

Set Aside Order

120 F.T.C.

IN THE MATTER OF

NATIONAL DAIRY PRODUCTS CORP.

SET ASIDE ORDER IN REGARD TO ALLEGED VIOLATION
OF SEC. 2 OF THE CLAYTON ACT*Docket 8548. Consent Order, June 28, 1967--Set Aside Order, Nov. 8, 1995*

This order reopens a 1967 consent order--which prohibited National Dairy Products Corp. and subsequently its successor, Kraft Foods, Inc., from engaging in territorial price discrimination in the sale of its jellies, preserves and other food products--and sets aside the consent order pursuant to the Commission's Sunset Policy Statement, under which the Commission presumes that the public interest requires terminating competition orders that are more than 20 years old.

ORDER REOPENING PROCEEDING
AND SETTING ASIDE ORDER

On July 13, 1995, Kraft Foods, Inc. ("Kraft"), as respondent and successor to National Dairy Product Corp., filed its Petition To Reopen and Set Aside ("Petition") in this matter. Kraft request that the Commission set aside the 1969 order, pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), Rule 2.51 of the Commission's Rules of Practice, 16 CFR 2.51, and the Commission's Statement of Policy With Respect to Duration of Competition Orders and Statement of Intention to Solicit Public Comment With Respect to Duration of Consumer Protection Orders, issued on July 22, 1994, and published at 59 Fed. Reg. 45,286-92 (Sept. 1, 1994) ("Sunset Policy Statement"). In the Petition Kraft affirmatively states that it has complied with the requirements of the order. The Petition was placed on the public record for thirty days, and no comments were received.

The Commission in its Sunset Policy Statement said, in relevant part, that "effective immediately, the Commission will presume, in the context of petitions to reopen and modify existing orders, that the public interest requires setting aside orders in effect for more than twenty years."¹ The Commission's cease and desist order in Docket No. 8548, issued on June 28, 1967, affirmed as modified by the United States Court of Appeals for the Seventh Circuit on June 20,

¹ Sunset Policy Statement, 59 Fed. Reg. at 45,289.

1969, and modified in accordance with the direction of the court on October 2, 1969, has been in effect for more than twenty-five years. Consistent with the Commission's Sunset Policy Statement, the presumption is that the order should be terminated. Nothing to overcome the presumption having been presented, the Commission has determined to reopen the proceeding and set aside the order in Docket No. 8548.

Accordingly, *It is ordered*, That this matter be, and it hereby is, reopened;

It is further ordered, That the Commission's order in Docket No. 8548 be, and it hereby is, set aside, as of the effective date of this order.

Chairman Pitofsky recused.

Complaint

120 F.T.C.

IN THE MATTER OF

SILICON GRAPHICS, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-3626. Complaint, Nov. 14, 1995--Decision, Nov. 14, 1995

This consent order, among other things, permits the California-based corporation to acquire two entertainment graphics software firms, and requires the respondent to take certain steps, such as requiring that the respondent enter into a Commission-approved porting agreement with a Commission-approved porting partner in order to ensure that other companies that develop and sell entertainment graphics software and hardware can compete.

Appearances

For the Commission: *Howard Morse, Rhett R. Krulla and Eric D. Rohlck.*

For the respondent: *Wayne D. Collins, Jessica Skapof and Jill Ross, Shearman & Sterling, New York, N.Y.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and of the Clayton Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission ("Commission"), having reason to believe that respondent Silicon Graphics, Inc., a corporation, has agreed to acquire Alias Research Inc. and Wavefront Technologies, Inc., in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and that such acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and it appearing to the Commission that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, stating its charges as follows: