside the scope of these requests.

11. The term **“communication,”** or any variant thereof, means any contact between two or more persons and shall include, without limitation, written contact by means such as letters, memoranda, telegrams, telecopies, telexes, or any other document, and any oral contract, such as face-to-face meetings or telephone conversations.

12. The term **“documents”** has the broadest meaning ascribed to it under the Texas Rules of Civil Procedure and includes the original and each nonidentical copy of any written, printed, typed, filmed, recorded, or other graphic matter of any kind or description, photographic matter, computer files or disks, sound recordings or reproductions, however produced or reproduced, whether in draft or final form, as well as any summarization, compilation, or index of any such documents.

13. The term **“Solution”** means Brown’s idea, method, concept, process, product, or device for converting machine executable binary code into a high level source code form using logic and data abstractions.

14. The singular includes the plural and vice versa.

15. The masculine gender includes the feminine and vice versa.

Please take further notice that said deposition shall be taken before a Certified Shorthand Reporter, Notary Public, or other officer duly authorized to administer oath. This deposition may be recorded by videotape.

You are invited to attend and examine the witness.

Dated: April 24, 1997.

Respectfully submitted,

LYNN STODGHILL MELSHEIMER & TILLOTSON, L.L.P.

By: 

Michael P. Lynn, P.C.
State Bar No. 12738500
Eric W. Pinker
State Bar No. 16016550

750 North St. Paul Street
Suite 1400
Dallas, Texas 75201
(214) 981-3800 - Telephone
(214) 981-3839 - Telecopy

**ATTORNEYS FOR PLAINTIFF
DSC COMMUNICATIONS CORPORATION**

EXHIBIT "A"

1. All documents or other materials related to DSC.
2. All documents or other materials that you took with you when your employment with DSC was terminated, or have within your care, custody, or control, including, but not limited to, any hardware, software, designs, graphic reproductions, memoranda, or analysis.
3. All documents or other materials related to the Solution.
4. All documents or other materials used by you to develop, refine, or conceptualize the Solution.
5. All documents related to any communications between you and any other person or entity concerning the Solution.
6. All agreements between you and any person or entity concerning the Solution.
7. All business plans, strategies, memoranda, or analyses related to the sale and/or marketing of the Solution.
8. All business plans, strategies, memoranda, or analyses related to the research and development of the Solution.
9. Your calendar, daytimer, and message books from March 1, 1996 to the present.
10. All computer hard drives owned or used by you in the last ten years.