

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,)
)
)
 Plaintiff,)
)
 v.) Civil Action No. 1:99CV01318
)
)
 COMPUTER ASSOCIATES) JUDGE: Gladys Kessler
 INTERNATIONAL, INC. and)
)
 PLATINUM TECHNOLOGY) DECK TYPE: Antitrust
 INTERNATIONAL, INC.,)
)
) DATE STAMP: 05/25/99
 Defendants.)
)

COMPLAINT

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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 enjoin Computer Associates International, Inc. (hereinafter "CA") from acquiring PLATINUM *technology* International, *inc.* (hereinafter "Platinum").

2. CA is the world's largest independent vendor of computer software for mainframe computers and a leading producer of mainframe computer systems management software. Platinum is a direct and substantial competitor to CA in a number of mainframe

systems management software products.

3. CA is the dominant competitor holding market shares of 70% or more in a number of mainframe systems management software products for the MVS (now named OS/390) and VSE operating systems that run on IBM and IBM-compatible mainframe computers. These products include tape management, job scheduling and rerun, and change management for the MVS and OS/390 platforms and job scheduling and automated operations for the VSE platform.

4. Platinum is either the only substantial competitor or is one of only a few substantial competitors attempting to challenge CA's dominance in the sale of these mainframe systems management software products. Platinum has aggressively marketed its products to CA's customers by offering better pricing and more responsive customer service. Unless this proposed acquisition is blocked, the competition in these systems management software product markets will be substantially reduced or eliminated, resulting in higher prices, lower quality product support, and less innovation for users of these products.

JURISDICTION AND VENUE

5. This action is filed under Section 15 of the Clayton Act, as amended, 15 U.S.C. § 25, and Section 4 of the Sherman Act, 15 U.S.C. § 4, to prevent and restrain defendants' violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18. Venue is proper in this District under 15 U.S.C. § 22 and 28

U.S.C. § 1391(c).

6. CA is a Delaware corporation that transacts business, maintains offices, and is found within the District of Columbia.

7. Platinum is a Delaware corporation that transacts business and is found within the District of Columbia.

8. The defendants 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 defendants pursuant to 15 U.S.C. § 22 and 28 U.S.C. §§ 1331 and 1337.

II.

THE DEFENDANTS

9. CA is a Delaware corporation with its principal place of business in Islandia, New York. CA reported fiscal year 1998 revenues in excess of \$4.7 billion. CA sells services and software for a variety of computers and operating systems, but predominantly systems management software for mainframe computer systems running on IBM mainframe operating systems and distributed systems running on UNIX or Windows NT operating systems. Aside from IBM, which writes the operating systems that run almost all mainframe computers, CA is the largest vendor of software for IBM and IBM-compatible mainframe computers.

10. Platinum is a Delaware corporation with its principal place of business in Oakbrook Terrace, Illinois. Platinum's

fiscal year 1998 revenues were just over \$968 million. Platinum, like CA, is a leading vendor of systems management software products for mainframe and other computer systems.

III.

IMPACT OF THE PROPOSED ACQUISITION ON TRADE AND COMMERCE

A. Systems Management Software for Mainframe Computers

11. Mainframe computers are the large and powerful computers used by industrial, commercial, educational, and governmental enterprises for "mission critical" data processing applications that require great amounts of reliable computing performance and throughput. Mainframe computers have the capacity to process hundreds of millions of instructions at a time and manage a tremendous volume of information, making possible modern operations for large corporations, public utilities, and government agencies. The vast majority of the world's mainframe computers have been manufactured by IBM or IBM-compatible vendors that sell systems that run on IBM's mainframe operating systems. Operating systems control the operational resources of the computer (including the central processor unit, memory, data storage devices, and other hardware components) and allow "applications" software (programs that perform user-directed tasks requested of the computer, such as programs that maintain payroll, inventory, sales, and other business accounts of a company) to run on the computer.

12. For more than 30 years, IBM has developed and enhanced its operating system software products. The vast majority of the world's mainframe computers use IBM's principal mainframe operating systems: MVS, recently renamed OS/390, and VSE. MVS and OS/390 are generally used by users of larger mainframes and users needing its much higher level of performance and functionality, and are substantially more costly than VSE. VSE is less capable and feature-rich, and is generally used with smaller mainframes, working with a smaller number of users and smaller data sets.

13. Systems management software works in concert with the operating system to improve the efficiency, control, and performance of the computer system. While IBM's mainframe operating systems contain limited systems management capabilities, most users want additional systems management functionality. Thus, a number of software vendors, including CA and Platinum, develop and market a range of systems management software products. Systems management software, working with the operating systems, allows users to run their applications processing more efficiently and with greater management control.

