

CAUSE NO. 199 596 97

DSC COMMUNICATIONS
CORPORATION n/k/a
ALCATEL USA, INC.,

Plaintiff,

v.

EVAN BROWN,

Defendant.

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IN THE DISTRICT COURT OF

COLLIN COUNTY, TEXAS

219TH JUDICIAL DISTRICT

**PLAINTIFF'S OBJECTIONS AND RESPONSES TO
DEFENDANT'S SECOND REQUEST FOR PRODUCTION**

TO: Defendant Evan Brown, P.O. Box 31, Cranfills Gap, TX 76637

Plaintiff DSC Communications Corporation n/k/a Alcatel USA, Inc. ("Alcatel") files this its Objections and Responses to Defendant Evan Brown's ("Brown") Second Request for Production as follows:

I.

GENERAL OBJECTIONS

1. Alcatel objects to Brown's Second Request for Production on the grounds that the requests seek information that is protected by the attorney-client privilege or the attorney work product privilege. Alcatel further objects to Brown's Second Request for Production to the extent the Requests seek information, documents, or responses protected by the investigative and party communication privileges. To the extent that Brown's Request for Production and/or

interrogatories can be construed to seek privileged information or documents, Alcatel objects and will provide only non-privileged information, responses, and documents.

2. Alcatel objects to Brown's Second Request for Production because much of the information contained in the documents to be produced in response is confidential, proprietary or trade secrets. Alcatel, therefore, will not produce any such documents until an appropriate protective order is in place. Alcatel will work with Defendant on a mutually acceptable protective order. To the extent the parties cannot agree upon such a protective order, Alcatel hereby moves for a protective order limiting disclosure or dissemination of any confidential documents produced by Alcatel in this lawsuit.

3. Alcatel objects to Brown's request to produce documents at the 219th District Court Room, McKinney, Texas, because that is not a reasonable place, time, and manner for making inspection and performing the requested copying. Subject to and without waiving this objection, Alcatel will produce for inspection and/or copying the requested documents and tangible things to which Alcatel has not objected at a mutually convenient time and place to the parties involved.

4. Alcatel objects to the "Instructions" and "Definitions" contained in Brown's Second Request for Production to the extent they seek to expand or modify the breadth and scope of the TEXAS RULES OF CIVIL PROCEDURE or to seek to increase Alcatel's duties under those Rules. Subject to and without waiving the objections set forth herein, Alcatel will produce non-privileged documents as set forth in its responses as such documents are kept in the ordinary course of business.

5. Alcatel specifically objects to Definition One of "Plaintiff," and Definition Two of "You" or Your," contained in Brown's Second Request for Production, as they seek to increase

Alcatel's duties under the TEXAS RULES OF CIVIL PROCEDURE. Alcatel will respond to Brown's Second Request for Production as if the definitions of "Plaintiff," "You" and "Your" mean DSC Communications Corporation n/k/a Alcatel USA, Inc.

6. Alcatel objects to Brown's Second Request for Production to the extent the Requests seek information, documents, or responses relating to matters that are not raised in the pleadings on the grounds that they are not relevant to this action and not reasonably calculated to lead to the discovery of admissible evidence.

7. Alcatel reserves the right to supplement or amend these objections and responses upon, among other things: further investigation; discovery of additional facts; discovery of persons with knowledge of relevant information; developments in this action or any other proceedings; and the rebuttal of any of Brown's evidence in this action.

8. By responding to any Request for Production and/or interrogatory or providing any information herewith, Alcatel does not waive and expressly preserves the objections set forth herein and does not concede the relevancy or admissibility of the response.

9. Alcatel incorporates each general objection in its response to each individual interrogatory and Alcatel will respond specifically to the Request for Production and/or interrogatories as Alcatel understands the terms used therein.

II.

RESPONSES

Request for Production No. 1:

Produce computer files representing all the files contained in the home directory and sub-directories of defendant Evan Brown that existed at the time of Defendant's termination. At the time of his termination, the Defendant had home directories on the Switching Products Division network, the Motorola Cellular testbed network and the VAX development cluster network. Defendant requests that these computer files be copied to CD-ROM disk in such a way as to preserve the original time and date of all these computer files.

Response:

Plaintiff objects to Request No. 1 on the grounds that it is overly broad and unduly burdensome. Plaintiff further objects to Request No. 1 as it seeks production of information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff also objects to Defendant's instruction in Request No. 1 as to the method such information is to be produced as it goes beyond the requirements of the TEXAS RULES OF CIVIL PROCEDURE. Subject to and without waiving the foregoing objections, Plaintiff is searching for responsive documents, and will produce otherwise non-objectionable documents at a mutually agreed place and time.

Request for Production No. 2:

Identify the personnel assigned to guard Defendant during the Defendants (sic) three month disclosure at DSC's PB-6 facilities in Plano, Texas.

