UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA, Plaintiff, v. THE MATHWORKS, INC. and WIND RIVER SYSTEMS, INC., Defendants.	Civil Action No. 02-888-A Filed: June 21, 2002

FINAL JUDGMENT

WHEREAS, Plaintiff United States of America filed its Complaint on June 21, 2002, alleging that The MathWorks, Inc. ("The MathWorks") and Wind River Systems, Inc. ("Wind River") entered into a series of agreements related to Wind River's MATRIXx product line that violate Section 1 of the Sherman Act, and the United States and Wind River, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against, or any admission by, any party regarding any such issue of fact or law;

AND WHEREAS Wind River agrees to be bound by the provisions of this Final Judgment pending its approval by the Court;

NOW, THEREFORE, before any testimony is taken, and without trial or adjudication of any issue of fact or law, and upon the consent of the parties, it is ORDERED, ADJUDGED AND DECREED:

I. JURISDICTION

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Wind River under Section 1 of the Sherman Act (15 U.S.C. § 1).

II. DEFINITIONS

As used in this Final Judgment:

(A) "MATRIXx products" means the MATRIXx dynamic control system design product line, including Xmath/System Build, AutoCode, and RealSim (but not including BetterState and Plug & Sim and all modifications, derivatives, new versions and new releases of either).

(B) "MATRIXx assets" means all tangible and intangible assets reasonably necessary for the development, distribution and support of the MATRIXx products, including, but not limited to, all copyrights, patents, licenses, sublicenses, trademarks and other intellectual property, except for Retained Rights; provided, however, that MATRIXx assets shall not include any assets or rights that were not within the scope of the February 16, 2001, Distribution Agreement and other related and contemporaneous agreements between Wind River and The MathWorks.

(C) "Retained Contracts" mean all Wind River and ISI contracts regarding the MATRIXx products that remain in effect as of the date this Final Judgment becomes effective and were identified and retained by Wind River in the Distribution Agreement between Wind River and The MathWorks.

(D) "Retained Rights" mean (a) a worldwide, royalty-free, non-exclusive right under the MATRIXx assets to use, modify, improve, copy, display, perform, create derivative works of

and enhance the MATRIXx products and distribute the same solely in connection with Wind River's provision of support services (including, without limitation, the right to provide source code to the extent contractually obligated) related to Retained Contracts; (b) a worldwide, royalty-free, non-exclusive license under the patents included within the MATRIXx assets to make, have made, use, sell, offer for sale, or import (i) articles that may be covered by one or more claims of such patents provided such acts are in connection with the provision of support services related to Retained Contracts or (ii) any Wind River products available for purchase as of February 16, 2001 (except the MATRIXx products), including all modifications, derivatives, new versions and new releases of the same.

(E) "Wind River" means Wind River Systems, Inc., and its parents, subsidiaries (including Integrated Systems, Inc. ("ISI")), successors and assigns, directors, officers, managers, agents, and employees, and any other person acting for, on behalf of, or under the control of them.

III. APPLICABILITY

This Final Judgment applies to Wind River, including each of its directors, officers, managers, agents, employees, parents, subsidiaries, successors and assigns.

IV. SETTLEMENT TERMS

The United States and Wind River agree as follows:

(A) Wind River shall remain a party to this action for the sole purpose of effectuating any equitable relief ordered by the Court or agreed to by the United States and The MathWorks.

(B) Wind River shall cooperate fully in responding to requests by the United States and The MathWorks for production of documents and for deposition or trial testimony in the conduct

of this case, subject to any rights to object to such discovery or other request under the Federal Rules of Civil Procedure or other applicable law.

(C) The United States seeks a judgment that would require, among other things, the prompt and certain divestiture of all MATRIXx assets to a buyer acceptable to the United States and the appointment of a trustee to effect the divestiture. In the event a final judgment requiring the divestiture of the MATRIXx assets is entered in this case for the United States and against The MathWorks, including a final judgment entered pursuant to a consent decree, Wind River shall:

(1) not contest entry of such a judgment;

(2) use its reasonable best efforts to divest all of its rights, title and interest in the MATRIXx assets (except for its Retained Rights), subject to and under the terms of any final judgment entered in this case against The MathWorks that requires divestiture of the MATRIXx assets; and

(3) cooperate fully with the United States in any monitoring of compliance or enforcement of any judgment.

(D) In the event ownership of the rights currently held by The Math Works in the MATRIXx assets reverts to Wind River, Wind River agrees that it shall take steps to ensure the prompt and certain divestiture of the MATRIXx assets (except the Retained Rights) to a buyer acceptable to the United States and, at the request of the United States, the appointment of a trustee to effectuate the divestiture.

(E) If Wind River violates any provision of this Final Judgment, the United States may seek to have the terms of any judgment entered by the Court against The MathWorks, or to which the United States and The MathWorks agree, also binding against Wind River.

V. UNITED STATES' ACCESS AND INSPECTION

(A) For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, duly authorized representatives of the United States Department of Justice shall, upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Wind River be permitted:

(1) access during Wind River's office hours to inspect and copy or, at Plaintiff's option, to require Wind River to provide copies of all records and documents in its possession or control relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, Wind River's directors, officers, employees, agents or other persons, who may have their individual counsel present, relating to any matters contained in this Final Judgment. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Wind River.

(B) Upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Wind River shall submit written reports, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

(C) No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(D) If, at the time information or documents are furnished by Wind River to the United States, Wind River represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Wind River marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then the United States shall give ten (10) calendar days' notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which Wind River is not a party.

VI. RETENTION OF JURISDICTION

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish any violations of its provisions.

VII. EXPIRATION OF FINAL JUDGMENT

This Final Judgment shall expire upon the earlier of (1) the completion of all obligations imposed upon Wind River pursuant to Section IV of this Final Judgment or a final judgment requiring divestiture of all or any part of the MATRIXx assets, (2) the date on which a final judgment against the United States in this case is no longer subject to appeal; or (3) the date on

which Wind River no longer has any right, title or interest in any of the MATRIXx assets (except for the Retained Rights).

VIII. COSTS

Each party shall bear its own costs of this action.

IX. PUBLIC INTEREST DETERMINATION

Entry of this Final Judgment is in the public interest.

DATED: _____

Court approval subject to
the Antitrust Procedures and
Penalties Act, 15 U.S.C. § 16.

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United States District Judge