

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,	)	
	)	
<i>Plaintiff,</i>	)	
	)	
v.	)	Civil No.: 01-2196 (ESH)
	)	
SUNGARD DATA SYSTEMS, INC.,	)	
et al.,	)	
	)	
<i>Defendants</i>	)	

**MOTION OF THE UNITED STATES  
FOR A TEMPORARY RESTRAINING ORDER**

Comes the plaintiff, the United States of America, pursuant to Section 15 of the Clayton Act, 15 U.S.C. § 25, and Rule 65(b) of the Federal Rules of Civil Procedure, and respectfully moves the Court for the entry of a Temporary Restraining Order prohibiting the defendants, and all persons acting on their behalf, from consummating the proposed acquisition described in the Complaint, or from implementing any other plan or agreement by which the disaster recovery solutions assets of Comdisco, Inc. (“Comdisco”), or any part thereof, would be acquired by, combined with, or controlled by SunGard Data Systems, Inc. (“SunGard”) pending consideration by the Court of the United States’ Motion for Preliminary Injunction. The grounds for this motion are that:

(1) The United States has filed a Complaint alleging that the proposed transaction will violate Section 7 of the Clayton Act, 15 U.S.C § 18. The Complaint, the affidavits and memorandum accompanying this Motion, and the evidence that plaintiff will present at the hearing on its Motion for a Preliminary Injunction will establish that the proposed transaction will violate

Section 7 of the Clayton Act.

(2) SunGard's proposal to acquire the Comdisco assets in question is subject to approval by the U.S. Bankruptcy Court for the Northern District of Illinois. Unless restrained by this Court, SunGard intends to proceed with the proposed acquisition immediately after it is approved by the Bankruptcy Court, which may occur as early as October 23, 2001 at 11:30 a.m. Eastern time. That timetable would not allow sufficient time for a hearing on plaintiff's Motion for a Preliminary Injunction.

(3) Pursuant to Rule 65 of the Federal Rules of Civil Procedure and Rule 65.1(a) of the Rules of the District Court for the District of Columbia, undersigned counsel for the plaintiff respectfully certifies to the Court that on October 22, 2001, plaintiff provided defendants' counsel with notice by telephone of its intention to seek a temporary restraining order in this matter, with actual notice of the time of making this application, and with advance copies of the Complaint, this Motion, the Memorandum in Support, and the proposed Orders. Defendants have refused to stipulate to a temporary restraining order.

(4) The United States also will file a motion respectfully requesting that the Court issue a preliminary injunction restraining the defendants from proceeding with their allegedly illegal transaction pending final determination of the merits in this case.

(5) A temporary restraining order is necessary to preserve the *status quo*, to prevent the irreparable injury to the public that would result from this acquisition, and to allow the Court to render effective relief if the plaintiff prevails at trial. Plaintiffs would have no adequate remedy at law, and this Court's ability to fashion effective relief would be significantly impaired if the proposed acquisition proceeds but is found, after trial, to be unlawful.

(6) Any harm to defendants from enjoining the proposed acquisition would be outweighed by the anticompetitive effects of the acquisition, including the likelihood of increased prices for shared hot site disaster recovery services for large scale enterprise computer processing centers throughout North America.

(7) Granting the requested preliminary relief will serve the public interest.

(8) Section 15 of the Clayton Act, 15 U.S.C. § 25, and Rule 65(b) of the Federal Rules of Civil Procedure, authorize the Court in its discretion to issue such temporary restraining order as shall be deemed just in the circumstances.

This Motion is supported by the attached Memorandum in Support of United States' Motion for a Temporary Restraining Order and by the affidavits and documentary materials filed in support thereof. A proposed Temporary Restraining Order is being filed with this motion.

WHEREFORE, the United States respectfully prays that the defendants be temporarily restrained from entering into or carrying out any agreement or arrangement by which SunGard will acquire all or part of the assets or securities of Comdisco, pending final adjudication of the merits of the Complaint.

Dated: October 22, 2001

Respectfully submitted,

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/s/  
Kent R. Brown  
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**DUTY TO CONFER UNDER D.D.C. RULE 7.1 (M)**

Pursuant to D.D.C. Rule 7.1(m), plaintiff discussed this motion with opposing counsel on October 22, 2001, in an effort to narrow any areas of disagreement, and opposing counsel have indicated their opposition to it.

CERTIFICATE OF SERVICE

This will certify that a true and correct copy of the foregoing, together with a copy of any Order or Judgment the United States proposes in connection therewith, the United States' Memorandum of Law in Support of Its Motion for a Temporary Restraining Order, and supporting appendices, were served upon counsel for defendants as follows:

*BY HAND DELIVERY*

Counsel for SunGard

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*BY FACSIMILE AND U.S. MAIL*

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October 22, 2001

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/s/  
N. Scott Sacks