Response:

Plaintiff objects to the term "guard," as it is harassing and inaccurate. Plaintiff further objects to Request No. 2 as it seeks production of information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff also objects to Request No. 2 as it is improperly described as a Request for Production, when it is, in fact, an interrogatory. Plaintiff will consider Request No. 2 an interrogatory for the purposes of complying with TEX. R. CIV. P. 190.3(b)(3). Subject to and without waiving the foregoing objections, Plaintiff responds to Request No. 2 with the following list of persons present while Brown was at DSC's PB-6 facilities in Plano, Texas, during the summer of 2000:

- (1) Teresa Purcell
Kay Gregory
Alcatel USA
c/o Eric Pinker
Lynn Tillotson & Pinker
750 N. St. Paul, Suite 1400
Dallas, Texas 75201
(214) 981-3800
- (2) Catherine Loury
Alcatel Business Systems
c/o Eric Pinker
Lynn Tillotson & Pinker
750 N. St. Paul, Suite 1400
Dallas, Texas 75201
(214) 981-3800
- (3) Alexandra Markhasina
Curette Moreland
Legal Network
600 N. Pearl, Suite 2100
Dallas, Texas 75201
(214) 777-6400
- (4) Michelle Scopellite
c/o Eric Pinker
Lynn Tillotson & Pinker
750 N. St. Paul, Suite 1400
Dallas, Texas 75201
(214) 981-3800
- (5) Joe Riggs
Heidi Lee
Christina Taylor
Ruth Dunn
Terri Worley
Shante Beloit
Robert Salinas
c/o Adecco Employment Service
4701 West Park Boulevard
Plano, Texas 75075
(972) 985-4430

Request for Production No. 3:

Produce any and all communications and documents sent to or received from, or exchanged by and between Alcatel personnel, Paris, France and Defendant as referred to by George Brunt, general counsel for Alcatel, USA in the June 2001 issue of D Magazine, pages 40 through 42. Specifically with regards to the last 2 paragraphs of page 41. Attached as Exhibit A.

Response:

Plaintiff objects to Request No. 3 on the grounds that it is unduly burdensome. Plaintiff further objects to Request No. 3 as it seeks production of information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff also objects to Request No. 3 as the information requested is protected by the attorney-client privilege and/or the attorney work product privilege. Subject to and without waiving the foregoing objections, Plaintiff is searching for responsive documents, and will produce otherwise non-objectionable documents at a mutually agreed place and time.

Request for Production No. 4:

Produce all organization charts and project plans pertaining to the development or investigation of machine executable binary code into high level source code from April 1987 through April 1997.

Response:

Plaintiff objects to Request No. 4 as it is overly broad and unduly burdensome. Plaintiff also objects to Request No. 4 on the grounds that it seeks confidential business information and/or trade secret information. Subject to and without waiving the foregoing objections, Plaintiff is searching for responsive documents, and will produce otherwise non-objectionable documents under an appropriate protective order at a mutually agreed place and time.

Request for Production No. 5:

Produce all financial records pertaining to the development or investigation of machine executable binary code into high level source code from April 1987 through April 1997.

Response:

Plaintiff objects to Request No. 5 on the grounds that it is overly broad and unduly burdensome. Plaintiff further objects to Request No. 5 as it seeks production of information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff also objects to Request No. 5 on the grounds that it seeks confidential business information and/or

trade secret information. On the basis of the foregoing objections, Plaintiff will not produce such information.

Request for Production No. 6:

Identify all managers or supervisors of Defendant from April 1987 through April 1997.

Response:

Plaintiff objects to Request No. 6 on the grounds that it is overbroad as to time. Plaintiff further objects to Request No. 6 on the grounds that it seeks production of information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Plaintiff also objects to Request No. 6 as the information requested is equally or more readily accessible to Defendant as to Plaintiff. Plaintiff also objects to Request No. 6 as it is improperly described as a Request for Production, when it is, in fact, an interrogatory. Plaintiff will consider Request No. 6 an interrogatory for the purposes of complying with TEX. R. CIV. P. 190.3(b)(3). Subject to and without waiving the foregoing objections, Plaintiff has made its best efforts to compile the requested information and responds to Request No. 6 as follows:

Scott M. Yagel
Jack Barrineau
Frederick Richter
Gerald W. Krause
Mark Cromwell
Matthew Bilbo
Brian Scudder
Caluperuma Desoyza

Respectfully submitted,

By: 

Eric W. Pinker, P.C.

State Bar No. 16016550

Scott M. Garelick

State Bar No. 24029053

LYNN TILLOTSON & PINKER, L.L.P.

750 North St. Paul Street, Suite 1400

Dallas, Texas 75201

Telephone: (214) 981-3800

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**ATTORNEYS FOR PLAINTIFF
DSC COMMUNICATIONS CORPORATION**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served upon Defendant Evan Brown, as identified below, on this the 17th day of September, 2001:

Via CMRRR #7000 1670 0012 5497 6560

Mr. Evan Brown

P.O. Box 31

Cranfills Gap, TX 76637



Scott M. Garelick