

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)	
)	
)	
Plaintiff,)	
)	Civil No: 99 2959
v.)	
)	Filed:
ALLIEDSIGNAL INC. and)	
HONEYWELL INC. ,)	
)	
Defendants.)	

**HOLD SEPARATE
STIPULATION AND ORDER**

It is hereby stipulated and agreed by and between the undersigned parties, subject to approval and entry by the Court, that:

I. DEFINITIONS

As used in this Hold Separate Stipulation and Order:

- A. "United States" means plaintiff United States of America.
- B. "DoD" means the United States Department of Defense.
- C. "AlliedSignal" means defendant AlliedSignal Inc., a Delaware corporation with its headquarters in Morristown, New Jersey, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.
- D. "Honeywell" means defendant Honeywell Inc., a Delaware corporation with its

headquarters in Minneapolis, Minnesota, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.

E. “TCAS Business” means the traffic alert and collision avoidance systems (“TCAS”) business of Honeywell, as defined in the proposed Final Judgment filed in this case.

F. “SSWR Business” means the search and surveillance weather radar (“SSWR”) business of AlliedSignal, as defined in the proposed Final Judgment filed in this case.

G. “Teterboro Business” means AlliedSignal’s entire Space and Navigation business in Teterboro, New Jersey, as defined in the proposed Final Judgment filed in this case.

H. “Cheshire Business” means the entire business of AlliedSignal in Cheshire, Connecticut that produces mechanical inertial measurement units and components, as defined in the proposed Final Judgment filed in this case.

I. “AlliedSignal MicroSCIRAS Business” means the microSCIRAS business of AlliedSignal, as defined in the proposed Final Judgment filed in this case.

J. “Honeywell MEMS Business” means the micro-electro-mechanical systems (“MEMS”) business of Honeywell, as defined in the proposed Final Judgment filed in this case.

K. “AlliedSignal MSA and MAG Technology Business” means the business owned by AlliedSignal and relating directly to the “Micromachined Silicon Accelerometer (‘MSA’)” and the “Micromachined Accelerometer Gyroscope (‘MAG’)”, as defined in the proposed Final Judgment filed in this case.

L. “Divested Businesses” mean the TCAS Business, the SSWR Business, the Teterboro Business, the Cheshire Business, the AlliedSignal MicroSCIRAS Business (or, as

provided in the proposed Final Judgment filed in this case, the Honeywell MEMS Business), and the AlliedSignal MSA and MAG Technology Business.

M. “Post-merger Company” means that company resulting from the merger of defendants AlliedSignal and Honeywell, in accordance with the terms contained in the proposed Final Judgment in this case.

N. “Merger Agreement” means the Agreement and Plan of Merger entered into by AlliedSignal and Honeywell on June 4, 1999, and any subsequent agreement relating to or amending the June 4, 1999 agreement.

II. OBJECTIVES

The proposed Final Judgment filed in this case is meant to ensure prompt divestiture by defendants of the Divested Businesses for the purposes of creating viable competitors in the innovation, development, production, marketing and sale of the products of the Divested Businesses and to remedy the effects that the United States alleges would otherwise result from defendants’ proposed merger. This Hold Separate Stipulation and Order ensures the timely and complete transfer of the Divested Businesses and maintains each of the Divested Businesses as an independent, viable competitor until the divestitures are complete.

III. JURISDICTION AND VENUE

The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia.

IV. COMPLIANCE WITH AND ENTRY OF PROPOSED FINAL JUDGMENT

A. The parties stipulate that a proposed Final Judgment in the form attached hereto as Exhibit A may be filed with and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that the United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

B. Defendants shall abide by and comply with the provisions of the proposed Final Judgment, pending the Judgment's entry by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Hold Separate Stipulation and Order by the parties, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

C. Defendants shall not consummate the transaction sought to be enjoined by the Complaint herein before the Court has signed this Hold Separate Stipulation and Order.

D. This Hold Separate Stipulation and Order shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

E. In the event (1) the United States has withdrawn its consent, as provided in Section IV(A) above, or (2) the proposed Final Judgment is not entered pursuant to this Hold Separate Stipulation and Order, the time has expired for all appeals of any Court ruling declining

entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Hold Separate Stipulation and Order, and the making of this Hold Separate Stipulation and Order shall be without prejudice to any party in this or any other proceeding.

F. Defendants represent that the divestitures ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claim of mistake, hardship or difficulty of compliance as grounds for asking the Court to modify any of the provisions contained therein.

V. HOLD SEPARATE PROVISIONS

A. Defendants shall expressly undertake to compete with each of the Divested Businesses in the applicable market in the exercise of their best judgments and without regard to the Merger Agreement, as if the Post-merger Company and the Divested Businesses were in all respects separate and independent business entities.

B. Defendants shall preserve, maintain, and operate each of the Divested Businesses as an independent competitor with management, research, development, production, sales and operations held entirely separate, distinct and apart from the other businesses of defendants. None of the Divested Businesses shall coordinate its innovation, development, production, marketing or sales with that of the Post-merger Company, except to the limited extent provided in V(D) below, or to provide the accounting, management information services or other necessary support functions afforded by AlliedSignal or Honeywell prior to the merger. Within

fifteen (15) days of the entering of this Hold Separate Stipulation and Order, defendants shall inform the United States and DoD of the steps taken to comply with this provision.

