

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

INTERNATIONAL BUSINESS MACHINES
CORPORATION and ROLM CORPORATION,

Defendants.

Civ. No.

Filed:

STIPULATED HOLD SEPARATE ORDER

IT IS HEREBY ORDERED THAT:

1. As used in this Order:

(a) "IBM" means the defendant International Business Machines Corporation; each division, subsidiary, or affiliate thereof; and each officer, director, employee, attorney, agent, or other person acting for or on behalf of any of them. After IBM acquires ROLM, IBM includes ROLM but does not include the Mil-Spec Computer Division;

(b) "ROLM" means the defendant ROLM Corporation; each division, subsidiary, or affiliate thereof; and each officer, director, employee, attorney, agent, or other person acting for or on behalf of any of them;

(c) "Mil-spec computer" means a computer that is manufactured to meet certain rigorous military specifications

so that it will have the ability to withstand harsh environmental conditions;

(d) "Mil-spec commercial based computer" means a mil-spec computer that is based on the architecture of a commercially available computer and that is software compatible with that computer;

(e) "Mil-Spec Computer Division" means the Mil-Spec Computer Division of ROLM. The Mil-Spec Computer Division includes all of ROLM's rights and obligations under all agreements between ROLM and Data General Corporation or other third parties relating to the business of the Mil-Spec Computer Division.

2. Until the divestiture required by the proposed Final Judgment in this action has been accomplished, and at all times thereafter, IBM shall take all steps necessary to assure that none of the Mil-Spec Computer Division's technology and other business information (including but not limited to all information ROLM received from Data General Corporation or any other third party pursuant to one or more agreements between them relating to the business of the Mil-Spec Computer Division) is transferred, or otherwise becomes known or available, to IBM. In the event that any such technology or other information becomes known or available to IBM, IBM shall not use it, unless the information becomes publicly available other than through IBM

or is obtained from a source other than ROLM or its Mil-Spec Computer Division. Notwithstanding the foregoing, IBM, may designate up to five (5) senior ROLM executives to provide management assistance and professional guidance to the Mil-Spec Computer Division until the divestiture ordered in the proposed Final Judgment in this action occurs, and these executives can receive such technology and other information as is reasonably necessary to carry out those functions, but they may not disclose any of it to IBM or any other person other than the Mil-Spec Computer Division, except as provided in IV.C. and IV.D. of the Final Judgment in this action. Nothing in this paragraph 2 shall prohibit IBM from acquiring technology or other business information from the successor to ROLM's Mil-Spec Computer Division as a result of arm's-length bargaining conducted after the divestiture required by the proposed Final Judgment in this action has been accomplished.

3. Until the divestiture required by the proposed Final Judgment in this action has been accomplished, IBM shall:

(a) take all steps necessary to assure that the Mil-Spec Computer Division will be maintained as a separate entity with its assets and operations separate, distinct, and apart from those of IBM;

(b) take no steps with respect to the operation of the Mil-Spec Computer Division that negatively would impact its ability to maximize its profits, regardless of any actual or possible negative impact on IBM's profits;

(c) refrain from terminating or reducing one or more current employment, salary, or benefit agreements for one or more management, engineering, or other technical personnel of the Mil-Spec Computer Division, except in the ordinary course of business, without prior approval of plaintiff;

(d) maintain normal repair and maintenance schedules at the Mil-Spec Computer Division and at least preserve it as it currently exists;

(e) refrain from altering or selling any assets of the Mil-Spec Computer Division, other than in the ordinary course of business, or from taking any action that would have the effect of reducing the scope of the Mil-Spec Computer Division's manufacturing or sales operations or its product line from that existing or in development at the time of the filing of the Complaint in this action, without the prior approval of the plaintiff;

(f) refrain from taking any action that would jeopardize the sale of the Mil-Spec Computer Division as a viable competitor in the production and sale of mil-spec commercial based computers;

(g) refrain from reducing any funding of the Mil-Spec Computer Division existing at the time of the filing of the Complaint in this action, without prior approval of the plaintiff; and

(h) grant any reasonable request of the Mil-Spec Computer Division for additional funding and provide written notice to plaintiff within five (5) days of the denial of any such request for additional funding, including a statement of the request and IBM's reasons for its denial.

4. This Order shall remain in effect until further order of the Court.

5. Nothing herein shall suggest that any portion of this Order is or has been created for the benefit of any third party and nothing herein shall be construed to provide any rights to any third party.

Presented by:

For Plaintiff:

P. Terry Lubeck
Attorney
U.S. Department of Justice

For Defendant International Business
Machines Corporation:

Cravath, Swaine & Moore

By:

Ronald S. Rolfe

For Defendant ROLM Corporation:

Wilson, Sonsini, Goodrich & Rosati

By:

Charles T.C. Compton

IT IS SO ORDERED:

Dated: November __, 1984

UNITED STATES DISTRICT JUDGE