

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

|                               |   |                                   |
|-------------------------------|---|-----------------------------------|
| TULIP COMPUTERS INTERNATIONAL | : |                                   |
| B.V.,                         | : |                                   |
|                               | : |                                   |
| Plaintiff,                    | : |                                   |
|                               | : |                                   |
| v.                            | : | Civil Action No. 00-981-### (MPT) |
|                               | : |                                   |
| DELL COMPUTER CORPORATION,    | : |                                   |
|                               | : |                                   |
| Defendant.                    | : |                                   |

**MEMORANDUM ORDER**

At Wilmington this 15<sup>th</sup> day of **November, 2002**,

This Order shall address the remaining documents involved in Dell’s motion to compel (D.I. 274). This court previously discussed the law involved in the motion in its Memorandum Order of October 2 (D.I. 317) and applied its findings to three groupings of documents in its Order of November 15, 2002. Previously, pursuant to the October 2 Order, Dell designated five documents from four of the groups and Tulip provided copies of those documents to the court for an *in camera* review. In addition, three documents from Group 5 and all three documents in Group 4 (W.E.M. ten Cate) were also reviewed. In its Order of November 15, the court focused on the documents in Groups 2, 3, and 4. The court has now reviewed the translations provided for the exemplar documents in Groups 1, 5 and 6.

*Group 1:* This grouping has also been labeled the Franz Dietz documents.

Mr. Dietz is a Dutch patent attorney, whose firm, the Vereenigde firm, of which he is a member, is outside counsel for Tulip in the Netherlands. The documents reviewed include correspondence and other transmissions, such as e-mail, between Mr. Dietz and other Dutch counsel, with Tulip, his client or the European PTO which clearly fall within this court's previous analysis of Dutch law regarding non-disclosure. Further, document 18 relates to communications with U.S. patent litigation counsel, and therefore, fall within the protection of both attorney-client and attorney work-product protection. As a result, none of these documents are subject to discovery.

*Groups 5 and 6:* These documents are also referred to as Tulip Computers International B.V. group and Vereenigde group, respectively. All of these documents are copies of letters or memoranda sent by someone from the Vereenigde firm to someone at Tulip in 1994, 1996, 1995, 1997 and 2000. Dell's primary argument is that in the absence of the identification of the individual who authored the document and in the absence to whom it was sent, no privilege operates. What is clear from the review of these documents, is that the information conveyed originated from the Vereenigde law firm. What is equally clear, is that these documents, consisting of letters and invoices, were sent to a client, Tulip, and provide legal advice and legal information pertinent and related to the representation by the Vereenigde of Tulip. The contents of these documents fall within the court's previous analysis of Dutch law regarding non-disclosure. As a result, all of these documents are covered by privilege, and are not subject to discovery. Therefore,

IT IS ORDERED that based on the exemplar documents reviewed for Groups 1, 5 and 6 and consistent with the court's analysis as contained in its Memorandum Orders of October 2 (D.I. 317) and November 15, 2002, Dell's motion to compel regarding these

documents is DENIED.

Mary Pat Thyng  
UNITED STATES MAGISTRATE JUDGE