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UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No. C 78-1879 TEH
	)	
SPECTRA-PHYSICS, INC. and	)	
LASERPLANE CORPORATION,	)	Filed: June 2, 1981
	)	
Defendants.	)	Entered: Sept. 3, 1981
	)	Judge Henderson

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties hereto consent that a Final Judgment in the form hereto attached may be filed 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Act [15 U.S.C. § 16], and without further notice to any party or any other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with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.

2. In the event plaintiff withdraws its consent or if the

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proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff or defendants in this or any other proceeding.

Dated:

FOR THE PLAINTIFF UNITED STATES OF AMERICA

/s/ William F. Baxter  
WILLIAM F. BAXTER  
Assistant Attorney General

*James E. Figenshaw*  
JAMES E. FIGENSHAW  
Attorney, Department of Justice

/s/ Mark Leddy  
MARK LEDDY

*Anthony E. Desmond*  
ANTHONY E. DESMOND  
Attorneys, Department of Justice

FOR THE DEFENDANTS SPECTRA-PHYSICS, INC.  
AND LASERPLANE CORPORATION

Heller, Ehrman, White & McAuliffe  
44 Montgomery Street  
San Francisco, California

Arnold & Porter  
1200 New Hampshire Avenue, N.W.  
Washington, D. C.

*Robert J. Vias*  
ROBERT J. VIAS  
Attorney for Defendants Spectra-Physics, Inc.  
and Laserplane Corporation

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Civil No. C 78-1879 TEH
	)	
v.	)	<u>FINAL JUDGMENT</u>
	)	
SPECTRA-PHYSICS, INC. and	)	Filed: June 2, 1981
LASERPLANE CORPORATION,	)	
	)	Entered: Sept. 3, 1981
Defendants.	)	Judge Henderson
	)	

Plaintiff, United States of America, having filed its complaint on August 18, 1978, and plaintiff and defendants by their respective attorneys having 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 evidence or admission by any party with respect to any issue of fact or law:

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law, and upon the consent of the parties, it is hereby

OPDEPED, ADJUDGED AND DECREED as follows:

I.

This Court has jurisdiction of the subject matter herein and of the parties consenting hereto. The complaint states claims upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II.

As used in this Final Judgment:

A. "Defendants" shall mean Spectra-Physics, Inc. and/or Laserplane Corporation.

B. "Machine Control Laser Systems" ("MCL Systems") shall mean controls for earth-moving machines generally consisting of (1) a command post or tripod-mounted laser transmitter, (2) a detector or receiver, (3) a control box or electronic interface to the machine, and (4) either a hydraulic system which automatically controls the machine or an indicator or read-out that enables the machine operator to control the machine.

C. "Machine Control Laser Systems Components" ("MCL Systems Components") shall mean one or more of the following components for Machine Control Laser Systems: (1) a command post or tripod-mounted laser transmitter, (2) a detector or receiver, (3) a control box or electronic interface to the machine, and (4) either a hydraulic system which automatically controls the machine or an indicator or read-out that enables the machine operator to control the machine.

D. "MCL Systems Technical Information" shall mean any written information, process, formula, or method for the manufacture of MCL Systems or MCL Systems Components.

E. "Person" shall mean any individual, partnership, firm, corporation, association, or any other business or legal entity.

III.

The provisions of this Final Judgment shall apply to defendants and their officers, directors, agents, employees, subsidiaries, affiliates, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV.

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2 A. Defendants are ordered and directed to grant to any  
3 person who makes a written application therefor within a period  
4 of seven (7) years after the date of entry of this Final  
5 Judgment:

6 1. a nonexclusive royalty-free license to make,  
7 use and sell MCL Systems or MCL Systems Components  
8 under each United States letters patent which  
9 defendants had a right to license as of January 1,  
0 1980, such license to be for the full unexpired term  
1 of each licensed patent; and

2 2. a nonexclusive royalty-free license to use  
3 for the purpose of making, using and selling MCL  
4 Systems or MCL Systems Components, any MCL Systems  
5 Technical Information within the possession of  
6 defendants as of January 1, 1980, such license to be  
7 for the duration requested by the applicant, and to be  
8 terminable by the licensee at any time if the MCL  
9 Systems Technical Information becomes within the  
0 public domain.

1 B. Defendants are enjoined and restrained from including  
2 any restrictions whatsoever in any license granted pursuant to  
3 Section IV except as hereinafter provided:

4 1. A reasonable fee designed to cover the  
5 defendants' administrative costs of issuing the  
6 license may be charged;

7 2. Reasonable provisions may be made to forbid  
8 the unauthorized use or disclosure to third parties of  
9 MCL Systems Technical Information. Defendants also  
0 shall have the right to apply restrictive legends to  
1 such MCL Systems Technical Information indicating its  
2 proprietary and secret nature and to require the  
3 return of all copies of such MCL Systems Technical  
4 Information upon the termination of the right to use  
5 it.

