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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re	No. 01-41571 J11
	Chapter 11
SOFTWARE LOGISTICS CORPORATION, a California corporation, dba iLogistix; LOGISTIX SCM U.S., INC., a Delaware corporation; LOGISTIX SCM NETHERLANDS, INC., a Delaware corporation; LOGISTIX C.V., a Netherlands limited liability company;	Jointly Administered with Cases Nos. 01-41573 J11 01-41574 J11 01-41575 J11 01-41576 J11
_____ Debtors./	

MEMORANDUM AND ORDER DENYING APPLICATIONS TO SEAL

The court has received applications from General Electric Capital Corporation, as Agent ("GECC"), and from Software Logistics Corporation, the above debtor (the "debtor"), to seal various documents pursuant to Bankruptcy Code § 107(b)¹ and Fed.R.Bankr.P. 9018. The documents relate to a cash collateral dispute between the parties. See § 363(c)(2).

_____ ¹All further section references herein are to the United States Bankruptcy Code, 11 U.S.C. § 101 et. seq.

1 GECC seeks to seal: (a) Declaration of Martin Murphy, submitted
2 for filing May 21, 2001, (b) Declaration of Paul Boston, submitted
3 for filing on May 21, 2001, (c) Declaration of Martin M. Murphy in
4 Support of Objection, filed June 12, 2001, and (d) Supplement to the
5 Objection of GE Capital to the Debtors' Motion for Authority to Use
6 of Cash Collateral and Declaration of Martin M. Murphy, filed June
7 14, 2001. The debtor seeks to seal: (a) Declaration of William P.
8 Downey, filed June 14, 2001, and (b) Declaration of Michaela
9 Cassidy, filed June 14, 2001.

10 GECC's moving papers state that the materials it seeks to seal
11 include items that the debtor has marked "Confidential" or which the
12 debtor may contend are "trade secrets, or other confidential
13 research, development or commercial information" within the meaning
14 of § 107(b) and Fed.R.Bankr.P. 9018. The debtor's moving papers
15 allege that the documents include documents that the debtor has
16 marked "Confidential" and that such documents contain "trade
17 secrets, or other confidential research, development, or commercial
18 information."

19 Section 107 provides:

20 (a) Except as provided in subsection (b) of this section,
21 a paper filed in a case under this title and the dockets
22 of a bankruptcy court are public records and open to
23 examination by an entity at reasonable times without
24 charge.

24 (b) On request of a party in interest, the bankruptcy
25 court shall, and on the bankruptcy court's own motion, the
26 bankruptcy court may—

1 (1) protect an entity with respect to a trade secret or
2 confidential research, development, or commercial
3 information; or

4 (2) protect a person with respect to scandalous or
5 defamatory matter contained in a paper filed in a
6 case under this title.

7 Section 107 is supplemented by Fed. R. Bankr. P. 9018, which
8 provides:

9 On motion or on its own initiative, with or without
10 notice, the court may make any order which justice
11 requires (1) to protect the estate or any entity in
12 respect of a trade secret or other confidential research,
13 development, or commercial information, (2) to protect any
14 entity against scandalous or defamatory matter contained
15 in any paper filed in a case under the Code, or (3) to
16 protect governmental matters that are made confidential by
17 statute or regulation. If an order is entered under this
18 rule without notice, any entity affected thereby may move
19 to vacate or modify the order, and after a hearing on
20 notice the court shall determine the motion.

21 Here, the moving papers filed by the debtor and GECC contain no
22 facts, but merely conclusory allegations that the papers in question
23 qualify for sealing under § 107(b) and Fed. R. Bankr. P. 9018.
24 The court has reviewed each of the documents at issue, and has
25 concluded that none of them contains any trade secrets, or any
26 research or development information that justifies an exception to
the general rule prescribed by § 107(a) that papers filed in a
bankruptcy case are "public records and open to examination."

If, then, the documents are to be sealed, the court must find
that they contain confidential "commercial information." Several

1 courts have defined confidential "commercial information" as
2 information that would provide an "unfair advantage" to competitors.
3 See In re ITEL Corp., 17 B.R. 942, 944 (9th Cir. BAP 1982); In re
4 Orion Pictures Corp., 21 F.3d 24, 27 (2d Cir. 1994).

5 After review, the court sees nothing in the papers that might
6 afford any entity with an unfair competitive advantage. Rather, the
7 papers contain cost breakdowns, asset values, budgets, projections,
8 balance sheets, and income statements of the type that are routinely
9 filed publicly by debtors in chapter 11 cases, and routinely
10 introduced into evidence at cash collateral hearings conducted under
11 § 363(c). If "garden variety" financial information of this type
12 must be sealed, the circumstances under which public access to
13 information may be denied in a chapter 11 case, as embodied in
14 § 107(b), would obliterate the rule of general access embodied in
15 § 107(a).

16 The court acknowledges the possibility that facts may be
17 present of which the court is unaware, that may qualify the
18 documents for sealing. Therefore, the court advised the parties on
19 June 15, 2001, on the record in open court, that it will hold the
20 documents in chambers until the close of business June 18, 2001,
21 after which date they will be made public. If any party has
22 specific information that would bring any of the documents, or any
23 portions thereof, within the exception to § 107(a), or needs more
24 time to assemble such information, the court will entertain further
25 requests to seal documents, or for more time to prepare supplemental
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1 applications, on June 18, 2001, before the documents are made
2 public.

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4 Dated: June 18, 2001

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7 Edward D. Jellen
United States Bankruptcy Judge

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10 ORDER

11 For the foregoing reasons, the foregoing applications to seal
12 documents are denied without prejudice; said denial stayed through
13 the close of business June 18, 2001.

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15 Dated: June 18, 2001

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18 Edward D. Jellen
United States Bankruptcy Judge