

3. Respondent Honeywell and Intermec are corporations who, either directly or through owned subsidiaries, are engaged in, among other activities, the design, manufacture, and sale of scan engines, including, but not limited to, 2D scan engines, and devices into which 2D scan engines are incorporated.

4. Respondent Honeywell and Intermec are corporations and at all times relevant herein have, either directly or through their subsidiaries, been engaged in commerce, as “commerce” is defined in Section 1 of the Clayton Act, as amended, 15 U.S.C. § 12, and are corporations whose business is in, or affects commerce, as “commerce” is defined under Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

II. THE PROPOSED ACQUISITION

5. Pursuant to an Agreement and Plan of Merger (“Merger Agreement”) dated December 9, 2012, Honeywell proposes to acquire all of Intermec for approximately \$600 million (“Acquisition”).

III. THE RELEVANT MARKET

6. For purposes of this Complaint, the relevant line of commerce in which to analyze the Acquisition is 2D scan engines. 2D scan engines are hardware components that include a two-dimensional (“2D”) image sensor and translate a barcode into a digital format that computer processors can interpret and analyze. 2D scan engines capture the barcode image by taking a digital photograph of it, and then use a proprietary algorithm to decode the image. Products such as retail store scanners, kiosks and rugged mobile handheld computers utilize 2D scan engines to capture and decode digital data.

7. 1D scan engines and scanning functions on smart phones and other consumer devices are not substitutes for 2D scan engines. 2D scan engines can read both one-dimensional (“1D”) and 2D barcodes. 1D scan engines are unable to read most types of 2D images, and are not viable substitutes for 2D scan engines. Due to their different functionality, the price of 2D scan engines is not constrained by the price of 1D scan engines. Scanning functions on smart phones and similar consumer devices are also not substitutes for the functionality of 2D scan engines. Although the scanning functions on some consumer devices can capture 2D barcodes, these scanners do not offer the reading range, field of view, accuracy, or speed of a 2D scan engine. Consequently, they do not constrain the price of 2D scan engines.

8. For purposes of this Complaint, the relevant geographic area in which to analyze the effects of the Acquisition on the 2D scan engine market is the United States. 2D scan engine suppliers who want to sell their scan engines to customers who intend to incorporate the scan engines into products that will be sold into the United States must own or have a license to 2D scan engine intellectual property (“IP”) rights and indemnify customers against the threat of suit. In contrast, customers do not view IP rights as an impediment from buying from manufacturers other than Honeywell, Intermec and Motorola outside the U.S.

IV. MARKET STRUCTURE

9. The market for 2D scan engines in the United States is highly concentrated. Honeywell, Intermec and Motorola are the three most significant participants in the 2D scan engine market in the United States, as measured by the Herfindahl Hirschman Index (“HHI”). Post-Acquisition, the combined share of two firms – Honeywell and Motorola – would be in excess of 80%. Additionally, Honeywell, Intermec and Motorola are the only 2D scan engine firms in the U.S. that have deep and broad portfolios of relevant IP that insulate them and their customers from infringement suits.

10. There are a number of fringe 2D scan engine manufacturers who sell 2D scan engines that are incorporated into products sold in the United States. These fringe competitors in aggregate account for less than 20% of all 2D scan engines sold in the United States. They are constrained from expanding their sales of 2D scan engines into products that will be sold in the United States because they do not possess the relevant IP rights. Without ownership of, or a license to, the relevant IP, the fringe competitors do not act as a significant competitive constraint to Honeywell, Intermec and Motorola for the sale of 2D scan engines for use in products sold in the United States. These same fringe 2D scan engine manufacturers frequently have a greater presence outside of the United States where customers do not view IP rights as an impediment, and they serve as a more significant competitive constraint on Honeywell, Intermec and Motorola there.

V. EXPANSION AND ENTRY BARRIERS

11. Entry or expansion into the relevant market is not likely to occur in a timely manner sufficient to counteract the anticompetitive effects of the Acquisition. The most significant barrier to entry and expansion is IP. For example, although 2D scan engine companies other than Honeywell, Intermec and Motorola have the ability to, and do, manufacture 2D scan engines, customers who intend to incorporate the scan engines into products for sale into the United States are generally unwilling to purchase from them because they cannot provide customers with indemnification from IP infringement suits. In order to provide indemnification, a 2D scan engine manufacturer must either own a deep portfolio of related patents, or license IP from a holder of those patents.

VI. EFFECTS OF THE ACQUISITION

12. The effects of the Acquisition, if consummated, may be to substantially lessen competition in violation 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. Specifically, the Acquisition would increase the likelihood of coordinated interaction among competitors in the relevant market, resulting in increased likelihood that customers in the United States would be forced to pay higher prices and/or accept lower quality and services for 2D scan engines.

VII. VIOLATIONS CHARGED

13. The allegations contained in Paragraphs 1 through 12 above are hereby incorporated by reference as though fully set forth here.

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

15. The Acquisition described in Paragraph 5, if consummated, would constitute a violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.

16. The Merger Agreement described in Paragraph 5 constitutes a violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this ---- day of ----, 2013, issues its complaint against said Respondents.

By the Commission.

Donald S. Clark
Secretary

SEAL: