

Competition Tribunal



Tribunal de la Concurrence

CT-1989-004 – Doc # 31

IN THE MATTER OF an application by the Director of Investigation and Research for an order pursuant to section 75 of the *Competition Act*, R.S.C., 1985, c. C-34, as amended, requesting that the respondent accept the Exdos Corporation as a customer for the supply of a product.

B E T W E E N :

Applicant

and

Xerox Canada Inc.

Respondent



**ORDER REGARDING CONFIDENTIALITY
DATED APRIL 20, 1990**

Date of Pre-Hearing Conference Call:

April 20, 1990

Presiding Member:

The Honourable Madame Justice Barbara Reed

Lay Member:

Dr. Frank Roseman

Counsel for the Applicant:

Director of Investigation and Research

John S. Tyhurst

Counsel for the Respondent:

Xerox Canada Ltd.

Colin L. Campbell, Q.C.

COMPETITION TRIBUNAL
ORDER REGARDING CONFIDENTIALITY
DATED APRIL 20, 1990

The Director of Investigation and Research

v.

Xerox Canada Inc.

UPON CONSIDERING the representations regarding the claims to confidentiality in respect of the documents or portions of documents described in the applicant's affidavits of documents and regarding information to be produced pursuant to undertakings of the respondent on examination of discovery;

AND UPON CONSENT of the parties for an order regarding confidentiality in respect of such documents in the form of a draft order submitted by them;

THIS TRIBUNAL ORDERS THAT:

1. This order applies to:

(a) the documents and information referred to in Schedule 2 of the Applicant's Affidavit of Documents and Supplementary Affidavit of Documents;

(b) those documents and information provided by the respondent in response to questions on discovery and for which a claim for confidentiality on the grounds of commercial sensitivity is made in writing by the respondent to the applicant, which claim is consented to by the applicant.

2. No one is to be given access to the documents in subparagraph 1(a) except counsel for the respondent, Mr. William Donaldson, any independent experts retained by the

respondent to give evidence in relation to this matter, and members and staff of the Competition Tribunal.

3. No one is to be given access to the documents in subparagraph l(b), except counsel for the applicant, those members of the Bureau of Competition Policy whose assistance is considered necessary for the proper presentation of the applicant's case, any independent experts retained by the applicant to give evidence in relation to this matter, and members and staff of the Competition Tribunal.

4. Any such experts as aforesaid and Mr. Donaldson shall execute a confidentiality agreement in accordance with the attached form.

5. This order is subject to further direction of this Tribunal.

6. Any confidential document described herein for which confidentiality in whole or in part is claimed, shall be marked on the cover or first page thereof and on each page that contains confidential information, with the words "SUBJECT TO PROTECTIVE ORDER".

7. Those portions of documents and related materials containing information designated as "SUBJECT TO PROTECTIVE ORDER shall not form part of the public record, unless the Tribunal orders otherwise.

8. Upon completion or final disposition of this application and any appeals resulting therefrom, all documents and related materials marked "SUBJECT TO PROTECTIVE ORDER and all copies thereof which have been made by counsel, their independent experts, or anyone on their behalf, as well as all documents containing any information protected by this order, shall be returned to the originating party unless such party states in writing that the claim for confidentiality has been withdrawn or that the documents may be disposed of in some other manner.

9. The protective provisions of this order shall not apply to documents or information for which the party that claimed confidentiality has withdrawn such claim in writing, effective at the date of such withdrawal.

DATED at Vancouver, this 20th day of April, 1990.

SIGNED on behalf of the Tribunal by the presiding judicial member.

(s) B. Reed

B. Reed

**ANNEX TO ORDER REGARDING CONFIDENTIALITY
DATED APRIL 20, 1990**

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requesting that the respondent accept the Exdos Corporation
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B E T W E E N:

The Director of Investigation and Research

Applicant

and

Xerox Canada Inc.

Respondent

CONFIDENTIALITY AGREEMENT

IN CONSIDERATION of being provided with information in connection with
this proceeding over which claims for confidentiality have been advanced, I, _____ of
the City of _____, in the of _____, hereby agree to
maintain the confidentiality of such information. It shall not be copied or disclosed to any
other person nor shall it be used by me for any purpose other than in connection with this
proceeding.

Upon completion of this proceeding, I agree that such information, and any copies of same, shall be dealt with in accordance with instructions from my counsel, or as prescribed by order of the Competition Tribunal.

I acknowledge that I am aware of the order granted by the Competition Tribunal on April 20, 1990 in this regard and agree to be bound by same.

I hereby attorn to the jurisdiction of the courts of any province in Canada to resolve any disputes arising under this Agreement.

Signed, sealed and delivered before a witness this _____ day of _____, 1990.

(Print Name)

(Witness)

(Signature)