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From: Vernon McKenzie <vernon.mckenzie@mscsoftware.com.au>
To: FTC.SERIOUS."consentagreement@ftc.gov"
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To whom it may concern,

I understand the period for public comment has expired. Actually I hadn't really followed this case carefully as I had an unflinching (but unfounded) faith that logic and good sense will always prevail. That faith is clearly unfounded with regard to this breathtaking exercise from the US FTC.

From an outsiders' (Australian) point of view, what sort of laughing stock can apparently educated people in a civilised western country make of themselves? One might have expected such "justice" in 1960's East Germany or Romania, but statistically I guess its probable we will see the best and worst of everything come from the US.

Obviously, the cost and burden of action in the US legal system is enough to intimidate otherwise normal, successful companies into giving up hope that they will get any sense from the FTC. What is also incredible is the inability of the legal profession to understand some basic "facts" in this case. Otherwise it must be my absolute ignorance of the relevant US laws, which if the flavour of this FTC ruling is an indication, I assume we can expect some highly efficient "left shoe factories" to soon appear in the US?

MSC.Nastran is not the only engineering simulation software on the planet. As someone involved in selling it, I seem to regularly come up against others called "Strand" and "Cosmos" and "Algor" and "Abaqus" and "Ansys" and "NISA" and "Ideas Model Solution" and "Eifini". Some others even have "Nastran" in their name! I understand that the "Nastran" name is worth something (in Australia, we call that "goodwill") - most of which can be attributed to MSC's efforts. So it appears from an objective point of view that the function of the FTC is to limit the maximum value of goodwill any company can develop from its respected products. If anyone there imagines that "Nastran" is the only way a company can use simulation to assist its product development, then I suggest the FTC perform a simple task: "open your eyes; ask around". The fact that MSC.Nastran performs engineering simulation so well that some organisations insist on its use does not (in my ignorant humble opinion) alter the fact that there is competition and plenty of it even in this specialist area. MSC.Nastran is actually unique in that potential competitors are able to take advantage of "brand confusion" if they choose to use the Nastran name in their products. A cynical view might be that this is an excellent retirement plan for some entrepreneurial CEO's, rather than serious technical competition - nevertheless those Nastran-named competitors (at least 3) do exist. Is it MSC's (or the FTC's) responsibility to foster the quality and health of opportunistic competitors? Perhaps 6 weeks free service from an MSC.Nastran developer might be just the competitive boost NE/Nastran could use to satisfy the FTC's interpretation of a level playing field? Maybe a tour by Ansys' management of the MSC offices and computers? Perhaps access to MSC's internal web site by the

Algor guys might even things up a bit? Maybe G+D Computing could be given a list of MSC.Nastran users?

Whether the FTC likes it or not, there is so much competition in this area that some consolidation (or failure) is inevitable as certain companies find the burden of developing this technology, promoting it and competing effectively to maintain technological differentiation, costs too much. The choice is that those companies can "retire" agreeably and beneficially through merger with a healthier organisation, or the FTC can ride in and try to construct a blueprint for the marketplace on theory and ideology that only they seem to understand. There goes a bunch of retirement plans. My cynical personal view of the outcome is that it is such an "eyebrow raiser" in the US business environment, that I am very curious about the motives and investing habits of those people influential to the original action/decision in this case.

I always take the view that "popular" criticism of judicial decisionmaking is dangerous, because the populace rarely has all the facts. But in this case, none of the details will save you guys from how the fundamental outcomes appear. MSC buys a couple of minor struggling companies to shore up some business, complement its technical capabilities, reduce "brand confusion" and provide those companies with a decent end - leaving at least a dozen engineering simulation competitors in the marketplace including some which carry the Nastran name. If that's the basis for action by the FTC, which is envisaged to be so costly to defend that a company simply gives up, then your country has a serious problem either with its laws or its application thereof. From the land of free enterprise, it is spectacular that such an outcome was possible. I hope it receives all the contempt it deserves. Good luck!

Vernon McKenzie

These are my personal opinions, and probably do not reflect official policy or statements by MSC.Software I have sent this email from my MSC.Software address as the recipients are entitled to know that I am an employee of MSC.Software (Australia).

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