

BEFORE THE  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268-0001

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POSTAL RATE COMMISSION  
OFFICE OF THE SECRETARY

COMPLAINT ON POST E.C.S.

Docket No. C99-1

**OBJECTION OF THE UNITED STATES POSTAL SERVICE TO  
OFFICE OF THE CONSUMER ADVOCATE  
INTERROGATORIES OCA/USPS—8, 9 (IN PART), 10-14,  
16 (IN PART), 17, 18 (IN PART)  
(July 16, 1999)**

In accordance with Rules 25 and 26 of the Commission's Rules of Practice and Procedure, the Postal Service hereby objects to interrogatories OCA/USPS—8, 9 (in part), 10-14, 16 (in part), 17, 18 (in part), filed on July 6, 1999.<sup>1</sup>

*Interrogatories OCA/USPS-8 and 16 (first two questions).* Interrogatory 8 requests the identity of the entity that claims the trademark to Post E.C.S. The first two questions of interrogatory 16 request the identity of the claimant of the trademark of the Electronic Postmark™ system and the identity of all entities with which the trademark is registered. The Postal Service objects to these interrogatories on grounds of relevance. P.O. Ruling No. C99-1/3 clearly delimits the scope of this proceeding to the postal/nonpostal status of Post E.C.S. Whether the Postal Service or some other entity has claims to, or registers a trademark for, a specific product name would in no way alter the product's functional characteristics. Intellectual property rights have nothing to do with the issues at stake in this proceeding.

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<sup>1</sup> To reduce the size of document title names and facilitate ease of identifying non-objectionable portions of discovery requests, the Postal Service encourages the participants to divide interrogatories into discrete, separately identifiable subparts.

***Interrogatories OCA/USPS-9 (1<sup>st</sup>, 2<sup>nd</sup>, and 4<sup>th</sup> questions)<sup>2</sup> and OCA/USPS-16 (last sentence (in part))***. The first, second, and fourth questions of interrogatory 9 ask for the identity of the developer of Post E.C.S., and relationships between such developer and the Postal Service. The last sentence in interrogatory 16 asks (in part) for the identity of the developer of the Electronic Postmark™ system and whether the system is licensed by or to the Postal Service.<sup>3</sup> The Postal Service objects to these interrogatories on grounds of relevance and commercial sensitivity (in part). The identity of the developer of a software or product does not inform the question of whether Post E.C.S. is a postal service; rather, the scope of the inquiry in this phase of the proceeding is limited to the service's functional characteristics. Furthermore, the Postal Service objects on grounds of commercial sensitivity to the extent that these interrogatories seek information about any relationships between entities that are not publicly disclosed by such entities and about which the Postal Service may possess potentially responsive information.<sup>4</sup> Such information is confidential commercial

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<sup>2</sup> The Postal Service is not at this time lodging an objection to the third question in interrogatory 9 (i.e., "Please describe the relationship between the Postal Service and Tumbleweed Software") or to a similar inquiry in interrogatory OCA/USPS-15. By so doing, the Postal Service does not intend to waive any objections on grounds of relevance or commercial sensitivity, or any other basis, to follow-up interrogatories on responses to these questions.

<sup>3</sup> The Postal Service is not objecting to that portion of interrogatory 16 that asks for a description of the functions and use of the Electronic Postmark™ system. The Postal Service does not intend, however, to waive any objections to follow-up discovery on the Electronic Postmark™ system.

<sup>4</sup> The Postal Service does not intend this objection to represent that it is aware of any  
(continued...)

information provided by a person and clearly privileged.

**Interrogatory OCA/USPS-9 (last question) and 10.** The last question of interrogatory 9 requests that the relationship between the entity holding the trademark on Post E.C.S. and Tumbleweed Software be described. Interrogatory 10 requests information concerning whether the Postal Service, other foreign posts, or IPC have exclusive software licensing arrangements with Tumbleweed, and for descriptions of relationships between Tumbleweed Software and other entities. The Postal Service objects on grounds of relevance and commercial sensitivity (in part). Relationships between Tumbleweed Software and other entities have no bearing on the functional characteristics of the Postal Service's Post E.C.S. product. Furthermore, to the extent that the Postal Service is aware of information about relationships between entities that are not publicly disclosed by such entities,<sup>5</sup> such information is commercially sensitive information provided to the Postal Service and must not be disclosed.

**Interrogatory OCA/USPS-11.** This interrogatory requests whether the Postal Service Board of Governors approved an agreement with Tumbleweed Software or other developer, and if not, the interrogatory requests information about the participation of the Board of Governors in the approval of any agreements or the identity of an approving official. The Postal Service objects to this interrogatory on

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(...continued)

such confidential relationships; however, it cites this ground to preserve its objection should it become aware of any.

<sup>5</sup> The Postal Service does not intend this objection to represent that it is aware of any such confidential relationships; however, it cites this ground to preserve its objection

(continued...)

grounds of relevance.<sup>6</sup> Whether the Board of Governors or any other person in the Postal Service participated in any decisions related to the supply of software for Post E.C.S. has absolutely no bearing on the nonpostal character of Post E.C.S. Further, Commission precedent makes clear that “the decisional processes whereby [the challenged] service was brought into being . . . [have] no direct bearing on the qualities of the service itself.” P.O. Ruling No. C96-1/5. In this regard, information about the approval of any agreements with software suppliers would not shed light on the service’s characteristics and its nonpostal nature.

***Interrogatories OCA/USPS-12 and 14.*** Interrogatory 12 requests that the Postal Service identify the location of its servers and state whether these are separate computers. Interrogatory 14 requests that the Postal Service identify the entity that owns and controls certain servers and the domain “global.”<sup>7</sup> The Postal Service objects on grounds of relevance and commercial sensitivity (in part). The location and number of servers used in connection with Post E.C.S., as well as the ownership of domain names in web addresses, are completely irrelevant to the postal/nonpostal question. Furthermore, information about the physical location of servers is sensitive information.

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(...continued)

should it become aware of any.

<sup>6</sup> The Postal Service does not interpret this interrogatory to request information about predecisional deliberations or contract negotiations. Nevertheless, to the extent OCA intends to ask follow-up questions, the Postal Service does not intend to waive any objection to such interrogatories on grounds of commercial sensitivity and privilege by not raising those grounds here.

<sup>7</sup> Incidentally, “global” in the address identified in the interrogatory is not a domain name; rather it is a prefix to a domain name.

Disclosure of such information could enable persons intent on gaining unauthorized access to the system or compromising system security to concentrate their efforts on points of access proximate to the place where such servers are located.

***Interrogatory OCA/USPS-13.*** This interrogatory requests that the Postal Service identify the security measures for Post E.C.S. servers, the entity having responsibility for enforcement of security measures, and whether the Inspection Service and Inspector General have roles related to Post E.C.S. security. The Postal Service objects on grounds of commercial sensitivity and relevance. That the Postal Inspection Service or Inspector General may execute responsibilities that relate to nonpostal services does not change their nonpostal character. Taken to its logical extreme, the theory looming behind OCA's inquiry would convert all nonpostal services into postal services, as the Inspector General's and Inspection Service's responsibilities are not confined simply to postal services, and these organizational units have undoubtedly had occasion to consider matters related to nonpostal services. Furthermore, disclosure of information about Post E.C.S. security is sensitive information. As discussed above, disclosure could compromise system security.

***Interrogatory OCA/USPS-17.*** This interrogatory requests that the Postal Service state when it became aware that Tumbleweed Software is UPS's "technology partner," and that it identify what efforts are in place to protect Postal Service trade secrets from being disclosed to UPS. The Postal Service objects on grounds of vagueness, assumption of fact not in evidence, relevance, and commercial sensitivity. First, the interrogatory does not define the term "technology partner," and the Postal

Service is not privy to information that would allow it to offer an opinion as to whether this accurately describes any relationship between Tumbleweed and UPS. Second, the interrogatory's assumption that Tumbleweed Software is UPS's "technology partner" is a fact that has not been established in this proceeding. Thus, the interrogatory is objectionable because it assumes facts not in evidence. Third, the Postal Service's knowledge of Tumbleweed's relationship with UPS, and its effect on confidentiality measures, are not relevant to the postal/nonpostal nature of Post E.C.S. Finally, the interrogatory requests that the Postal Service disclose information related to its strategic fact-finding and the measures it employs to protect its commercial information. Such information is unquestionably commercially sensitive. Knowledge of such information would give competitors insight into the Postal Service's capability to assess competitive risks, as well as arm competitors with information about the Postal Service's efforts to protect its commercial information. The Postal Service, in its role as a competitive enterprise, should never be required to disclose such information.

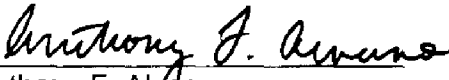
***Interrogatory OCA/USPS-18 (last question).*** Interrogatory 18 requests that the Postal Service identify the number of applications submitted for participation in the Post E.C.S. test, and the number of applicants that were given a 30-day trial of the service. The Postal Service objects to this interrogatory on grounds of relevance and commercial sensitivity. The response to this interrogatory would require disclosure of information related to the number of licensed users. This plainly does not inform the question of the legal status of Post E.C.S., and is therefore irrelevant. Furthermore, responsive information would result in commercial harm, since it would give competitors

the opportunity to gain knowledge about the size of the Postal Service's customer base, thereby enabling them to evaluate the Postal Service's progress and strengths in the burgeoning secure electronic services market.

UNITED STATES POSTAL SERVICE

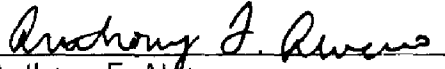
By its attorneys:

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

  
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