

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,
U.S. Department of Justice
Antitrust Division
450 Fifth Street, NW, Suite 7100
Washington, DC 20530

Plaintiff,

v.

IRON MOUNTAIN INC.,
One Federal Street
Boston, MA 02110

and

RECALL HOLDINGS LTD.
697 Gardeners Road
Alexandria, Sydney
Australia

Defendants.

COMPLAINT

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil action to enjoin the proposed acquisition by Defendant Iron Mountain Incorporated (“Iron Mountain”) of Defendant Recall Holdings Limited (“Recall”). The United States alleges as follows:

I. NATURE OF THE ACTION

1. Iron Mountain and Recall are the two largest providers of hard-copy records management services (“RMS”) in the United States and compete directly to serve RMS

customers in numerous geographic areas. RMS are utilized by a wide array of businesses that for legal, business, or other reasons have a need to store and manage substantial volumes of hard copy records for significant periods of time.

2. In 15 metropolitan areas located throughout the United States, Iron Mountain and Recall are either the only significant providers of RMS, or two of only a few significant providers. In these 15 metropolitan areas—Detroit, Michigan; Kansas City, Missouri; Charlotte, North Carolina; Durham, North Carolina; Raleigh, North Carolina; Buffalo, New York; Tulsa, Oklahoma; Pittsburgh, Pennsylvania; Greenville/Spartanburg, South Carolina; Nashville, Tennessee; San Antonio, Texas; Richmond, Virginia; San Diego, California; Atlanta, Georgia; and Seattle, Washington—Iron Mountain and Recall have competed aggressively against one another for customers, resulting in lower prices for RMS and higher quality service. Iron Mountain's acquisition of Recall would eliminate this vigorous competition and the benefits it has delivered to RMS customers in each of these metropolitan areas.

3. Accordingly, Iron Mountain's acquisition of Recall likely would substantially lessen competition in the provision of RMS in these 15 metropolitan areas in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, and should be enjoined.

II. JURISDICTION, VENUE, AND INTERSTATE COMMERCE

4. The United States brings this action under Section 15 of the Clayton Act, 15 U.S.C. § 25, as amended, to prevent and restrain the violation by Defendants of Section 7 of the Clayton Act, 15 U.S.C. § 18.

5. This Court has subject matter jurisdiction over this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. § 25, and 28 U.S.C. §§ 1331, 1337(a), and 1345. In their RMS

businesses, Iron Mountain and Recall each make sales and purchases in interstate commerce, ship records in the flow of interstate commerce, and engage in activities substantially affecting interstate commerce.

6. Defendants Iron Mountain and Recall transact business in the District of Columbia and have consented to venue and personal jurisdiction in this District. This Court has personal jurisdiction over each Defendant and venue is proper in this District under Section 12 of the Clayton Act, 15 U.S.C. § 22, and 28 U.S.C. § 1391(c).

III. THE DEFENDANTS AND THE TRANSACTION

7. Iron Mountain is a Delaware corporation headquartered in Boston, Massachusetts. Iron Mountain is the largest RMS company in the United States, providing document storage and related services throughout the nation. For fiscal year 2014, Iron Mountain reported worldwide revenues of approximately \$3.1 billion.

8. Recall is an Australian company headquartered in Norcross, Georgia. Recall is the second-largest RMS company in the United States and provides document storage and related services throughout the nation. Recall's worldwide revenues for 2014 were approximately \$836.1 million.

9. On June 8, 2015, Iron Mountain and Recall entered into a Scheme Implementation Deed by which Iron Mountain proposes to acquire Recall for approximately \$2.6 billion in cash and stock, subject to adjustments.

IV. TRADE AND COMMERCE

A. Relevant Service Market: Records Management Services

10. For a variety of legal and business reasons, companies must often retain hard-copy records for significant periods of time. Given the physical space required to store any substantial volume of records and the effort required to manage stored records, many customers contract with RMS vendors such as Iron Mountain and Recall to provide these services.

