

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Department of Justice
Antitrust Division
1401 H Street, N.W., Suite 3000
Washington, DC 20530,

Plaintiff,

v.

LEHMAN BROTHERS HOLDINGS INC.
3 World Financial Center
New York, NY 10285,

and

L-3 COMMUNICATIONS HOLDINGS, INC.
600 Third Avenue
New York, NY 10016

Defendants.

Civil No.: 1:98CV00796

Filed: 3/27/98

Judge Sporkin

COMPLAINT

The United States of America, acting under the 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 by L-3 Communications Corp. ("L-3 Communications"), a wholly owned subsidiary of L-3 Communications Holdings, Inc., of the AlliedSignal Ocean Systems business unit ("Ocean Systems"), a wholly owned business unit of AlliedSignal Inc. ("AlliedSignal"), and AlliedSignal

ELAC Nautik GmbH ("ELAC"), a wholly owned subsidiary of AlliedSignal Deutschland GmbH, which is a wholly owned subsidiary of AlliedSignal. Because of the ownership interest of Lockheed Martin Corp. ("Lockheed Martin ") in L-3 Communications and the fact that Lockheed Martin and Ocean Systems are competitors, the acquisition of Ocean Systems and ELAC by L-3 Communications likely will substantially reduce competition between Lockheed Martin and the acquired assets.

2. Lehman Brothers Capital Partners III, L.P. currently owns 50.1% of the common stock of L-3 Communications and controls five of ten seats on the L-3 Communications Board of Directors. The General Partner of Lehman Brothers Capital Partners III, L.P. is Lehman Brothers Holdings Inc. ("Lehman Brothers"). Lockheed Martin owns 34.0% of the common stock of L-3 Communications and controls three of the ten seats on the L-3 Communications Board of Directors. The remaining 15.9% of the common stock of L-3 Communications is owned by directors and executives of L-3 Communications. They include Frank C. Lanza, Chairman and CEO of L-3 Communications, who owns 7.4% of the common stock and who also controls one Board seat, and Robert V. LaPenta, President and CFO of L-3 Communications, who owns 7.4% of the common stock and controls one Board seat. L-3 Communications has commenced an Initial Public Offering ("IPO") and expects that shares of L-3 Communications will be available to the public beginning in April or May 1998. The IPO could reduce Lockheed Martin's ownership interest in L-3 Communications to as low as 26%. L-3 Communications is also likely to increase the size of its Board of Directors by one seat, to be controlled by Lehman Brothers. Such an increase will reduce Lockheed Martin's position on the Board to three out of eleven seats.

3. Lockheed Martin and Ocean Systems are the leading providers of towed sonar arrays ("towed arrays") for U.S. Navy surface combat vessels and submarines. L-3 Communications has not and does not currently produce any towed arrays or other sonar systems or components for sonar systems. Towed arrays are long, mechanically complex, hose-like structures which are towed behind ships and submarines. They extend in length from several hundred feet to over one thousand feet. Towed arrays contain sonar sensors and electronic components and are connected to electronic processing equipment and displays on board the vessel or submarine that is towing the array. The chief purpose of towed arrays is to detect enemy submarines by gathering and processing sound waves produced by or reflected from enemy submarines, although certain types of towed arrays can also detect torpedoes.

4. The U.S. Department of Defense ("DoD") is preparing to conduct a competition for additional towed arrays in 1998 and is likely to make additional purchases in future years. Ocean Systems and Lockheed Martin have extensive experience in designing and manufacturing towed arrays, are the two leading providers of towed arrays to DoD and are expected to compete in upcoming competitions for towed arrays.

5. If L-3 Communications were to acquire Ocean Systems, L-3 Communications and Lockheed Martin would become competitors in the design, production and sale of towed arrays. Because Lockheed Martin currently owns and in the future will continue to own a substantial percentage of the common stock of L-3 Communications, and controls and will continue to control three of the seats on the L-3 Communications Board of Directors, there is a strong likelihood that competitively sensitive information concerning L-3 Communications' design, production, and bid plans for towed arrays will be shared with Lockheed Martin. There

is also the strong likelihood that competitively sensitive information concerning Lockheed Martin's design, production, and bid plans for towed arrays will be shared with L-3 Communications. As a result, any upcoming competitions for towed arrays will be compromised. Unless blocked, this acquisition of AlliedSignal assets by L-3 Communications, will likely result in an increase in prices paid and a decrease in innovation for towed arrays.

