

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

JUDGE PETER J. WALSH

824 MARKET STREET  
WILMINGTON, DE 19801  
(302) 252-2925

April 1, 2004

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Counsel for Inacom Corp., on  
behalf of the estates of  
Reorganized Debtors Inacom  
Corp., et al.

**Re: Inacom Corp., on behalf of all affiliated Debtors v. Tech Data  
Corporation  
Adv. Proc. No. 02-3496**

Dear Counsel:

This is with respect to the defendant Tech Data Corporation's ("Tech Data") Rule 12 motion (Doc. # 26) to dismiss the first amended complaint. I will deny the motion.

The motion asserts two bases for relief. First, to the extent court authorization is required for Inacom Corp.'s

("Inacom") filing of its amended complaint, I hereby so authorize it.

With respect to the second basis for the motion to dismiss, I find that there are insufficient facts for me to even effectively address the issue, and, as a procedural matter, Tech Data's requested relief should be presented in the form of a motion for summary judgment.

As I understand Tech Data's position, it is that pursuant to a pre-petition asset purchase agreement between Compaq Computer Corporation ("Compaq") and Inacom, Compaq assumed Inacom's obligations to Tech Data and those obligations are the antecedent debts to which the alleged transfer payments were made. Nowhere in the documents can I find any information which would tell me whether in fact Compaq assumed and paid those Inacom obligations to Tech Data. If, in fact, Compaq did not assume those obligations or if it did not pay them, then there is no basis to accept Tech Data's argument that it did not receive more than it would have received had Inacom filed a chapter 7 case. On the other hand, if in fact Compaq assumed the obligations and paid the obligations, then it would appear that Inacom may have made the payments to Tech Data without an obligation to do so. If so, Inacom may have a cause of action other than a preference. These questions make it impossible to effectively address the issues raised by Tech Data's motion.

Since there is insufficient information in the pleadings for me to decide the central argument of Tech Data's motion to dismiss, I will deny the motion without prejudice to Tech Data filing an appropriate summary judgment motion.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Peter J. Walsh', with a long horizontal flourish extending to the right.

Peter J. Walsh


PJW:ipm

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

In Re: ) Chapter 11  
)  
INACOM CORP., et al. ) Case No. 00-2426 (PJW)  
) (Jointly Administered)  
Debtors. )  
\_\_\_\_\_)  
)  
INACOM CORP., on behalf of all )  
affiliated Debtors, )  
)  
Plaintiff, )  
)  
v. ) Adv. Proc. No. 02-3496  
)  
TECH DATA CORPORATION, )  
)  
Defendant. )

ORDER

For the reasons stated in the Court's letter ruling of this date, the defendant Tech Data Corporation's Rule 12 motion (Doc. # 26) to dismiss the first amended complaint is DENIED.



Peter J. Walsh  
United States Bankruptcy Judge

Dated: April 1, 2004