11. RMS vendors pick up records from customers and bring them to a secure off-site facility, where they then index the records to allow their customers to keep track of them. RMS vendors retrieve stored records for their customers upon request and often perform other services related to the storage, tracking, and shipping of records. For example, they sometimes destroy stored records on behalf of the customer once preservation no longer is required.

12. Customers that purchase RMS range from Fortune 500 companies to small firms that have a need to manage and store records. Customers include corporations with business records maintenance requirements, healthcare providers with patient records, and other companies that may wish to manage and store other types of records, such as case files, employee records, and other information.

13. RMS procurements are typically made by competitive bid. Contracts usually specify fees for each service provided (*e.g.*, pickup, monthly storage, retrieval, delivery, and transportation). Most customers purchase RMS in only one city. Some customers with operations in multiple cities prefer to purchase RMS from a single vendor pursuant to a single contract; other multi-city customers disaggregate their contracts and purchase RMS from different vendors in different cities.

14. For companies with a significant volume of records, in-house storage is generally not a viable substitute for RMS. For a company to manage its records in-house, it must have a substantial amount of unused space, racking equipment, security features, and one or more dedicated employees. Similarly, entirely replacing RMS with digital records management services is generally not feasible. To switch from physical to electronic records, a customer would need to fundamentally shift its method of creating, using, and storing records and adapt to an entirely paperless system. For many customers, the time, expense, and other burdens associated with doing so are prohibitive.

15. For these reasons, a hypothetical monopolist of RMS could profitably increase its prices by at least a small but significant non-transitory amount. Accordingly, RMS constitutes a relevant product market and line of commerce for purposes of analyzing the likely competitive effects of the proposed acquisition under Section 7 of the Clayton Act, 15 U.S.C. § 18.

B. Relevant Geographic Markets

16. The geographic market for RMS consists of a metropolitan area or a radius around a metropolitan area. Customers generally require a potential RMS vendor to have a storage facility located within a certain proximity to the customer's location. Customers generally will not consider vendors located outside a particular radius, because the vendor will not be able to retrieve and deliver records on a timely basis. The radius a customer is willing to consider is usually measured in time, rather than miles, as the retrieval of records may be a time-sensitive matter. Transportation costs also likely render a distant RMS vendor uncompetitive with vendors located closer to the customer.

17. RMS vendors in the following 15 metropolitan areas—Detroit, Michigan; Kansas City, Missouri; Charlotte, North Carolina; Durham, North Carolina; Raleigh, North Carolina; Buffalo, New York; Tulsa, Oklahoma; Pittsburgh, Pennsylvania; Greenville/Spartanburg, South Carolina; Nashville, Tennessee; San Antonio, Texas; Richmond, Virginia; San Diego, California; Atlanta, Georgia; and Seattle, Washington—could profitably increase prices to local customers without losing significant sales to more distant competitors. As a result, a hypothetical monopolist of RMS in each of these 15 metropolitan areas could profitably increase its prices by at least a small but significant non-transitory amount. Accordingly, each of these areas is a relevant geographic market for the purposes of analyzing the competitive effects of the acquisition under Section 7 of the Clayton Act, 15 U.S.C. § 18.

C. Anticompetitive Effects of the Proposed Acquisition

18. Iron Mountain and Recall are the two largest RMS providers in the United States and directly compete to provide RMS in each relevant geographic market. Each relevant geographic market for the provision of RMS is highly concentrated. In each of the relevant geographic markets, Iron Mountain is the largest RMS provider and Recall is either the second or third-largest competitor, while few, if any, other significant competitors exist. Iron Mountain and Recall compete very closely for accounts, target one another's customers, and, in most of the relevant geographic markets, view one another as the other's most formidable competitor. The resulting significant increase in concentration in each metropolitan area and loss of head-to-head competition between Iron Mountain and Recall likely will result in higher prices and lower quality service for RMS customers in each relevant geographic market.

D. Entry into the Market for RMS

19. It is unlikely that entry or expansion into the provision of RMS in the relevant geographic markets alleged herein would be timely, likely, or sufficient to defeat the likely anticompetitive effects of the proposed acquisition.

20. Any new RMS entrant would be required to expend significant time and capital to successfully enter any of the relevant geographic markets. RMS entry into a new geographic market generally requires a secure facility, racking equipment, delivery trucks, tracking software, and employees. In addition, a new entrant would have to expend substantial effort to build a reputation for dependable service, which is important to RMS customers who demand quick and reliable pickup of and access to their stored records.

21. In order to recoup the costs of entry, an RMS vendor must fill a substantial amount of its facility's capacity. However, acquiring customers from existing RMS vendors in order to fill this capacity is often complicated by provisions in the customers' contracts requiring payment of permanent withdrawal fees if the customer permanently removes a box or record from storage. Customers will sometimes pay these withdrawal fees themselves, but more commonly, the new vendor will have to offer to pay the fees to induce the customer to switch. The vendor must then recoup the cost of the fees by imposing its own permanent withdrawal fees, amortizing the cost over a longer contract, or charging higher prices while still charging a competitive price for its services. Customer contracts also often impose a cap on the number of boxes per month that a customer may permanently remove from a RMS vendor's facility, such that a switch to a new RMS vendor may take several months to complete. Taken together,

permanent withdrawal fees and other withdrawal restrictions make it difficult for a new RMS entrant to win customers away from existing RMS vendors.

22. Likewise the permanent withdrawal fees and other withdrawal restrictions also make it more difficult for an RMS vendor already in a market to win enough customers away from competitors to expand significantly.

V. VIOLATION ALLEGED

23. The United States hereby incorporates paragraphs 1 through 22 above.

24. The proposed acquisition of Recall by Iron Mountain likely would substantially lessen competition for RMS in the 15 relevant geographic markets identified above in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18. Unless enjoined, the proposed acquisition likely would have the following anticompetitive effects relating to RMS in the relevant geographic markets, among others:

- (a) actual and potential competition between Iron Mountain and Recall for RMS in each relevant geographic market will be eliminated;
- (b) competition generally for RMS in each relevant geographic market will be substantially lessened; and
- (c) prices for RMS will likely increase and the quality of service will likely decrease in each relevant geographic market.

VI. REQUESTED RELIEF

25. The United States requests that this Court:

- (a) adjudge and decree that Iron Mountain's acquisition of Recall would be unlawful and violate Section 7 of the Clayton Act, 15 U.S.C. § 18;

(b) permanently enjoin and restrain Defendants and all persons acting on their behalf from consummating the proposed acquisition of Recall by Iron Mountain, or from entering into or carrying out any other contract, agreement, plan or understanding, the effect of which would be to combine Iron Mountain with Recall;

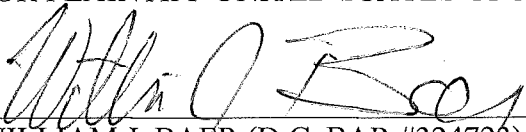
(c) award the United States the cost for this action; and

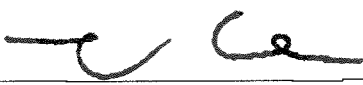
(d) award the United States such other and further relief as the Court deems just and proper.

Dated: March 31, 2016

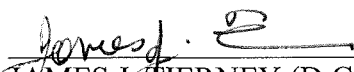
Respectfully submitted,

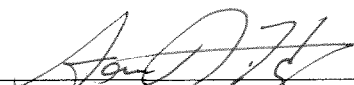
FOR PLAINTIFF UNITED STATES OF AMERICA:

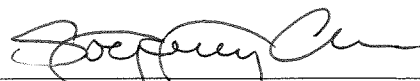

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