

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

UNITED STATES OF AMERICA,
U.S. Department of Justice
Antitrust Division
1401 H Street, N.W.
Suite 4000
Washington, D.C. 20530,

Plaintiff,

v.

3D SYSTEMS CORPORATION
26081 Avenue Hall
Valencia, California 91355

and

DTM CORPORATION,
1611 Headway Circle
Building 2
Austin, Texas 78754,

Defendants.

Civil Action No. 01CV01237

COMPLAINT

Judge: Kesler

Date Filed: June 6, 2001

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil antitrust action to obtain equitable relief against Defendants, and alleges as follows:

1. The United States seeks to enjoin the acquisition by 3D Systems Corporation (“3D Systems”) of DTM Corporation (“DTM”). Unless enjoined, 3D Systems’ acquisition of DTM will substantially lessen competition in the sale of Rapid Prototyping (“RP”) systems (defined below) in the United States in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

2. The acquisition would combine the two largest manufacturers of RP systems in the United States, and would result in the combined company having a domestic market share of approximately 70% by revenue. It would entirely eliminate the existing competition between 3D Systems and DTM in the development, production, and sale of RP systems -- competition which has resulted in technological improvements to RP systems as well as lower prices to companies that purchase these systems.

I.
JURISDICTION AND VENUE

3. This action is filed by the United States under Section 15 of the Clayton Act, as amended, 15 U.S.C. § 25, to prevent and restrain Defendants from violating Section 7 of the Clayton Act, 15 U.S.C. § 18.
4. 3D Systems and DTM develop, manufacture, sell, and service RP systems in the flow of interstate commerce. 3D Systems' and DTM's activities in developing, manufacturing, selling, and servicing RP systems substantially affect interstate commerce. This Court has jurisdiction over the subject matter of this action and the Defendants pursuant to Section 12 of the Clayton Act, 15 U.S.C. § 22, and 28 U.S.C. §§ 1331, 1337(a) and 1345.
5. 3D Systems and DTM transact business and are found within this district in that they sell goods and services to customers located in the District of Columbia and receive revenue from contracts entered into in the District of Columbia. Therefore, venue is proper in this judicial district pursuant to 15 U.S.C. § 22 and 28 U.S.C. § 1391.

II.
DEFENDANTS

6. 3D Systems Corporation is a Delaware corporation with its principal place of business in Valencia, California. 3D Systems is a leading manufacturer and supplier of RP systems and related equipment, proprietary materials used in RP systems, and associated services. For the year ending December 31, 2000, 3D Systems reported approximately \$110 million in total sales.

7. DTM is a Texas corporation with its principal place of business in Austin, Texas. DTM designs, manufactures, markets and supports, on an international basis, RP systems and related powdered materials. For the year ending December 31, 2000, DTM reported approximately \$40 million in total sales.

III. **THE PROPOSED TRANSACTION**

8. On April 2, 2001, 3D Systems and DTM entered into an agreement and plan of merger, pursuant to which 3D Systems intends to acquire DTM in a cash tender offer. The merger agreement provides that 3D Systems will commence a tender offer for all outstanding shares of DTM's common stock at a purchase price of \$5.80 per share. DTM will then become a wholly-owned subsidiary of 3D Systems. The value of the transaction is estimated to be \$45 million. The parties have announced that they intend to complete the transaction on May 29, 2001.

IV. **TRADE AND COMMERCE**

A. Rapid Prototyping Systems Comprise a Relevant Product Market

9. Rapid prototyping is the use of computers and computer automated equipment to

rapidly produce prototypes, models and even low-volume production quantities of physical objects that traditionally have been produced by machining and other methods. An RP system joins either a liquid, powder, or sheet materials layer by layer to form three-dimensional physical objects (e.g., models, molds, patterns, etc.) from digital data using computer software.

10. There is a broad range of uses for the technology employed in an RP system. For example, a less sophisticated RP system can be used to create a non-functional model of a hand-held calculator, used for visual inspection in early design phases. Or an automobile manufacturer can use a more sophisticated RP system to create a prototype of an exhaust manifold for an automobile, which can actually be bolted in place and tested by starting the car.
11. The customers for RP systems include original manufacturers and “service bureaus,” which are companies that purchase RP systems and then create prototypes for customers on an as needed basis.
12. The development, production, sale and service of RP systems is a line of commerce or relevant product market within the meaning of Section 7 of the Clayton Act.

