

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

INSTALLATION SOFTWARE TECHNOLOGIES,)	
INC. d/b/a INSTALLSHIELD SOFTWARE)	
CORPORATION,)	
)	
Plaintiff,)	Case No. 03 C 4502
)	
v.)	Judge Coar
)	
WISE SOLUTIONS, INC.,)	Magistrate Judge Denlow
)	
Defendant.)	

**PLAINTIFF'S FIRST SET OF EXPEDITED INTERROGATORIES TO
DEFENDANT WISE SOLUTIONS, INC.**

Plaintiff, INSTALLATION SOFTWARE TECHNOLOGIES, INC. d/b/a
INSTALLSHIELD SOFTWARE CORP. ("InstallShield"), hereby requests Defendant, WISE
SOLUTIONS, INC., to respond to the following expedited Interrogatories pursuant to Rule 33 of
the Federal Rules of Civil Procedure, within the time frame ordered by the Court or otherwise
governed by the Federal Rules of Civil Procedure.

DEFINITIONS AND INSTRUCTIONS

For purposes of this discovery, the following definitions and instructions apply:

1. "InstallShield" as used herein shall mean Installation Software Technologies, Inc.,
d/b/a InstallShield Software Corp., and its respective agents, parent entities, and subsidiaries, and
any and all past or present officers, directors, partners, employees, agents, representatives,
attorneys, or other persons or entities acting or purporting to act for, on behalf of, or with these
entities.
2. "Wise" as used herein shall mean defendant Wise Solutions, Inc., and its
respective agents, parent entities, and subsidiaries, and any and all past or present officers,

directors, partners, employees, agents, representatives, attorneys, or other persons or entities acting or purporting to act for, on behalf of, or with these entities.

3. “And” and “or” as used herein shall be interpreted and construed as “and/or,” and shall not be interpreted to exclude any information otherwise within the scope of any request.

4. “Communication” and “communications” as used herein mean any meeting, conversation, discussion, telex, message, cable, correspondence, e-mail message, voice mail message, or other occurrence whereby thoughts, opinions or data are transmitted between or among one or more persons and any photographic or mechanical device or devices for receiving, transmitting, or storing data or other information.

5. “Computer” as used herein shall include, but is not limited to, microchips, microcomputers, personal computers, laptop computers, portable computers, notebook computers, palmtop computers (also known as personal digital assistants or PDAs), minicomputers, mainframe computers and servers.

6. “Documents” as used herein shall be construed in its broadest sense, and shall include any and all materials within the scope of Rule 34 of the Federal Rules of Civil Procedure, including originals, copies, non-identical copies (whether different from the original because of any authorization, additions, deletions, attachments, notes, or comments or other differences), and drafts or other preparatory materials, whether used, circulated, published or not. The term “documents” means all written, typed, printed, recorded or graphic matter of any kind or character, in your possession, custody or control, including, but not limited to, the following: papers, writings, contracts, certificates, agreements, letters, correspondence, telegrams, mailgrams, telexes, telecopies, messages, bulletins, notices, notes (personal or otherwise), memoranda, reports, studies, analyses, charts, graphs, statements, transcripts of testimony,

affidavits, interviews, notebooks, diaries, logs, minutes, calendars, appointment books, desk pads, forms, pamphlets, books, records, manuals, work papers, worksheets, financial statements or reports, accounting books and records, bank statements, deposit and withdrawal records, checks, vouchers, purchase orders, bills, invoices, receipts, photographs, microfilm, microfiche, films, videotapes, visual recordings, tape or voice records, voice mail recordings, electronic mail (e-mail), computer printouts and drawings, any data compilation in any electronically stored form from which information can be obtained or translated through detection devices into a reasonably usable form, and all other writings or documentary materials.

7. "Electronic data" as used herein means the original (or identical duplicate when the original is not available), and any non-identical copies (whether non-identical because of notes made on copies or attached comments, annotations, marks, transmission notations, or highlighting of any kind) of writings of every kind and description whether inscribed by mechanical, facsimile, electronic, magnetic, digital or other means. Electronic data includes, by way of example only, computer programs (whether private, commercial or work-in-progress), programming notes or instructions, activity listings of electronic mail receipts and/or transmittals, output resulting from the use of any software program, including word processing documents, spreadsheets, database files, charts, graphs and outlines, electronic mail, operating systems, source code of all types, peripheral drivers, PIF files, batch files, ASCII files, and any and all miscellaneous files and/or file fragments, regardless of the media on which they reside and regardless of whether said electronic data consists in an active file, deleted file or file fragment. Electronic data includes any and all items stored on computer memories, hard disks, floppy disks, CD-ROMs, removable media such as Zip disks, Jaz cartridges, Bernoulli Boxes and their equivalent, magnetic tapes of all types, microfiche, punched cards, punched tape,

computer chips, including, but not limited to EPROM, PROM, RAM or ROM, on or in any other vehicle for digital data storage and/or transmittal. The term electronic data also includes the file, folder tables and/or containers and labels appended to, or associated with, any physical storage device associated with each original and/or copy.