I. JURISDICTION AND VENUE

6. This action is filed by the United States 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.

7. Both Ocean Systems and Lockheed Martin have designed, produced and sold towed arrays to DoD, an agency of the United States. Ocean Systems and Lockheed Martin are engaged in interstate commerce and in activities substantially affecting interstate commerce. The Court has subject matter jurisdiction over this action and jurisdiction over the parties pursuant to Section 12 of the Clayton Act, 15 U.S.C. § 22, and 28 U.S.C. §§ 1331 and 1337.

8. 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

9. Lehman Brothers Holdings Inc. is a Delaware corporation headquartered in New York, New York. Its business activities are in financial services and merchant and investment banking. In 1997, Lehman Brothers Holdings Inc. had net revenues of \$3.8 billion.

10. L-3 Communications Holdings, Inc. is a Delaware corporation headquartered in New York, New York. L-3 Communications is a leading provider of sophisticated secure

communication systems and specialized communication products including secure, high data-rate communications systems, microwave components, avionics, and telemetry and instrumentation products. In 1997, L-3 Communications had sales of approximately \$700 million.

III. TRADE AND COMMERCE

A. RELEVANT PRODUCT MARKET

Towed Arrays

11. Towed arrays are sonar systems designed to be towed by a submarine or a surface vessel. Towed arrays deployed by submarines are designed to detect other submarines. The arrays are long, hose-like structures measuring up to a thousand feet or longer that contain specially designed acoustic sensors, called hydrophones, which pick up sound. The arrays include electronics that convert the acoustical waves from analog to digital form and transmit that data to electronic processors on board the submarine. Processing the data involves such functions as distinguishing the sounds generated by submarines from the sounds made by other sources, such as whales. The construction of the hose-like structure containing the hydrophones and electronics requires specialized skills which few companies possess. Towed arrays deployed by submarines must be designed to withstand the extreme environmental stresses of operation in the ocean depths.

12. Towed arrays deployed by surface combat vessels are designed to detect submarines and torpedoes. They have different mechanisms for deploying, reeling in and storing the arrays and face different environmental stresses than those deployed by submarines. Towed arrays used by surface combat vessels are towed at much greater speed than those towed by submarines or non-combat ships and require engineering solutions to deal with the "noise"

generated by dragging the array through the water. Towed arrays deployed by non-combat surface ships are designed to detect submarines, but not torpedoes. Only about ten percent of towed arrays for surface ships are those designed for non-combat ships.

13. There are no substitutes for towed arrays and therefore no other products to which DoD or U.S. prime contractors could turn in the face of a small but significant and non-transitory price increase by suppliers of towed arrays.

14. Towed arrays are a line of commerce and a relevant product market within the meaning of Section 7 of the Clayton Act.

B. RELEVANT GEOGRAPHIC MARKET

15. Towed arrays are purchased by DoD for use on U.S. Navy surface combat vessels and submarines. There are no foreign producers to which DoD or U.S. prime contractors could turn in the face of a small but significant and non-transitory price increase by suppliers of towed arrays.

16. The United States is a relevant geographic market within the meaning of Section 7 of the Clayton Act.

C. ANTICOMPETITIVE EFFECT AND ENTRY

17. Ocean Systems and Lockheed Martin are the two leading firms in the design and production of towed arrays. Over ninety percent of the towed arrays deployed by submarines have been designed and built by Lockheed Martin and Ocean Systems. Over eighty percent of the towed arrays deployed by surface combat ships were built by Ocean Systems and Lockheed Martin (and companies it acquired). The other company that previously built towed arrays for surface combat ships has not won a DoD contract for towed arrays in over a decade. Because of

their prior experience and repeated success in winning DoD towed array contracts, Lockheed Martin and Ocean Systems are likely to be the primary providers of towed arrays purchased by DoD in the future.

18. In 1998, DoD is expected to conduct a competition, known as the Omnibus Competition, for the next generation of towed arrays to be deployed by submarines and surface combat and non-combat vessels. The award of this contract is expected to cover both design and production. This contract will likely be awarded on the basis of "best value" which considers a bidder's price and the quality of its technical proposal. The evaluation of the technical proposal generally includes an assessment of the riskiness of the proposal and the bidder's prior experience. Given their long history in designing and producing towed arrays for DoD, Ocean Systems and Lockheed Martin likely will be the leading contenders for the Omnibus contract, as well as for any future DoD towed array contracts. Other potential competitors do not have the experience of these two companies in the design and production of towed arrays.

19. L-3 Communications' acquisition of Ocean Systems is likely significantly to lessen competition for towed array contracts awarded by DoD. Because Lockheed Martin sits on the Board of Directors of L-3 Communications, the acquisition could result in the two leading providers of towed arrays to DoD having access to each other's business plans, costs, pricing data and decisions, and other internal and competitively sensitive information. The exchange of such information could significantly decrease the willingness and ability of L-3 Communications and Lockheed Martin to engage in vigorous competition for DoD contracts for towed arrays. Access to information revealing each other's costs, pricing and technical efforts would provide them with information that could decrease their incentive to bid aggressively on DoD contracts

and therefore could lead to higher prices paid by DoD. Access to such information could also decrease their incentive to minimize costs or to innovate in the design or manufacture of towed arrays.

20. Successful entry into the production and sale of towed arrays is difficult, time consuming, and costly. Entry requires advanced technology, skilled engineers, specialized know-how and costly customized equipment and facilities. A potential entrant would have to engage in difficult, expensive, and time consuming research to develop designs and production processes that can economically and reliably produce towed arrays. These designs and production processes must be perfected before an entrant can successfully bid for a DoD towed array contract. It is unrealistic to expect new entry in a timely fashion to protect competition in upcoming DoD towed array competitions.

D. HARM TO COMPETITION

21. The Armed Forces of the United States rely on the ongoing, vigorous competition between Ocean Systems and Lockheed Martin for the development and production of towed arrays. The proposed acquisition will lessen this competition, and will result in an increase in prices paid by the United States and a decrease in innovation for towed arrays and will, therefore, violate Section 7 of the Clayton Act.

V. VIOLATION ALLEGED

22. The effect of L-3 Communications' proposed acquisition of Ocean Systems and ELAC will be to lessen competition substantially and to decrease innovation in interstate trade and commerce in violation of Section 7 of the Clayton Act.

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

- a. competition generally in the innovation, development, production and sale of towed arrays for military purposes in the United States would be lessened substantially;
- b. actual and future competition between Ocean Systems and Lockheed Martin in the innovation, development, production and sale of towed arrays for military purposes in the United States would be lessened substantially;
- c. prices for towed arrays for military purposes in the United States would likely increase.

VI. REQUESTED RELIEF

Plaintiff requests:

- 1. That the proposed acquisition by L-3 Communications of Ocean Systems and ELAC be adjudged to violate Section 7 of the Clayton Act, as amended 15 U.S.C. § 18;
- 2. That the defendants be permanently enjoined and restrained from carrying out the Purchase Agreement, dated December 22, 1997, or from entering into or carrying out any agreement, understanding or plan, the effect of which would be to combine L-3 Communications and the Ocean Systems and ELAC assets of AlliedSignal;
- 3. That plaintiff be awarded its costs of this action; and
- 4. That plaintiff have such other relief as the Court may deem just and proper.

Dated: March _____, 1998.

Respectfully submitted,

FOR PLAINTIFF UNITED STATES:



Joel I. Klein
Assistant Attorney General

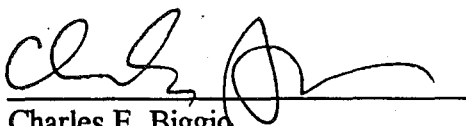
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