UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

United States of America Department of Justice Antitrust Division 325 7th Street, N.W., Suite 300 Washington, D.C. 20530, Plaintiff, v. **General Electric Company** 3135 Easton Turnpike Fairfield, Connecticut 06431, and **InnoServ Technologies, Inc.,** 320 Westway, Suite 530 Arlington, Texas 76018, Defendants.	CASE NUMBER 1:98CV01744 JUDGE: Royce C. Lamberth DECK TYPE: Antitrust DATE STAMP: 07/14/98

COMPLAINT

The United States of America, acting under direction of the Attorney General of the United States, brings this civil action to obtain equitable relief against defendants and alleges as follows:

1. The United States brings this antitrust case to block the proposed acquisition of InnoServ Technologies, Inc. ("InnoServ") by General Electric Company ("GE"). GE is the largest manufacturer of medical imaging equipment, such as CT scanners and magnetic resonance imagers (MRIs), and is the leading service provider of GE imaging equipment. InnoServ is one of

the nation's largest independent service organizations ("ISOs") and has significant expertise and capabilities and competes with GE in servicing certain GE imaging equipment. GE and InnoServ also compete in numerous local markets for comprehensive multi-vendor and asset-management services ("multi-vendor service"), in which they contract to provide services relating to some or all of a hospital's capital equipment -- including imaging and non-imaging medical equipment -- regardless of manufacturer. The competition between GE and InnoServ in these markets has reduced prices significantly for imaging equipment service.

2. To help service its imaging equipment, GE has developed advanced diagnostic software that it uses to calibrate, maintain, and service more quickly a particular model of imaging equipment. InnoServ is one of very few companies that has developed its own proprietary diagnostic software (called "PREVU") for servicing certain GE imaging equipment. Although it is not as sophisticated or efficient as GE's own software, PREVU has made InnoServ an effective competitor to GE in the markets for servicing certain models of GE imaging equipment on a discrete, machine-by-machine basis, as well as in markets for providing multi-vendor service to hospitals that own GE equipment.

3. If GE acquires InnoServ, GE will increase its already high share in the markets for servicing certain models of GE imaging equipment on a discrete basis, particularly several models of CT scanners and MRIs, and it will eliminate an effective competitor in these markets. It will also substantially reduce competition in multi-vendor service markets. Unless blocked, this acquisition likely will result in higher prices for imaging equipment maintenance and service.

I. JURISDICTION AND VENUE

4. The United States files this action under Section 15 of the Clayton Act, as amended, 15 U.S.C. § 25, to prevent and restrain the defendants from violating Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

5. Both GE and InnoServ service medical imaging equipment in interstate commerce, and the operations of their medical equipment service businesses affect and are in the flow of interstate commerce. This Court has subject matter jurisdiction over the action and the parties pursuant to Section 12 of the Clayton Act, 15 U.S.C. § 22, and 28 U.S.C. §§ 1331 and 1337.

6. The defendants transact business and are found within the District of Columbia. Venue is proper in this District under 15 U.S.C. § 22 and 28 U.S.C. § 1391(c).

II. THE DEFENDANTS

7. GE is a New York corporation headquartered in Fairfield, Connecticut. GE is a diversified technology, manufacturing, and services company. In 1997, GE's total revenues exceeded $90 billion. Its wholly owned subsidiary, General Electric Medical Systems ("GEMS"), located in Waukesha, Wisconsin, manufactures medical imaging equipment such as CT scanners, MRIs, x-ray equipment, and nuclear-medicine cameras. GEMS is the leading service provider of imaging equipment manufactured by GE. Since 1994, GEMS has also serviced imaging equipment manufactured by other companies through GE HealthCare Services, its multi-vendor service group.

8. InnoServ is a California corporation headquartered in Arlington, Texas. InnoServ provides various forms of multi-vendor service to radiology, cardiology, biomedical, and

laboratory departments of hospitals and other healthcare providers. In fiscal year 1997, InnoServ's total service revenues exceeded $37 million.

III. TRADE AND COMMERCE

A. Relevant Product Markets

1. Service of GE Imaging Equipment on a Discrete Basis

9. Hospitals, physicians, and other health care providers use various types (sometimes referred to as "modalities") of medical imaging equipment, such as CT scanners, MRIs, and nuclear cameras, to create images of the body's internal structure. Each modality of imaging equipment employs different technologies and generally is not interchangeable with any other. For example, an MRI is better suited than a CT scanner for imaging soft tissue, and a CT scanner can disclose a tumor that less sophisticated x-ray equipment cannot detect.

10. GE is the largest manufacturer of imaging equipment and sells various modalities of such equipment throughout the United States. For each modality, GE often has sold multiple models, particularly as it improves upon the equipment. Since 1987, GE has sold at least the following CT scanner models: the CT Max; the 9800/Quick; the 9800 Hilight Advantage; and the Hispeed Advantage.

11. Imaging equipment requires regular service, including preventive maintenance, general repairs, and emergency service. Health care providers spend over $3 billion each year to service and repair imaging equipment.

12. The sale of service for each model of imaging equipment is a separate product market. A hospital or clinic that owns a GE 9800/Quick CT scanner requiring service does not have any reasonable substitute to purchasing service for that equipment. Purchasing service for

another piece of imaging equipment -- for example, an ultrasound machine, which is used for very different kinds of medical diagnoses -- is not an alternative. If faced with a small but significant increase in the price of servicing the GE 9800/Quick, most hospitals would not forego purchasing service for that model. The same is true for other models of GE imaging equipment.