C. Defendants shall take all steps necessary to ensure that each of the Divested Businesses will be maintained and operated as an independent, ongoing, and economically viable and active competitor in the innovation, research and development, production, and sale of products it develops, produces, and sells; that all planned innovation, research, and product development be continued; that the management of each of the Divested Businesses will not be influenced by defendants; and that the books, records, competitively sensitive sales, marketing and pricing information, and decision-making associated with each of the Divested Businesses, including the performance and decision-making functions regarding internal innovation, research and development, sales and pricing, will be kept separate and apart from the business of the Post-merger Company. Defendants' influence over each of the Divested Businesses shall be limited to that necessary to carry out their obligations under this Hold Separate Stipulation and Order and the proposed Final Judgment.

D. Defendants shall provide and maintain sufficient working capital to maintain each of the Divested Businesses as economically viable, ongoing businesses, consistent with current business plans.

E. Defendants shall provide and maintain sufficient lines and sources of credit to maintain each of the Divested Businesses as economically viable, ongoing businesses.

F. Defendants shall maintain on behalf of each of the Divested Businesses in accordance with sound accounting practices, separate, true and complete financial ledgers, books and records reporting the assets, liabilities, expenses, revenues and income of each of the

Divested Businesses on a periodic basis, such as the last business day of each month, consistent with past practices.

G. Defendants shall use all reasonable efforts to maintain and increase sales and revenues of each of the Divested Businesses and shall maintain at 1998 or previously approved levels for 1999, whichever are higher, all internal research and development funding, promotional, advertising, sales, technical assistance, marketing, and merchandising support for products produced or under development by each of the Divested Businesses.

H. Defendants shall not sell, lease, assign, transfer or otherwise dispose of, or pledge as collateral for loans, assets that may be required to be divested pursuant to the proposed Final Judgment filed in this case.

I. Defendants shall preserve the assets that may be required to be divested pursuant to the proposed Final Judgment filed in this case in a state of repair equal to their state of repair as of the date of this Hold Separate Stipulation and Order, ordinary wear and tear excepted, and shall maintain and adhere to normal repair and maintenance schedules for these assets.

J. Except in the ordinary course of business or as is otherwise consistent with this Hold Separate Stipulation and Order, defendants shall not transfer or terminate any employee who, on the date of the filing of the Complaint in this matter, works for any of the Divested Businesses, or alter, to the detriment of any such employee, the employee's current employment, benefits, or salary agreement.

K. Until such time as this Hold Separate Stipulation and Order is terminated, defendants shall not change the management of any of the Divested Businesses, except in the ordinary course of business. The TCAS Business shall be managed by Joseph Hoffman; the

SSWR Business shall be managed by Walter Mores; the Teterboro Business shall be managed by Christopher D. Clayton; the Cheshire Business shall be managed by Wayne R. Demmons; the AlliedSignal MicroSCIRAS Business and the AlliedSignal MSA and MAG Technology Business shall be managed by Randy Sprague; and the Honeywell MEMS Business shall be managed by David S Willits. Each identified manager shall have complete managerial responsibility for his respective Divested Business, subject to the provisions of this Hold Separate Stipulation and Order and the proposed Final Judgment. In the event that any identified manager of any of the Divested Businesses is unable to perform his duties, defendants shall appoint a replacement within ten (10) days from the current management of the applicable Divested Business, subject to DOJ approval. Should defendants fail to appoint a replacement acceptable to the DOJ within ten (10) working days, the DOJ, after consultation with DoD, shall appoint a replacement.

L. Defendants shall take no action that would interfere with the ability of the trustees appointed pursuant to the proposed Final Judgment filed in this case to complete the divestitures required by that Final Judgment.

M. Defendants shall ensure to the satisfaction of DoD that the operations of each of the Divested Businesses, including its support of DoD programs, not be disrupted during the required divestitures.

N. This Hold Separate Stipulation and Order shall remain in effect until all of the divestitures required by the proposed Final Judgment filed in this case are complete or until further Order of the Court.

Dated: November 8, 1999

FOR PLAINTIFF UNITED STATES
OF AMERICA:

/s/

Michael K. Hammaker, Esq.
D.C. Bar # 233684
U.S. Department of Justice
Antitrust Division
Litigation II
Suite 3000
Washington, D.C. 20005
(202) 307-0924

FOR DEFENDANT ALLIEDSIGNAL INC.:

/s/

William J. Kolasky, Esq.
D.C. Bar # 217539
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, DC 20037
202-663-6357

FOR DEFENDANT HONEYWELL INC.:

/s/

C. Benjamin Crisman, Jr., Esq.
D.C. Bar # 240135
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, DC 20005
202-371-7330

IT IS SO ORDERED by the Court, this _____ day of November, 1999.

United States District Judge

Parties Entitled to Notice of Entry of Order:

Counsel for Plaintiff United States of America

Michael K. Hammaker, Esq.

U.S. Department of Justice

Antitrust Division

Suite 3000

1401 H Street, N.W.

Washington, DC 20530

Counsel for Defendant AlliedSignal Inc.

William J. Kolasky, Esq.

Wilmer, Cutler & Pickering

2445 M Street, N.W.

Washington, DC 20037

Counsel for Honeywell Inc.

C. Benjamin Crisman, Jr., Esq.

Skadden, Arps, Slate, Meagher & Flom LLP

1440 New York Avenue, N.W.

Washington, DC 20005