8. “Electronic media” as used herein means any magnetic or other storage media device used to record electronic data. Electronic media devices may include, but are not limited to, computer memories, hard disks, floppy disks, CD-ROM, removable media such as Bernoulli Boxes and their equivalent, magnetic tapes of all types, microfiche, punched cards, punched tape, computer chips, including, but not limited to EPROM, PROM, RAM and ROM, or on or in any other vehicle for digital data storage and/or transmittal.

9. “Identify” when used in reference to a natural person means to state his or her full name, present residential address and home telephone number, present business address and business telephone number or, if the above are not known, such information as was last known, and his or her residential address, home telephone number, business title, business affiliation, business address and business telephone number at the time in question. “Identify” when used in reference to both a natural person and a contention means to state all persons having knowledge of the facts negating, as well as supporting, the contention.

10. “Identify” when used in reference to a corporation, partnership, or any legal entity other than a natural person, means to state its full name, form of organization, address or principal place of business and telephone number at present and address or principal place of business and telephone number at the time in question. “Identify” when used in reference to *both* a corporation, partnership, or any legal entity other than a natural person *and* a contention

means to state all persons having knowledge of the facts negating, as well as supporting, the contention.

11. “Identify” when used in reference to a document means to state the type of document (e.g., letter, memorandum, contract, telegram, etc.) or some other means of identifying it, its date or approximate date, its author or authors, its addressee or addressees (if any), its subject matter, its present location or custodian and, if the document or a copy thereof has been produced, the Bates number(s) of that document. If any such document is no longer in Wise’s possession or subject to your control, “identify” also means to state its present or last known location or custodian, its general subject matter or content, what disposition was made of it, the date of such disposition, and all other means of identifying it with sufficient particularity to satisfy the requirements for its inclusion in a request for its production pursuant to a subpoena *duces tecum*. “Identify” when used in reference to both a document and a contention shall include all documents negating, as well as supporting, the contention.

12. “Identify” when used in reference to an act, occurrence, transaction, decision, statement, communication, or conduct (hereinafter collectively referred to as “act”) means to describe in substance the event or events constituting such act, or what transpired, the place and date thereof and to identify the persons present, the persons involved and the documents referring or relating thereto.

13. “Person” as used herein shall mean individuals, corporations, partnerships, associations, joint ventures, firms and other business enterprises or legal entities, and includes both the singular and the plural thereof.

14. The phrase “relate or refer” and “relating or referring” as used herein mean containing, recording, alluding to, responding to, commenting upon, discussing, showing,

disclosing, explaining, mentioning, analyzing, constituting, comprising, evidencing, setting forth, summarizing or characterizing, either directly or indirectly, in whole or in part.

15. If you object to any interrogatory or part thereof on any claim of privilege, identify each statement for which the privilege is claimed together with the following information with respect to each such statement:

1. Date;
2. Names of persons present; and
3. The basis on which the privilege is claimed.

16. If you cannot provide information sought by an interrogatory after conducting a reasonable investigation, you should so state and answer to the extent that you can, stating what information you do have, what information you cannot provide, and stating what efforts you have made to obtain the unknown information.

17. These Interrogatories shall be deemed to be continuing in nature to the fullest extent permitted under the Federal Rules of Civil Procedure, and should you acquire any additional or different information, you are hereby requested to supplement or amend your answers accordingly.

INTERROGATORIES

1. Identify each and every person who has knowledge supporting, refuting or relating to the matters set forth in the Verified Complaint for Injunctive Relief, or who otherwise will be called to testify by Wise.

2. Identify each and every person interviewed by the U.S. Attorney or the Federal Bureau of Investigations in connection with the investigation into this case.

3. Did Wise ever gain access to Installshield's computers, servers and/or electronic data? If so, please provide the following information. If, on the other hand, Wise did not gain access to Installshield's computers, servers and/or electronic data, but possesses knowledge and information that another person or entity did so, please provide the following information with respect to that person or entity.

- (a) Identify each and every person who obtained access to InstallShield's computers, servers and/or electronic data, and, for each such person, describe the dates access was obtained, and the specific documents, files, data or information that person accessed, obtained and/or downloaded from InstallShield's computers, servers and/or electronic data;
- (b) For each of the specific documents, files, data or information described in response to part (a) above, identify who received it, who had access to it, who used it, the location where it was stored, and describe how it was used;
- (c) Identify any and all files, documents and data (including, without limitation, software, source code, mailing lists, databases and applications) derived from, in whole or in part, documents, files, data or information downloaded or obtained from any of InstallShield's computers or servers.
- (d) Identify each and every person who accessed or had access to any of the files, documents and data identified in response to part (c) above;
- (e) Identify each and every computer and electronic device that was used to access InstallShield's computers, servers and/or electronic data, or that received and/or stored any information derived in whole or in part therefrom; and
- (f) For each of the computers and electronic devices identified in response to part (e) above, identify each and every electronic log and other record containing information about how each were used from January 1, 2000 through and to the present date, and each and every item of backup electronic media (such as a computer backup tape) containing data from each.

