

2. The full scope of defendant's wrongful conduct is presently unknown. Indeed, defendant's actions are the subject of an ongoing investigation by the United States Attorney, the Federal Bureau of Investigation and InstallShield.

3. Rule 26(d) provides the Court with the authority and discretion to order expedited discovery in the “interests of justice.” *See Gucci Am., Inc. v. Daffy’s, Inc.*, No. 00-4463, 2000 U.S. Dist. LEXIS 16714, at \*15 (D.N.J. Nov. 14, 2000). Expedited discovery is warranted where, as in this case, there is a need to uncover the scope of a defendant’s wrongful conduct so that irreparable injury can be avoided. *See Regal-Beloit Corp. v. Drecol, 955 F. Supp. 849 (N.D. Ill. 1996)* (to avoid irreparable injury, expedited discovery ordered to begin on June 21 and preliminary injunction hearing held on June 24). Furthermore, “expedited discovery is particularly appropriate when a plaintiff seeks injunctive relief because of the expedited nature of injunctive proceedings.” *Philadelphia Newspapers, Inc. v. Gannett Satellite Information Network, Inc.*, No. 98-CV-2782, 1998 U.S. Dist. LEXIS 10511, at \*4 (E.D. Pa. July 15, 1998), *citing Ellsworth Associates, Inc. v. United States*, 917 F. Supp. 841, 844 (D.D.C. 1996). In the interests of justice, and in order to uncover the full extent of defendant’s wrongful conduct, plaintiff requests that the Court allow plaintiff to engage in expedited discovery.

4. Expedited discovery is also warranted to avoid and discourage the intentional or inadvertent destruction of evidence. Defendant repeatedly and systematically engaged in a long-term illegal pattern of corporate espionage. Given its blatant disregard for the law, the threat that defendant may destroy evidence is great, and indeed is heightened in this case as much of the relevant evidence is likely to be in electronic format on defendant’s computer. *See CFTC v. Lofgren*, No. 02 C 6222, 2002 U.S. Dist. LEXIS 20221, at \*15 (N.D. Ill. Aug. 30, 2002) (expediting discovery to discover the existence and location of funds and assets allegedly misappropriated from plaintiffs); *Merrill Lynch Futures, Inc. v. Kelly*, 585 F. Supp. 1245, 1259-60 (S.D.N.Y. 1984) (expediting discovery to expose alleged steps taken by defendants to hide assets and cover up their fraud).

5. Plaintiff proposes that defendant be required to produce all of the documents identified in InstallShield's Rule 34 Document Requests and answer its Rule 33 written Interrogatories within four (4) days. Plaintiff's written interrogatories and production requests are attached hereto as Exhibits A and B. Plaintiff also anticipates taking the depositions of defendant and the witnesses identified in Wise's answers to written discovery. Plaintiff seeks to take depositions on an expedited basis, beginning immediately after defendant responds to plaintiff's written discovery.

6. In support of this motion, plaintiff incorporates its Memorandum in Support of its Rule 26 Motion for Expedited Discovery.

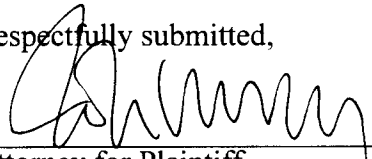
7. Plaintiff has attached as Exhibit C its proposed Order granting leave to take Expedited Discovery.

WHEREFORE, plaintiff, INSTALLATION SOFTWARE TECHNOLOGIES, INC., d/b/a INSTALLSHIELD SOFTWARE CORP., prays that this Court enter an order allowing InstallShield to take expedited discovery, and that defendant shall:

- (1) produce the documents in response to plaintiff's Rule 34 Document Requests within four (4) days;
- (2) answer plaintiff's Rule 33 written Interrogatories within four (4) days; and
- (3) submit those of its agents that it has identified as witnesses beginning immediately thereafter.

Dated: June 30, 2003

Respectfully submitted,

  
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Attorney for Plaintiff,  
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