13. Historically, after the warranty on a piece of GE imaging equipment has expired, hospitals and other owners of the equipment have entered into discrete contracts with a service provider for that equipment. GE and InnoServ compete to sign such discrete service contracts for several different models of GE imaging equipment. If faced with a small but significant increase in the price of servicing a GE 9800/Quick CT scanner, most hospitals preferring discrete service contracts would not switch to a multi-vendor service contract covering all of their imaging equipment. The same is true for other models of GE imaging equipment.

14. The service for certain models of GE imaging equipment on a discrete, machine-by-machine basis is a line of commerce and a relevant product market within the meaning of the Clayton Act.

2. Multi-vendor Service

15. In recent years, rather than have numerous discrete service contracts with several different equipment manufacturers or ISOs, some hospitals have chosen to contract with a single provider to service most or all of the hospital's equipment. Such multi-vendor service contracts may include service for all of a hospital's imaging equipment -- regardless of manufacturer, modality, or model. They may also include service for all of the hospital's non-imaging medical equipment, such as biomedical and laboratory equipment. In some cases, hospitals also contract with a single entity for all of the hospital's capital equipment needs, including advice on capital

equipment replacement decisions ("asset management"). Corporations owning a large number of individual hospitals, in particular, find this "one-stop shopping" approach an efficient method of purchasing service for their imaging (and often non-imaging) equipment. Both GE and InnoServ compete with one another and with other service providers to obtain such multi-vendor and asset management (defined herein as "multi-vendor service") contracts. Hospitals preferring to purchase multi-vendor service do not have reasonable alternatives to such contracts. If faced with a small but significant increase in the price of multi-vendor service, most of those hospitals would not switch to purchasing service on a discrete basis.

16. Multi-vendor service is a line of commerce and a relevant product market within the meaning of the Clayton Act.

B. Relevant Geographic Markets

17. The geographic markets for imaging equipment service are local, with the precise contours of those markets differing depending on the type of equipment involved and other factors. Hospitals strongly prefer to contract with nearby service providers, where such providers are qualified and able to service the equipment involved. In general, service providers located closer to the hospital customer can respond to service emergencies more quickly, thereby minimizing the amount of time during which the hospital's imaging equipment is not working. A hospital can lose substantial revenue if its imaging equipment is broken; in some cases, patients may need to be transferred to other health care facilities due to equipment failure. Therefore, given the importance of timely service, service providers located relatively far away from a hospital are at a substantial disadvantage in competing to service that hospital. If faced with a

small but significant increase in the price of service from its local service provider, most hospitals would not switch to using a service provider located relatively far away.

18. GE offers both service contracts for discrete pieces of GE imaging equipment and multi-vendor service contracts throughout the United States. InnoServ offers similar services within a radius of about 100 miles of several large metropolitan areas.

19. Each local area in which GE and InnoServ are both sufficiently close to a hospital customer to provide timely imaging equipment service is a section of the country and a relevant geographic market within the meaning of the Clayton Act.

C. Anticompetitive Effect and Entry

20. GE and InnoServ compete in numerous local markets for servicing certain models of GE imaging equipment on a discrete basis and for multi-vendor service. In many of these markets, InnoServ is one of the few ISOs that has specialized in servicing GE imaging equipment. Moreover, GE and InnoServ were among the first service providers to offer comprehensive multi-vendor service; each signed a contract to provide such service to a large customer in 1995. Particularly because InnoServ is one of very few companies that has developed its own proprietary diagnostic software for GE imaging equipment, consumers in both discrete service markets and multi-vendor service markets view InnoServ service as a good substitute for GE service. The competition between GE and InnoServ in these markets has resulted in significant price reductions for consumers. GE's acquisition of InnoServ would eliminate this competition and increase GE's already high share in the markets for servicing certain models of GE imaging equipment, particularly several models of CT scanners and MRIs. It would also substantially reduce competition in multi-vendor service markets.

21. Successful entry into the relevant markets is difficult, time consuming, and costly. In general, customers prefer to purchase service from existing, reputable firms in the industry. Therefore, new entrants often find it difficult to enter on a scale necessary to succeed financially.

IV. VIOLATION ALLEGED

22. On May 19, 1998, GE and InnoServ signed an Agreement and Plan of Merger under which GE intends to acquire the common stock of InnoServ for a purchase price of $16 million.

23. GE's proposed acquisition of InnoServ is likely to lessen competition substantially and tend to create a monopoly in interstate trade and commerce in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

24. The transaction likely will have the following effects, among others:

a. actual and future competition between GE and InnoServ will be eliminated in the markets for servicing certain models of GE imaging equipment on a discrete, machine-by-machine basis in numerous local markets throughout the United States;

b. competition generally in the markets for servicing certain models of GE imaging equipment on a discrete, machine-by-machine basis in numerous local markets throughout the United States will be lessened substantially;

c. actual and future competition between GE and InnoServ will be eliminated in the markets for multi-vendor service in numerous local markets throughout the United States; and

d. competition generally in the markets for multi-vendor service in numerous local markets throughout the United States will be lessened substantially.

V. REQUESTED RELIEF

The United States requests:

1. That the proposed acquisition by GE of InnoServ be adjudged to violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18;

2. That GE and InnoServ be permanently enjoined from carrying out GE's intended acquisition of the common stock of InnoServ as expressed in the Agreement and Plan of Merger dated May 19, 1998, and from carrying out any agreement, understanding, or plan, the effect of which would be to combine the businesses or assets of GE and InnoServ;

3. That the United States be awarded its costs of this action; and

4. That the United States have such other relief as the Court may deem just and proper.

Dated: July 14, 1998

Respectfully submitted,

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