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3. Reasonable provisions may be made for cancellation of the license upon breach by the licensee of any of the provisions included in the license.

V.

A. Within fifteen (15) days of the date of this decree, defendants shall file with this Court on the public record and submit in writing to those persons set forth by plaintiff in Appendix A hereto as well as to all other persons known by defendants to be engaged in the manufacture or sale of MCL Systems or MCL Systems Components in the United States, a listing of all patents and MCL Systems Technical Information subject to licensing under this decree. Defendants also shall submit in writing this listing to all other persons identified by plaintiff, from time to time, within fifteen (15) days of such identification. Said listing shall generally describe the technology covered by said patents and MCL Systems Technical Information. Within ninety (90) days of the date of this decree, defendants shall by general description advertise all patents and MCL Systems Technical Information available for licensing under this decree in at least two major trade journals of the general construction industry.

B. Beginning ninety (90) days after the date of this decree and continuing annually thereafter, for seven (7) years, defendants shall submit to this Court and to the Assistant Attorney General in charge of the Antitrust Division written reports setting forth the patents and MCL Systems Technical Information which are available for license pursuant to Section IV, the fact and manner of compliance with Paragraph A of this Section V, a listing of persons submitting applications or making inquiries hereunder, and all licenses issued by defendants pursuant to this Final Judgment during the preceding year.

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VI.

Nothing in this Final Judgment shall prevent any person from attacking at any time the validity or scope of any patent nor shall this Final Judgment be construed as imputing any validity to any patent.

VII.

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants made to its principal offices, be permitted:

1. Access during regular office hours of defendants to inspect and copy all relevant books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants and without restraint or interference from them, who may have counsel present; and

2. Subject to the reasonable convenience of defendants and without restraint or interference from them, to interview officers, employees, and agents of defendants, who may have counsel present;

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to defendants' principal offices, defendants shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested;

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C. No information or documents obtained by the means provided in this Section VII shall be divulged by a representative of the Department of Justice to any person other than a duly 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, or for the purpose of securing compliance with the Final Judgment, or as otherwise required by law; and

D. If at the time information or documents are furnished by defendants to plaintiff in accordance with this Section VII, defendants represent and identify 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 said defendants mark each pertinent page of such material "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to defendants prior to divulging such material in any legal proceedings (other than a grand jury proceeding) to which defendants are not a party.

VIII.

Defendants shall require, as a condition of the sale or other disposition of all, or substantially all, of the assets of the Construction Systems Division or the Laserplane Division that the acquiring party agrees to be bound by the provisions of this Final Judgment. An acquiring party subject to this provision shall file with the Court, and serve upon the plaintiff, its consent to be bound by this Final Judgment.

IX.

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be

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necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance therewith and for the punishment of any violation hereof.

X.

The entry of this Final Judgment is in the public interest.

/s/ Judge Henderson  
UNITED STATES DISTRICT JUDGE

APPENDIX A

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AGL Corp.  
2615 W. Main  
Jacksonville, AR

Blount Industries  
Box 3511, Hwy. 70 East  
North Little Rock, AR 72117

Construction Laser Systems Industries  
6383 Arizona Circle  
Los Angeles, CA 90045

Control Instruments, Inc.  
P. O. Box 1825  
Grand Rapids, MI 49501

Laser Alignment  
63320 28th St., S.E.  
Grand Rapids, MI 49506

Laser Electronics Pty. Ltd.  
P. O. Box 359 Southport  
Queensland, Australia 4215

Laser Systems of Arizona  
10314 W. Montecito  
Phoenix, Arizona

Industries Universal  
P. O. Box 2028  
Calexico, CA 92231

Komatsu Ltd.  
Komatsu Building, 2-3-6, Akasaka  
Minato-Ku  
Tokyo 107, Japan

Reno Energy Systems, Inc.  
195 N. Edison  
Reno, NV 89502

Vari-Tech Company  
546 Leonard St. N.W.  
Grand Rapids, MI 49504

Lasertron Company, Inc.  
1026 Courtesy Street  
Houston, Texas 77032

Honeywell Inc.  
Honeywell Plaza  
Minneapolis, MN 55408

Deere & Company  
John Deere Road  
Moline, IL 61265

Caterpillar Tractor Co.  
100 N.E. Adams Street  
Peoria, IL 61629