14. Mainframe systems management software generally is designed to function only with specific operating systems. Thus, software designed for use on an IBM or IBM-compatible mainframe computer with a specific operating system will not work on other

types of computer systems or with other operating systems. Users of MVS or OS/390 must, therefore, purchase systems management software designed for those operating systems, and VSE users must buy systems management software designed for VSE.

15. A user would face very substantial costs in switching between MVS or OS/390 and the VSE operating systems (including costly hardware changes and the loss of many millions of dollars of investments in software that run only with the incumbent operating system). Due to such prohibitive costs, VSE systems management software customers are unlikely to switch to the use of the costlier MVS or OS/390 operating system and MVS or OS/390 systems management software to escape even a very substantial increase in the prices of VSE systems management software. For similar reasons, MVS and OS/390 customers would not switch to VSE software to avoid a significant increase in the prices of MVS or OS/390 systems management software. Such a switch would further be discouraged by the resultant loss in the functionality of their system. Mainframe users are also unlikely to switch to a distributed client/server computing environment when faced with a substantial increase in the price of mainframe management software because of the high cost, difficulty, and business and technical ramifications of such a conversion.

16. CA and Platinum both supply different types of mainframe systems management software providing different

functionalities. Tape management, job scheduling and rerun, automated operations, and change management are just a few examples of types of system management software. Customer purchases of these products are dictated by specific needs for a particular functionality or combination of functionalities. A customer of tape management software, for example, would not consider as a reasonable substitute mainframe systems management software performing a different function if prices of tape management software increased significantly.

B. Relevant Markets

17. Due to the lack of substitutability between systems management software across the different operating systems, and among systems management software products of different functionality, each of the following products as to which CA and Platinum are competitors constitutes a line of commerce and relevant product market within the meaning of Section 7 of the Clayton Act: MVS and OS/390 tape management software; MVS and OS/390 job scheduling and rerun software; VSE job scheduling and rerun software; MVS and OS/390 change management software; and VSE automated operations software.

18. As described below with respect to each relevant market, CA is the dominant competitor and Platinum has competed aggressively against CA and is one of only a few rivals.

19. **MVS and OS/390 tape management software.** Tape

management software is used to control the cataloguing, loading, formatting, and reading of the magnetic tapes used for archival storage of data processed by mainframes. Many mainframe computer system users store information on hundreds or thousands of tapes, and tape management software specifies which tapes, and which information on the tapes, need to be loaded for particular operations. Tape management software also protects the information on the tape by ensuring that active information is not overwritten or erased. CA's total U.S. sales of these products in 1998 were approximately \$94 million. CA is the overwhelmingly dominant competitor in this market, with an estimated market share of 90%, and Platinum is one of only three other vendors with more than a trivial presence in this market. Using a measure of market concentration called the "HHI" (defined and explained in Appendix A), the market is already highly concentrated with an HHI exceeding 8100. The proposed acquisition would further increase the HHI by at least 360 and reduce from three to two the number of firms that customers generally regard as competitive alternatives to CA.

20. **MVS and OS/390 job scheduling and rerun software.** Job scheduling and rerun software directs a mainframe to prioritize and run particular "batch" processing operations (called "jobs") based on user requirements as to time, date, and other parameters, to link jobs together so that they are performed in

the correct sequence, and to organize the results of these jobs. Rerun software interfaces with the job scheduler and automatically collects the data on jobs that were not operated successfully and performs the necessary remedial operations and reruns the job or alerts the operator that intervention is necessary. CA's total U.S. sales of these products in 1998 were approximately \$175 million. CA is the overwhelmingly dominant competitor in this market, with an estimated market share of 70-80%, and Platinum is one of a very small group of significant competitors. The market for job scheduling and rerun software is already highly concentrated with an HHI exceeding 4900, and the proposed acquisition would increase the HHI at least 900 to a post-acquisition level of at least 5800.

21. **VSE job scheduling and rerun software.** These VSE products perform essentially the same functions as MVS or OS/390 job scheduling software. Total U.S. sales of these products in 1998 exceeded \$3 million. CA is the overwhelmingly dominant competitor in this market, and it regards Platinum as its only serious competitor. The proposed acquisition would substantially increase concentration in this highly concentrated market and leave customers with little alternative to CA's products.

