

# ReedSmith

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June 16, 2008

**Private & Confidential**

**By Electronic Mail**

Alain Sheer  
Division of Privacy and Identity Protection  
Federal Trade Commission  
601 New Jersey Avenue  
Washington, DC 20580

**Re: CVS: Bates Numbering**

Dear Alain,

We have received your letter of June 16, 2008, and note that point one raises questions regarding the formalities of the production of documents made by CVS from November 13, 2007 until now. Among these questions was the request for an explanation of the numbering system that has been employed by CVS to uniquely identify documents. From your letter, we understand that there is some confusion over minor variances in the number system.

As a preliminary matter, please note that CVS has at all times attempted to comply with the document-numbering requests of both the FTC and OCR. However, as a result of the first request being a "joint" request, and asking CVS to "consider documents produced to one agency as produced to the other," CVS anticipated that, without both a universal and individually-specific numbering system, there would be confusion as to the responsiveness of a particular document to a particular agency's request.

To avoid this confusion, CVS adopted a two-tiered numbering system for the first production. Documents produced on November 13, 2007 were given a "universal" number that was designated by the precursor "CVS-XXXX." The "XXXX" marks where the unique identifying number was placed. As a result of including the universal number, CVS allowed FTC and OCR to be able to cross-reference documents between themselves with little difficulty.

However, the "universal" number would not have been sufficient because one document could be responsive to several requests. If only one number were given to each document in the first wave of production, the accompanying cross-referencing table would have been immense and impractical for our purposes. Therefore, CVS included an agency-specific identifier in the first request along with the universal "CVS" number. This allowed each agency to easily know the request to which any particular document was responsive.

With one exception, all documents produced to the FTC pursuant to your voluntary request or issuance of compulsory process, received a CVS number. Therefore, by reference to the CVS numbers,

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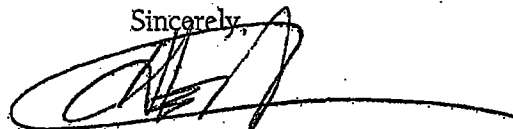
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you should be able to uniquely identify any document or page thereof. The one exception to this was the second wave of production to the FTC. Due to an oversight, the documents received only agency-specific numbers, not CVS numbers. If you think it helpful, we can reproduce the second wave documents with CVS numbers attached.

In addition to the confusion over CVS vs. agency-specific numbers, your letter also stated that you were unclear as to why some CVS numbers had more preceding null digits than others. For example, documents included in the third wave of production had three (3) null digits preceding the number (CVS-000XXX) while documents included in the first wave of the CID production had only two (2) null digits preceding the number (CVS-00XXXX). The explanation for this variance is simple: clerical error. The third null digit was unintentionally left off the first wave of the CID production. However, the uniqueness of each CVS number is constant throughout all productions. Therefore, by reference to the substantive portion of the number, you should be able to identify any document with ease.

Should you have any questions about the above, or if you would like a further explanation of the numbering system, please do not hesitate to contact me or my colleague Drew Boortz at your earliest convenience.

Sincerely,



Anthony E. DiResta

cc: Loretta Garrison  
Kristen Cohen  
Andrew Boortz