4. Identify each and every person who, during the period from January 1, 2000 through and to the present date, asked or requested another Wise employee or anyone acting on Wise's behalf to access a computer belonging to an entity other than Wise.

5. Identify each and every computer and electronic device used by Wise that has the capability to access the Internet and download electronic data therefrom and that is now or has been at any time connected to the Internet during the period from January 1, 2000 through and to the present date, along with each and every item of backup electronic media (such as a computer backup tape) containing data from each computer and electronic device identified.

6. Identify each and every person who developed or assisted in developing the advertising campaign "Cast Your .Net Far and Wise," including, without limitation, each and every person who approved its use.

7. Identify each and every person who was involved in any way in selecting, generating or compiling the mailing list for the advertising campaign "Cast Your .Net Far and Wise."

8. Identify each and every marketing campaign, advertising campaign, and/or marketing or advertising strategy formulated or implemented by Wise during the period from January 1, 2000 through and to the present date, including, without limitation, each and every such campaign or strategy designed to target current or former InstallShield customers and the "Cast Your .Net Far and Wise" advertising campaign.

9. Identify each and every person involved in coordinating any marketing campaign, advertising campaign, and/or marketing or advertising strategy provided in response to Interrogatory No. 8 above, including, without limitation, each and every direct mail house or third party, and describe the person's role and the information to which the person had access in connection therewith.

10. Identify each and every IP address registered to, owned by, controlled by, or used by Wise during the period from January 1, 2000 through and to the present date.

11. Identify and describe each and every change made to any of Wise's customer lists and/or databases and mailing lists and/or databases during the period from January 1, 2000 through and to the present date, and, for each, identify each and every person who made the changes or who directed that such changes be made.

12. Identify each and every document, file, database, or item of electronic media on which appears or in which is contained the names and/or addresses of one or more of any of the following persons:

- (a) Ruth Ladecky;
- (b) Friendship Communications;
- (c) Gordon French;
- (d) Make Me Rich Dot Com;
- (e) Viresh Bhatia; and
- (f) Kelley Firkins.

13. Identify each and every person or entity contacted by Wise, or anyone acting on Wise's behalf, that were identified from any customer list (such as the 103,000 customer list and 6,000 customer list described in the Verified Complaint for Injunctive and Other Relief), document, file, or other data obtained from Installshield's computers, and for each, identify the person who made such contact, describe the contact that occurred, identify any Wise products or services sold to the person or entity, and identify any revenues generated on account of any products or services sold.

14. Identify each and every person involved with the development of Wise's product PackageStudio 5.0, and, for each, describe that person's involvement.

15. Identify each and every person involved with the development of the current version of any products marketed by Wise that are designed to permit InstallShield users to easily switch from one or more of InstallShield's products to one or more products sold by Wise, including, without limitation, Wise for Windows Installer, and, for each, describe that person's involvement.

16. Identify each and every person responsible for the ongoing operation, maintenance, data security, expansion, backup and upkeep of Wise's computer systems.

17. Provide the following information concerning data backups performed on all computer systems used in Wise's organization:

- (a) Descriptions of any and all procedures and/or devices used to backup the software and/or data, including, but not limited to, name(s) of backup software used, tape rotation schedule, type of backup drives including name and version number;
- (b) If multiple generations of backups are maintained, describe how many and whether the backups are full or incremental;
- (c) If backup storage media is kept off-site, identify where such media is kept, and describe the process for archiving and retrieving off-site media;
- (d) If backup storage media is kept on-site, identify where such media is kept, and describe the process for archiving and retrieving off-site media;
- (e) Identify each and every person who, during the period from January 1, 2000 through and to the present date, conducts or has conducted the backup;
- (f) Identify what information is backed up; and
- (g) Provide a detailed list of all backup sets, regardless of the magnetic media on which they reside, showing current location, custodian, date of backup and a description of backup content.

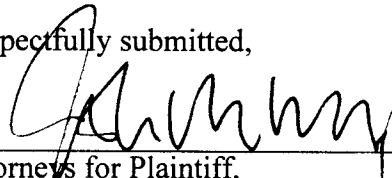
18. Describe all actions taken by Wise to comply with Plaintiff's Expedited Document Production Requests served contemporaneously with these Interrogatories. Please

include in your description all steps taken by Wise to identify, preserve and collect responsive documents, include the identity of the individuals involved, and include a description of the specific actions taken by each.

19. Identify each and every person, other than counsel, who assisted with the preparation of answers to these Interrogatories, including, without limitation, each person, other than counsel, who gathered or furnished factual information for purposes of enabling answers to be prepared.

Dated: June 30, 2003

Respectfully submitted,



Attorneys for Plaintiff,
INSTALLATION SOFTWARE
TECHNOLOGIES, d/b/a INSTALLSHIELD
SOFTWARE CORPORATION

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