

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



In the Matter of

**McWANE, INC.,
a corporation , and**

**STAR PIPE PRODUCTS, LTD.,
a limited partnership.**

PUBLIC DOCUMENT

Docket No.: 9351

**SIP INDUSTRIES' REPLY IN SUPPORT OF
MOTION TO QUASH SUBPOENA DUCES TECUM**

Serampore Industries Private (Ltd.), Inc., d/b/a SIP Industries, a non-party served with a Subpoena Duces Tecum by Defendant McWane, Inc., files this Reply in support of SIP Industries' Motion to Quash Subpoena Duces Tecum, and respectfully states:

On or about March 5 and 13, 2012, SIP Industries filed its Motion to Quash Subpoenas Duces Tecum ("SIP Motion"). On or about April 6, 2012, following discussions between counsel and two unopposed extensions, McWane filed Respondent McWane, Inc.'s Opposition to SIP Industries' Motion to Quash Subpoena Duces Tecum ("McWane Response").

As indicated in the McWane Response, most of the issues raised in the SIP Motion have been resolved by agreement. However, the parties have not agreed with respect to certain of McWane's document requests. McWane has refashioned those requests in its Response, but the revised requests are still inappropriate and overbroad. SIP Industries files this brief Reply in order to address the revised requests described in the McWane Response.

Request No. 2: Documents “sufficient to identify” purchases of DIWF products from 2003 to the present:

In its Response, McWane states that this request is narrowed to seek only “summary level sales and purchase data, from January 1, 2007, to the present.” SIP Industries objects that this information is highly confidential and proprietary. SIP Industries recognizes that any production would be subject to the Protective Order entered in this case, but whether that Order is sufficient to protect SIP Industries is impossible to determine without an explanation of (i) the relevance of this information to this proceeding and (ii) what will be done with this data. SIP Industries has posed these questions but has received no response. On the record as it stands today, McWane has failed to explain the relevance of this request or the use that will be made of SIP Industries’ confidential data.

Request Nos. 3 and 5: Documents “sufficient to identify” sales of DIWF products and communications regarding DIWF products from 2003 to the present:

In its Response, McWane states that this request is narrowed to seek only “emails from one custodian, the Vice President of Business Development at SIP, from January 1, 2007, to present.” In practice, this does not substantially reduce McWane’s overbroad requests. The Vice President of Business Development is Bharat Agarwal, who signed the Declaration in support of the SIP Motion. Mr. Agarwal is the primary company representative who dealt with third parties with respect to the purchase and sale of DIWF products. However, Mr. Agarwal routinely deals with many parties with respect to many different types of products. Emails are not sorted or identified as “DIWF emails,” and many emails contain references to both DIWF and other types of products. Moreover, there is no practical way to electronically search for emails referencing one or more

DIWF products. Such products may be identified by different names or in different manners including product numbers.

It would be an extreme burden, if possible at all, to review thousands of emails over a five year period for references to DIWF products. At the same time, the relevance of these emails is marginal at best. Most are order inquiries and responses, with questions and answers regarding available products, shipping times and so forth. As stated, this request remains overbroad and unduly burdensome.

Conclusion

All issues except those discussed in the McWane Response and this Reply have been resolved by the parties. For the reasons set forth in the SIP Motion and this Reply, McWane's remaining refashioned requests remain overbroad and objectionable and the SIP Motion should thus be granted.

Respectfully submitted,

SHEINESS, SCOTT, GROSSMAN & COHN, L.L.P.

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CERTIFICATE OF SERVICE

I certify that a true copy of SIP Industries' Reply in Support of Motion to Quash Subpoena Duces Tecum has been served, by United States mail, on the 23rd day of April, 2012, to the Administrative Law Judge and to all counsel of record, as follows:

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