

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

_____))
))
In the Matter of))
)) Docket No. C-3685
LOCKHEED MARTIN CORPORATION,))
 a corporation.))
_____))

COMPLAINT

The Federal Trade Commission (“

3. "Commercial Low Earth Orbit Satellite" means an unmanned machine that is launched from the Earth's surface and designed to orbit approximately 100 miles to 300 miles above the Earth's surface in low earth orbit for the purpose of transmitting data back to Earth, which is sold to any customer other than the U.S. government.

4. "Commercial Geosynchronous Earth Orbit Satellite" means an unmanned machine that is launched from the Earth's surface and designed to orbit approximately 22,300 miles above the Earth's surface in geosynchronous earth orbit for the purpose of transmitting data back to Earth, which is sold to any customer other than the U.S. government.

5. "Military Aircraft" means fixed-wing aircraft manufactured for sale to the United States or foreign governments.

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Corporation, Lockheed Martin Corporation and LAC Acquisition Corporation.

13.

III. ACQUIRED COMPANY

19. Loral is a corporation organized and existing under and by virtue of the laws of the state of New York, with its principal office and place of business located at 600 Third Avenue, New York, New York 10016. Loral is engaged in, among other things, the research, development, manufacture and sale of Air Traffic Control Systems, NITE Hawk Systems, Simulation and Training Systems, Electronic Countermeasures, Mission Computers and Integrated Communications Systems. Loral, through its 33% ownership interest in Space Systems/Loral, is also engaged in the research, development, manufacture and sale of Commercial Low Earth Orbit Satellites and Commercial Geosynchronous Earth Orbit Satellites.

20. Loral is, and at all times relevant herein has been, engaged in commerce as "commerce" is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and is a corporation whose business is in or affecting commerce as "commerce" is defined in Section 4 of the FTC Act, as amended, 15 U.S.C. § 44.

IV. THE ACQUISITION

21. On or about January 7, 1996, Lockheed Martin entered into a Merger Agreement and Restructuring Agreement, whereby Lockheed Martin would engage in a series of related transactions and acts, including, but not limited to: (1) the acquisition of all of the outstanding voting common stock of Loral; (2) the transfer of the space and telecommunications businesses of Loral and its subsidiaries to Loral Space; (3) the acquisition of a 20% convertible preferred stock interest in Loral Space, which in turn owns a 33% interest in Space Systems/Loral; (4) the Lockheed Martin/Loral Space Technical Services Agreement; and (5) the appointment of Mr. Bernard Schwartz, Chairman of the Board of Directors and Chief Executive Officer of Loral Space, to the

e. the research, development, manufacture and sale of Military Aircraft;

f. the research, development, manufacture and sale of NITE Hawk Systems;

g. the research, development, manufacture and sale of Simulation and Training Systems;

h. the research, development, manufacture and sale of Electronic Countermeasures;

i. the research, development, manufacture and sale of Mission Computers;

j. the research, development, manufacture and sale of Unmanned Aerial Vehicles; and

k. the research, development, manufacture and sale of Integrated Communications Systems.

23. For purposes of this Complaint, the United States is the relevant geographic area in which to analyze the effects of the Acquisition in all the relevant lines of commerce.

VI. STRUCTURE OF THE MARKETS

24. The market for the provision of SETA Services in the United States is highly concentrated as measured by the Herfindahl-Hirschman Index ("HHI") or the two-firm and four-firm concentration ratios ("concentration ratios"). Respondent has been the only provider of SETA Services since 1993.

25. Respondent, through the Acquisition, would be engaged in both the research, development, manufacture and sale of Air Traffic Control Systems and the provision of SETA Services.

26. The markets for the research, development, manufacture and sale of Commercial Low Earth Orbit Satellites and Commercial Geosynchronous Earth Orbit Satellites in the United States are highly concentrated as measured by the HHI or concentration ratios.

27. Respondent and Loral, through its 33% ownership interest in Space Systems/Loral, are actual significant competitors in the relevant markets for the research,

29. The markets for the research, development, manufacture and sale of NITE Hawk Systems, Simulation and Training Systems, Electronic Countermeasures, Mission Computers and Integrated Communications Systems in the United States are highly concentrated as measured by the HHI or concentration ratios.

30. Respondent, through the Acquisition, would be engaged in the research, development, manufacture and sale of Military Aircraft, as well as the research, development, manufacture and sale of NITE Hawk Systems, Electronic Countermeasures and Mission Computers, all of which are used in Military Aircraft.

31. Respondent, through the Acquisition, would be engaged in the research, development, manufacture and sale of both Military Aircraft and Simulation and Training Systems, which are used to simulate Military Aircraft.

relevant markets set forth above in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, in the following ways, among others:

a. Respondent may gain access to competitively sensitive non-public information concerning other Air Traffic Control Systems contractors, whereby:

(1) actual competition between Respondent and Air Traffic Control Systems contractors would be reduced; and

(2) advancements in Air Traffic Control Systems research, development, innovation and quality would be reduced;

b. Respondent may be in a position to disadvantage or raise the costs of competing Air Traffic Control Systems contractors, whereby actual competition between Respondent and Air Traffic Control Systems contractors would be reduced;

c. By eliminating direct actual competition between Respondent and Loral Space in the markets for the research, development, manufacture and sale of Commercial Low Earth Orbit Satellites and Commercial Geosynchronous Earth Orbit Satellites;

d. By enhancing the likelihood of collusion or coordinated interaction between or among the firms in the markets for the research, development, manufacture and sale of Commercial Low Earth Orbit Satellites and Commercial Geosynchronous Earth Orbit Satellites;

e. By increasing the likelihood that quality and technological innovation in the Commercial Low Earth Orbit Satellite and Commercial Geosynchronous Earth Orbit Satellite markets would be reduced;

f. By increasing the likelihood that consumers in the United States would be forced to pay higher prices for Commercial Low Earth Orbit Satellites and Commercial Geosynchronous Earth Orbit Satellites;

g. Respondent may gain access to competitively sensitive non-public information concerning other Military Aircraft manufacturers, whereby:

(1) actual competition between Respondent and Military Aircraft manufacturers would be reduced; and

(2) advancements in Military Aircraft research, development, innovation and quality would be reduced; and

h. Respondent may gain access to competitively sensitive non-public information concerning other Unmanned Aerial Vehicle manufacturers, whereby:

(1) actual competition between Respondent and Unmanned Aerial Vehicle manufacturers would be reduced; and

(2) advancements in Unmanned Aerial Vehicle research, development, innovation and quality would be reduced.

IX. VIOLATIONS CHARGED

37. The Acquisition described in Paragraph 21 constitutes a violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

38. The Acquisition described in Paragraph 21, if consummated, would constitute a violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

IN WITNESS WHEREOF, the Federal Trade Commission has caused this Complaint to be signed by the Secretary and its official seal to be affixed, at Washington, D.C. this nineteenth day of September, 1996.

By the Commission.

Donald S. Clark
Secretary

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