22. **MVS and OS/390 change management software.** Change management software tracks, manages, and archives versions of computer programs while those programs are being developed,

modified, tested, or are in production. Total U.S. sales of these products in 1998 exceeded \$145 million. CA is the overwhelmingly dominant competitor in this market with a market share of approximately 86%. Platinum is one of only two rivals who sell products in competition with CA's products in this market. The market is highly concentrated with an HHI exceeding 7540, and the proposed acquisition would significantly increase the HHI and reduce to only one the number of significant competitive alternatives to CA's products.

23. **VSE automated operations software.** Automated operations software is used to automate computer console operations, message and error handling, and remote systems management to reduce human interaction with the system and thereby improve efficiency, minimize the chance of errors, and significantly reduce required computer operation staffing levels. CA's total U.S. sales of these products in 1998 exceeded \$4 million. CA is the overwhelmingly dominant competitor in this market with a market share of about 75%. Platinum is one of only three significant competitors to CA. The market is highly concentrated with an HHI exceeding 5600. The proposed acquisition would significantly increase the HHI and reduce from three to two the number of significant competitive alternatives to CA's products.

24. In each of the relevant product markets, competitors

sell such products to customers located throughout the United States. For each of the relevant products, the United States constitutes a relevant geographic market within the meaning of Section 7 of the Clayton Act.

C. Likely Effects on Competition

25. In each relevant market, the proposed acquisition would eliminate significant competition between CA as the dominant competitor and Platinum as the only significant or among the most significant of a very few competitors.

26. In addition to competition for new users, substantial competition in the markets for these mainframe systems management software products occurs when current users, and particularly current users of CA's products, consider whether they should convert to a different product. Platinum has aggressively marketed its products in competition with CA by offering better pricing, more responsive customer services and improved product features. Platinum has particularly invested significant resources in demonstrating that, notwithstanding the costs and risks of conversion, Platinum's products are superior alternatives for current users of CA's products. This competition from Platinum has caused CA to respond with lower prices, better service and improved product features for its own products.

27. The acquisition of Platinum by CA would be likely to

reduce competition in each relevant market and thereby produce higher prices, lower quality service and support, and less innovation in product development.

28. The competitive harm resulting from the proposed acquisition is not likely to be mitigated by possibilities of new entry in any relevant market. For each market, a new entrant would be required to expend substantial costs and time for the development and testing of a competitive product and sufficient marketing presence, and develop a sufficient reputation as a reliable vendor of such products to attract significant sales in what are substantially product replacement markets. Such entry would not be timely, likely, or sufficient in scale to counteract or deter a price increase or a reduction in service and support or product development in any of the relevant markets.

IV.

VIOLATION ALLEGED

29. On March 31, 1999, Defendants CA and Platinum notified the United States that they had entered into a definitive agreement pursuant to which CA would purchase all issued and outstanding shares of Platinum's common stock, valued at approximately \$3.5 billion, through a cash tender offer. CA intends to acquire the shares tendered on May 26, 1999.

30. Unless restrained, CA's proposed acquisition of Platinum is likely substantially to lessen competition in the

United States in markets for MVS and OS/390 tape management software, MVS and OS/390 job scheduling and rerun software, VSE job scheduling software, MVS and OS/390 change management software, and VSE automated operations software, in the following ways:

- a. Actual and potential competition between CA and Platinum will be eliminated in each of the markets;
- b. Competition generally in each of the markets is likely to be substantially lessened; and
- c. Prices are likely to increase and the quality of product support and development is likely to decrease in each of the markets.

V.

REQUEST FOR RELIEF

The United States requests (a) adjudication that CA's proposed acquisition of Platinum would violate Section 7 of the Clayton Act, (b) preliminary and permanent injunctive relief preventing consummation of the proposed acquisition, and (c) such other relief as the Court deems just and proper.

DATED: May 25, 1999

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APPENDIX A

HERFINDAHL-HIRSCHMAN INDEX CALCULATIONS

"HHI" means the Herfindahl-Hirschman Index, a commonly accepted measure of market concentration. It is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of thirty, thirty, twenty, and twenty percent, the HHI is 2600 ($30^2 + 30^2 + 20^2 + 20^2 = 2600$). The HHI takes into account the relative size and distribution of the firms in a market and approaches zero when a market consists of a large number of firms of relatively equal size. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

Markets in which the HHI is between 1000 and 1800 points are considered to be moderately concentrated, and those in which the HHI is in excess of 1800 points are considered to be highly concentrated. Transactions that increase the HHI by more than 100 points in highly concentrated markets presumptively raise antitrust concerns under the Horizontal Merger Guidelines issued by the U.S. Department of Justice and the Federal Trade Commission. See *Merger Guidelines* § 1.51.