B. The Relevant Geographic Market Is the United States

13. 3D Systems is the largest U.S. manufacturer of RP systems, with over 50% of the market. DTM is the second largest manufacturer of RP systems, with nearly 20% of the market. The two companies compete with each other directly throughout the United States. 3D Systems, based in Valencia, California, manufactures its RP systems for sale throughout the United States at a facility located in Grand Junction, Colorado. DTM

manufactures RP systems for sale throughout the United States at a facility located in Austin, Texas.

14. There are virtually no imports of RP systems into the United States. Although there are producers of RP systems in a few foreign countries (Japan, China, and Germany, for example), the number of sales such producers have made in the United States is trivial. There are substantial technical barriers to entry, including patents and aggressive patent enforcement by the parties, which prevents foreign RP system manufacturers from competing in the U.S.

15. A small but significant price increase of RP systems would not cause a sufficient number of purchasers to switch to RP systems manufactured outside the United States to make the price increase unprofitable. In fact, RP systems manufactured outside of the U.S. are less expensive than U.S.-made RP systems, yet there are virtually no imports of foreign-made systems. Thus, the United States constitutes a section of the country or relevant geographic market within the meaning of Section 7 of the Clayton Act.

C. Anticompetitive Effects

16. 3D Systems and DTM account for approximately 70%, by revenue, of the market for RP systems in the United States. 3D Systems and DTM compete directly against each other in the development, manufacture and sale of RP systems and supplies. For example, 3D Systems developed a material called “QuickCast” for use in the investment casting process. As QuickCast’s popularity increased, DTM responded by introducing a new approach to producing patterns for investment casting called “CastForm.” CastForm rapidly gained popularity, and is now taking away some of the QuickCast business.

17. The competition between the parties is the driving force behind the development of RP system technology, and is enabling this technology to displace older methods of creating prototypes. Other companies with less developed technologies, such as Stratasys, are being pulled along in the wake of the competition between 3D Systems and DTM, and are benefiting from the acceptance of RP technology in the marketplace.
18. The direct competition between 3D Systems and DTM has benefitted the purchasers and users of RP systems through lower prices and improved products. If 3D Systems' acquisition of DTM is permitted to proceed, the substantial competition between the two leading manufacturers of RP systems will be permanently eliminated, leading to increased prices and lessened product innovation.

D. Entry Is Unlikely to Deter the Exercise of Market Power

19. Successful entry into the RP systems market would not be timely, likely or sufficient to deter any exercise of market power resulting from the transaction. Entry into the production and sale of RP systems in the United States is difficult, time consuming, and expensive. In order to develop and manufacture RP systems, a company would need sophisticated and advanced technological knowhow that takes years to develop. Much of the technology in use by current RP system manufacturers is protected by patents or licensing agreements. The de novo entrant would face substantial costs and time, well over three years at a minimum, in order to successfully produce a qualified RP system.
20. Even after development of specialized equipment sufficient to manufacture an RP system, an entrant would need to gain the confidence and trust of the purchasers. An

entrant must demonstrate that its RP system produces prototypes that are accurate and suitable for their intended use. Developing a reputation for quality, reliability, and performance of RP systems could take years.

21. Entry is also less likely due to the relatively small size of the RP systems market and the time and investment required to enter.
22. Because of the years of effort and considerable expense it would take a new entrant to establish a reputable production of RP systems, any attempted new entry would not be timely, likely or sufficient to deter the likely exercise of post-merger market power in the sale of RP systems by 3D Systems in the reasonably foreseeable future.

V.
VIOLATIONS ALLEGED

23. The transaction will likely have the following anticompetitive effects, among others:
 - a. actual and potential competition between 3D Systems and DTM in the development, production, sale, and servicing of RP systems and related materials in the United States will be eliminated; and
 - b. prices for RP systems and related materials sold in the United States will likely increase, and the quality, innovation, and service currently provided will likely decline.
24. Unless rescinded, the acquisition of DTM by 3D Systems does and will violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

VI.
REQUESTED RELIEF

25. Plaintiff requests:

- a. that the acquisition of DTM by 3D Systems be adjudged and decreed to be unlawful and in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18;
- b. that any purchase agreement or contract for the acquisition of DTM by 3D Systems be declared null and void;
- c. that Defendants and all persons acting on their behalf be permanently enjoined and restrained from carrying out any contract, agreement, understanding or plan, the effect of which would be to combine DTM with the operations of 3D Systems;
- d. that Plaintiff recover its costs of this action; and
- e. that Plaintiff be granted such other and further relief as the case requires and this Court may deem just and proper.

Dated: __ May 2001
Washington, D.C.

Respectfully submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA:

_____/s/
John Nannes
Acting Assistant Attorney General

_____/s/
Constance K. Robinson
Director of Merger Enforcement
and Operations

_____/s/
J. Robert Kramer, II
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