

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

**COMMISSIONERS: Deborah Platt Majoras, Chairman
Thomas B. Leary
Pamela Jones Harbour
Jon Leibowitz**

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In the Matter of)
)
CHEVRON CORPORATION,)
 a corporation,)
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 and)
)
UNOCAL CORPORATION,)
 a corporation.)
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Docket No. C-4144

DECISION AND ORDER

The Federal Trade Commission (“Commission”), having initiated an investigation of the proposed merger between Respondent Chevron Corporation (“Chevron”) and Respondent Unocal Corporation (“Unocal”) (collectively “Respondents”), and Respondents having been furnished thereafter with a copy of a draft of Complaint that the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondents with violations of 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

Respondents, their attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order (“Consent Agreement”), containing an admission by Respondents of all the jurisdictional facts set forth in the aforesaid draft of Complaint, a statement that the signing of said Consent Agreement is for settlement purposes only and does not constitute an admission by Respondents that the law has been violated as alleged in such Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission’s Rules; and

The Commission, having thereafter considered the matter and having determined that it had reason to believe that Respondents have violated the said Acts, and that a Complaint should

issue stating its charges in that respect, and having thereupon issued its Complaint and having accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, and having duly considered the comments received from interested parties pursuant to Section 2.34 of its Rules, 16 C.F.R. § 2.34 (2005), now in further conformity with the procedure described in Section 2.34 of its Rules, the Commission hereby makes the following jurisdictional findings and issues the following Decision and Order (“Order”):

1. Respondent Chevron Corporation is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Delaware, with its office and principal place of business located at 6001 Bollinger Canyon Road, San Ramon, California 94583.

2. Respondent Unocal Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the state of Delaware, with its office and principal place of business located at 2141 Rosecrans Avenue, Suite 4000, El Segundo, California 90245.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of Respondents, and the proceeding is in the public interest.

ORDER

I.

IT IS ORDERED that, as used in this Order, the following definitions shall apply:

- A. “Chevron” means Chevron Corporation (formerly ChevronTexaco Corporation), its directors, officers, employees, agents, representatives, successors, and assigns; and its joint ventures, subsidiaries, divisions, groups and affiliates controlled by Chevron Corporation, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- B. “Unocal” means Unocal Corporation, its directors, officers, employees, agents, representatives, successors, and assigns; and its joint ventures, subsidiaries (including but not limited to Union Oil Company of California), divisions, groups and affiliates controlled by Unocal Corporation, and the respective directors, officers, employees, agents, representatives, successors, and assigns of each.
- C. “Respondents” means Chevron and Unocal.
- D. “Commission” means the Federal Trade Commission.

- E. "Action" means any lawsuit or other action, whether legal, equitable, or administrative, as well as any arbitration, mediation, or any other form of private dispute resolution, in the United States or anywhere else in the world.
- F. "License Agreement" means any contract, agreement, arrangement or other understanding between Unocal and any other party or parties that requires, calls for, or otherwise contemplates, payment of fees, royalties or other monies, in cash or in kind, to practice under the Relevant U.S. Patents.
- G. "Merger" means the proposed merger between Chevron and Unocal, as contemplated by the Agreement and Plan of Merger dated as of April 4, 2005 among Unocal Corporation, ChevronTexaco Corporation, and Blue Merger Sub Inc.
- H. "Merger Effective Date" means the earlier of the following dates:
1. the date that the certificate of merger for the Merger is filed with the Secretary of State of Delaware or such later time as specified in such certificate of merger, or
 2. the date that Chevron acquires control of Unocal Corporation, as "control" is defined by 16 C.F.R. § 801.1(b).
- I. "Person" means both natural persons and artificial persons, including, but not limited to, corporations, unincorporated entities, and governments.
- J. "Relevant U.S. Patents" means United States Patent Numbers 5,288,393, 5,593,567, 5,653,866, 5,837,126, 6,030,521, and any other patents presently in existence or to be issued in the future that claim priority to United States Patent Application Number 07/628,488, filed December 13, 1990.

II.

IT IS FURTHER ORDERED that, immediately upon the Merger Effective Date, Respondents shall cease and desist from any and all efforts, and shall not undertake any new efforts, by any means, directly or indirectly, in or affecting commerce as "commerce" is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, to assert or enforce any of the Relevant U.S. Patents against any Person, to recover any damages or costs for alleged infringements of any of the Relevant U.S. Patents, or to collect any fees, royalties or other payments, in cash or in kind, for the practice of any of the Relevant U.S. Patents, including but not limited to fees, royalties, or other payments, in cash or in kind, to be collected pursuant to any License Agreement, provided, however, that nothing in this Order obligates or requires Respondents to refund any fees, royalties or other payments collected in connection with any of the Relevant U.S. Patents prior to the Merger Effective date.

