

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Terrell McSweeney

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In the Matter of)	
)	
WRIGHT MEDICAL GROUP, INC.,)	
a corporation;)	
)	
and)	Docket No. C-
)	
TORNIER N.V.,)	
a public limited company.)	
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COMPLAINT

Pursuant to the Clayton Act and the Federal Trade Commission Act (“FTC Act”), and its authority thereunder, the Federal Trade Commission (“Commission”), having reason to believe that Wright Medical Group, Inc. (“Wright”), a corporation subject to the jurisdiction of the Commission, has agreed to merge with Respondent Tornier N.V. (“Tornier”), a public limited company subject to the jurisdiction of the Commission, in violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45, that such merger, if consummated, would violate 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, 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:

I. RESPONDENTS

1. Respondent Wright is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Delaware, with its headquarters located at 1023 Cherry Road, Memphis, Tennessee, 38117.

2. Respondent Tornier is a public limited company organized, existing, and doing business under and by virtue of the laws of the Netherlands, with its global headquarters located at Prins Bernhardplein 200, 1097 JB, Amsterdam, Netherlands. The headquarters for Tornier's U.S. subsidiary, Tornier, Inc., is located at 10801 Nesbitt Avenue South, Bloomington, Minnesota, 55437.

3. Each Respondent 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 company whose business is in or affects commerce, as "commerce" is defined in Section 4 of the FTC Act, as amended, 15 U.S.C. § 44.

II. THE PROPOSED MERGER

4. Pursuant to an Agreement and Plan of Merger dated October 27, 2014, Tornier and Wright propose to merge in an all-stock transaction valued at approximately \$3.3 billion (the "Merger"). The Merger is subject to Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

III. THE RELEVANT MARKETS

5. For the purposes of this Complaint, the relevant lines of commerce in which to analyze the effects of the Merger are the development, manufacture, license, marketing, distribution, and sale of the following reconstructive joint implants: (1) total ankle replacements; (2) total silastic big toe joint replacements; and (3) total silastic toe joint replacements for the second through fifth "lesser" toes.

6. For the purposes of this Complaint, the United States is the relevant geographic area in which to assess the competitive effects of the Merger in the relevant lines of commerce.

IV. THE STRUCTURE OF THE MARKETS

7. Total ankle replacements are used to treat end-stage ankle arthritis, which develops when cartilage on the bones of the ankle joint wears away and causes bone-on-bone grinding down of the joint surface. Wright and Tornier are each other's closest competitor and two of only three significant suppliers of total ankle replacements in the United States. The companies offer similar technologies and the only options for revision surgeries, i.e., surgeries to redo a prior total ankle replacement procedure. Wright and Tornier control approximately 44% and 19% of the market, respectively. The other leading supplier, Stryker Corporation, accounts for approximately 31% of the market. The only other U.S. supplier, Zimmer Holdings, Inc., offers a more differentiated technology and maintains a fringe position in the market.

8. Total silastic big toe joint replacements are used to treat severe cases of *hallux rigidus*, an arthritic condition in the first metatarsophalangeal (“MTP”) joint of the big toe. Wright and Tornier are the two major suppliers of total silastic big toe joint replacements in the United States, with approximately 60% and 38% of the market, respectively.

9. Total silastic lesser toe joint replacements are used to treat severe arthritis in the lesser MTP joints of the second through fifth toes. Wright has a market share of approximately 44% and Tornier has a share of approximately 32%. Wright and Tornier are also each other’s closest competitor. The next largest competitor, OsteoMed, has a market share of approximately 24%.

V. CONDITIONS OF ENTRY AND EXPANSION

10. Entry into the relevant markets described in Paragraphs 5 and 6 would not be likely or sufficient in magnitude, character, and scope to deter or counteract the anticompetitive effects of the Merger. De novo entry would not take place in a timely manner because the product development times, U.S. Food and Drug Administration approval requirements, and market adoption times are lengthy. A potential entrant into the relevant markets would need to develop a reputation for consistent quality and service before surgeons are familiar enough with the products to substitute them for currently marketed devices. No other entry is likely to occur to deter or counteract the competitive harm likely to result from the Merger.

VI. EFFECTS OF THE MERGER

12. The effects of the Merger, if consummated, may be to substantially lessen competition or to tend to create a monopoly in the relevant markets in 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, by eliminating actual, direct, and substantial competition between Wright and Tornier in the markets for total ankle replacements and total silastic toe joint replacements, thereby increasing the likelihood in these markets that: (1) a combined Wright-Tornier would be able to unilaterally exercise market power; (2) research and development would be reduced; and (3) customers would be forced to pay higher prices.

VII. VIOLATIONS CHARGED

13. The Agreement and Plan of Merger described in Paragraph 4 constitutes a violation of Section 5 of the FTC Act, as amended, 15 U.S.C. § 45.

14. The Merger described in Paragraph 4, 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.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this _____ day of _____, 2015 issues its Complaint against said Respondents.

By the Commission.

Donald S. Clark
Secretary

SEAL: