UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Department of Justice Antitrust Division 450 Fifth Street, N.W., Suite 8700 Washington, DC 20530 Plaintiff, v. SAPA HOLDING AB, Humlegardsgatan 17, Box 5505 SE-114 85 Stockholm, Sweden INDALEX HOLDINGS FINANCE, INC. 75 Tri-State International Suite 450 Lincolnshire, Illinois 60069 Defendants.	CASE NO. JUDGE: Case: 1:09-cv-01424 Assigned To : Leon, Richard J. Assign. Date : 7/30/2009 Description: Antitrust

COMPLAINT

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil antitrust action to enjoin the proposed acquisition of Indalex Holdings Finance, Inc. ("Indalex") by Sapa Holding AB ("Sapa") and to obtain other equitable relief. The United States alleges as follows:

I.

NATURE OF ACTION

1. Pursuant to an asset purchase agreement dated June 16, 2009, Sapa intends to acquire directly or indirectly substantially all of the assets of Indalex and its affiliated companies

in a transaction valued at about $150 million. Defendants Sapa and Indalex currently compete in the manufacture and sale of fabricated aluminum extruded products in the United States. The proposed transaction would substantially lessen competition for the manufacture and sale of coiled extruded aluminum tubing used in the formation of high frequency communications cables in the United States.

2. Defendants Sapa and Indalex are the only two providers of coiled extruded aluminum tubing used in the formation of high frequency communications cables in the United States. Unless the acquisition is enjoined, consumers of coiled extruded aluminum tubing used in the formation of high frequency communications cables likely will pay higher prices as a consequence of the elimination of the existing competition between Sapa and Indalex. Accordingly, Sapa's acquisition of Indalex would violate Section 7 of the Clayton Act, 15 U.S.C. § 18.

II.

JURISDICTION AND VENUE

3. This action is filed by the United States under Section 15 of the Clayton Act, 15 U.S.C. § 25, to prevent and restrain the violation by defendants of Section 7 of the Clayton Act, 15 U.S.C. § 18.

4. Defendants manufacture and sell coiled aluminum tubing and other products in the flow of interstate commerce. Defendants' activities in the manufacture and sale of these products substantially affect interstate commerce. This Court has subject matter jurisdiction over this action pursuant to Section 12 of the Clayton Act, 15 U.S.C. § 22, and 28 U.S.C. §§ 1331, 1337(a), and 1345.

5. Defendants Sapa and Indalex transact business, and have consented to venue and personal jurisdiction, in the District of Columbia. Venue is therefore proper in this judicial district under 15 U.S.C. § 22 and 28 U.S.C. § 1391(c). Venue is also proper in the District of Columbia for Defendant Sapa, a Swedish corporation, under 28 U.S.C. § 1391(d).

III.

THE PARTIES AND THE TRANSACTION

6. Sapa is a Swedish corporation with its principal place of business in Stockholm, Sweden. Sapa sells fabricated aluminum products throughout the world, including in the United States, where it is the largest aluminum extruder. Among the fabricated aluminum products that Sapa sells in the United States is coiled extruded aluminum tubing used in the formation of high frequency communications cables, which Sapa manufactures at its plant in Catawba, North Carolina. In 2007, Sapa had about $38.7 million in sales of coiled extruded aluminum tubing used in the formation of high frequency communications cables. In 2008, its sales of the product were about $30.7 million. Sapa is owned by Orkla ASA, a Norwegian public limited company whose offices are located in Skøyen, Oslo in Norway. Orkla is a large, diversified international company with operations throughout the world.

7. Indalex is a Delaware corporation with its principal place of business in Lincolnshire, Illinois. Indalex sells fabricated aluminum products in Canada and the United States. Indalex is the second largest aluminum extruder in the United States. Among the fabricated aluminum products that Indalex sells in the United States is coiled extruded aluminum tubing used in the formation of high frequency communications cables, which Indalex sells from its plant in Burlington, North Carolina. In 2007, Indalex had about $18.3 million in sales of

coiled extruded aluminum tubing used in the formation of high frequency communications cables. In 2008, its sales of the product were about $12 million.

8. Pursuant to a bankruptcy court-supervised bidding process, Sapa and Indalex entered into an Asset Purchase Agreement on June 16, 2009, under which Sapa agreed to acquire substantially all the assets of Indalex and its affiliates in the United States and Canada.

IV.

TRADE AND COMMERCE

A. The Relevant Product Market

9. Cable television companies in the United States and abroad purchase coaxial cables to transmit high frequency broadband signals to their subscribers. One of the major inputs to these cables is specially manufactured extruded aluminum tubing, or "aluminum sheathing." Aluminum sheathing provides protection for the components of the cables to prevent the loss of the transmission signal to subscribers. To fulfill this function, it must be continuous, and it must not have any imperfections such as disruptions, pin-holes, or deformations along the entire length of the product. Aluminum sheathing also must be hermetic, forming an air-tight barrier around the circumference of the tubing to protect the cable against failure due to contamination from foreign substances. In addition, the aluminum sheathing must have a minimum length of 1,900 continuous feet to accommodate the needs of finished coaxial cable manufacturers.

10. Aluminum sheathing also must be thin-walled, typically with a wall thickness in the range of 0.013 to 0.057 inches, with a tolerance as low as +/- 0.002 inches across the entire aluminum sheathing products line. Tight tolerance is required by customers to maintain consistent electrical performance of the cable and assures consistent interface of the cable with

standard connectors at its termination points. The ratio of the sheathing outer diameter to the wall thickness commonly falls into the 30:1 range. These thin walls make it difficult to maintain material consistency during the extrusion process and increase the risk of manufacturing defects and damage incurred during shipping.

11. Aluminum sheathing must be made from high-purity aluminum alloy with particular mechanical and electrical properties. It must be manufactured to achieve transmission of radio frequency signals up to a frequency of 3 Ghz at a signal loss level no worse than -30 decibels. Typically, it will be made from either aluminum alloy 1060, with a minimum aluminum content of 99.6 percent, or 1100, with a minimum aluminum content of 99.0 percent. These alloys are flexible and pliable, which make them particularly suitable for cable applications but also susceptible to denting or damage during processing, particularly for sheathing with thin walls. Any such imperfections increase the electrical impedance of the finished cable and reduce its performance. Repeated, periodic imperfections in the sheathing, such as those that can result from irregularities in the coiling process, can reduce the cable performance and interfere with or block signals within a particular frequency band.

12. Aluminum sheathing is coiled and sold to coaxial cable manufacturers that stretch the aluminum tubing and insert electrical wiring and insulation. There is no other product that customers can use as a reasonably cost-effective substitute for aluminum sheathing. While copper exhibits superior electrical properties, it is five times more expensive than aluminum and, as a result, is not used. Also, most customers do not use welded aluminum tubing as a substitute because of its much lower reliability in cable applications and lack of conformity with their installed base.

13. A small but significant increase in the price of aluminum sheathing would not cause purchasers to substitute any other type of tubing to protect coaxial cables used to transmit high frequency broadband signals. Accordingly, the manufacture and sale of aluminum sheathing is a separate and distinct line of commerce and a relevant product market for the purpose of analyzing the effects of the acquisition under Section 7 of the Clayton Act.

B. The Relevant Geographic Market

14. All aluminum sheathing sold in the United States is manufactured in the United States, and Indalex and Sapa sell aluminum sheathing for uses throughout the country. No aluminum sheathing is imported into the United States from abroad.

15. The United States is a relevant geographic market for purposes of analyzing the effects of the acquisition under Section 7 of the Clayton Act.

C. Anticompetitive Effects

16. If Sapa is allowed to acquire the aluminum sheathing business of Indalex, the number of manufacturers of aluminum sheathing will decrease from two to one. Thus, the transaction will result in a monopoly.

17. Currently, Sapa and Indalex directly constrain each other's prices, limiting overall price increases for aluminum sheathing.

18. Purchasers of aluminum sheathing in the United States have benefited from the competition between Sapa and Indalex through lower prices, higher quality, more innovation, and better service. Without the competitive constraint of head-to-head competition from Indalex, Sapa will have the ability to exercise market power by raising prices, lowering product quality, decreasing services, and lessening product innovation.

19. The acquisition of Indalex by Sapa will remove a significant competitor in the market for aluminum sheathing in the United States. The resulting loss of competition will deny customers the benefits of competition, in violation of Section 7 of the Clayton Act.

D. Entry into the Manufacture and Sale of Aluminum Sheathing

20. A new entrant would require significant time to obtain necessary equipment and to qualify its product to meet the demanding standards described in paragraphs 9 to 11, above.

21. A new entrant into the manufacture and sale of aluminum sheathing must obtain significant technical know-how in order to manufacture it. Extrusions of structural aluminum products are made from different aluminum alloys than those used to produce aluminum sheathing and are not typically formed into lengths of 2000 feet or more. Also, other types of aluminum extrusions typically are not coiled and require different post-extrusion processing. A new entrant would require significant time to develop the necessary expertise to perfect these processes in a high-volume production environment. Moreover, customers of aluminum sheathing must carefully qualify any new supplier, which can cost the customer over $1 million and one year of time. Aluminum sheathing customers–i.e., cable manufacturers–incur significant liability in the form of repair and replacement costs and diminished reputation if their products do not perform as predicted.

22. A new entrant also must invest in significant equipment and tooling to successfully manufacture the product. Appropriate dies, coiling systems, and presses of the size commonly used to produce aluminum sheathing could require substantial investment, much of which represents sunk costs.

23. A new entrant, to be successful, must produce aluminum sheathing in quantities that

permit it to realize economies of scale. Current and projected demand for the product are not likely to be sufficient to attract new investment, particularly because customers are parties to long-term contracts, the expiration dates for which differ significantly. Thus, entry at sufficient scale to justify the cost of the required investment is unlikely.

24. Therefore, entry into the manufacture and sale of aluminum sheathing would not be timely, likely, or sufficient to counter anticompetitive price increases that Sapa could impose after its acquisition of Indalex.

V.

VIOLATION ALLEGED

25. The United States incorporates the allegations of paragraphs 1 through 24 above.

26. On or about July 31, 2009, Sapa plans to acquire Indalex and its assets used in the manufacture of coiled extruded aluminum tubing used in the formation of high frequency communications cables. The effect of this acquisition will be substantially to lessen competition in interstate trade and commerce in violation of Section 7 of the Clayton Act.

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

a. competition in the manufacture and sale of coiled extruded aluminum tubing used in the formation of high frequency communications cables in the United States will be lessened substantially;

b. actual and potential competition between Sapa and Indalex in the manufacture and sale of coiled extruded aluminum tubing used in the formation of high frequency communications cables in the United States will be eliminated; and

c. prices for coiled extruded aluminum tubing used in the formation of high frequency communications cables likely will increase and the levels of quality, services and innovation likely will decrease.

VI.

REQUESTED RELIEF

28. The United States requests that this Court:

a. Adjudge and decree that Sapa's proposed acquisition of Indalex and its assets violates Section 7 of the Clayton Act, 15 U.S.C. § 18;

b. Permanently enjoin and restrain Sapa and all persons acting on its behalf from consummating the proposed acquisition or from entering into or carrying out any contract, agreement, plan, or understanding, the effect of which would be to combine the aluminum sheathing assets of Indalex and Sapa;

c. Award the United States its cost for this action; and

d. Grant the United States such other and further relief as the case requires and the Court deems just and proper.

Respectfully submitted,

July 30, 2009

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