III.

IT IS FURTHER ORDERED that:

- A. Within thirty (30) days following the Merger Effective Date, Respondents shall file, or cause to be filed, with the United States Patent and Trademark Office, the necessary documents pursuant to 35 U.S.C. § 253, 37 C.F.R. § 1.321, and the Manual of Patent Examining Procedure to disclaim or dedicate to the public the remaining term of the Relevant U.S. Patents, provided, however, that such disclaimer or dedication to the public shall not constitute an admission or representation by Respondents with respect to the validity or patentability of the claims of the Relevant U.S. Patents.
- B. Respondents shall correct as necessary, and shall not withdraw or seek to nullify, any disclaimers, or dedications filed pursuant to Paragraph III. A.

IV.

IT IS FURTHER ORDERED that, within thirty (30) days following the Merger Effective Date, Respondents shall move to dismiss, with prejudice, all Actions relating to the alleged infringement of any Relevant U.S. Patents, including but not limited to the following actions pending in the United States District Court for the Central District of California: *Union Oil Company of California v. Atlantic Richfield Company, et al.*, Case No. CV-95-2379-CAS and *Union Oil Company of California v. Valero Energy Corporation*, CV-02- 00593 SVW.

V.

IT IS FURTHER ORDERED that:

- A. Within thirty (30) days after the date this Order becomes final, Respondents shall distribute a copy of this Order and the complaint in this matter to:
 - 1. any Person that either Respondent has contacted regarding possible infringement of any of the Relevant U.S. Patents,
 - 2. any Person against which either Respondent is, or was, in any Action regarding possible infringement of any of the Relevant U.S. Patents,
 - 3. any licensee or other Person from which either Respondent has collected any fees, royalties or other payments, in cash or in kind, for the practice of the Relevant U.S. Patents, and

4. any Person that either Respondent has contacted with regard to the possible collection of any fees, royalties or other payments, in cash or in kind, for the practice of the Relevant U.S. Patents.
- B. Within thirty (30) days after the date this Order becomes final, Respondents shall distribute a copy of this Order and the complaint in this matter to every officer and director of Respondents having responsibility for any of Respondents' obligations under this Order, and to every employee or agent having managerial responsibility for any of Respondents' obligations under this Order.
 - C. For a period of five (5) years after the date this Order becomes final, Respondents shall furnish a copy of this Order and the complaint in this matter to each new officer and director of Respondents who will have responsibility for any of Respondents' obligations under this Order, and to each new employee or agent of Respondents who will have managerial responsibility for any of Respondents' obligations under the Order. Such copies shall be furnished within thirty (30) days after each such person assumes his or her position as officer, director, employee, or agent. For purposes of this Paragraph V.C., "new employee or agent" shall include, without limitation, Respondents' employees and agents whose duties change during their employment or agency relationship to include managerial responsibility for any of Respondents' obligations under this Order.

VI.

IT IS FURTHER ORDERED that:

- A. Respondents shall, within sixty (60) days after the date this Order becomes final, submit to the Commission a verified written report setting forth in detail the manner and form in which each Respondent intends to comply, is complying, and has complied with this Order.
- B. Respondents shall, one year from the date this Order becomes final and annually thereafter for five (5) years, submit a verified written report to the Commission setting forth in detail the manner and form in which each Respondent has complied and is complying with the Order.

VII.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Order, and subject to any legally recognized privilege, and upon written request with reasonable notice to Respondents, Respondents shall permit any duly authorized representative of the Commission:

- A. Access, during office hours of Respondents and in the presence of counsel, to all facilities and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and all other records and documents in the possession or under the control of Respondents related to compliance with this Order; and
- B. Upon five (5) days' notice to Respondents and without restraint or interference from Respondents, to interview officers, directors, or employees of Respondents, who may have counsel present, regarding such matters.

VIII.

IT IS FURTHER ORDERED that Respondents shall notify the Commission at least thirty (30) days prior to any proposed (1) dissolution of either Respondent, (2) acquisition, merger, or consolidation of either Respondent, or (3) other change in either Respondent that may affect compliance obligations arising out of this Order, including but not limited to assignment, the creation or dissolution of subsidiaries, or any other change in either Respondent.

IX.

IT IS FURTHER ORDERED that this Order will terminate on July 27, 2025.

By the Commission, Chairman Majoras recused.

Donald S. Clark
Secretary

SEAL
ISSUED: July 27, 2005