

integrated companies to compete, that all product designs and sizes currently produced by Masonite be made available. To the extent that given product designs or sizes are not available to the non-vertically integrated companies, the two vertically integrated companies will have a material and significant advantage over the independent non-vertically integrated door manufacturers. The downstream customers of the wood door manufacturers are of a single mind in that all products must be available for purchase from a door manufacturer for that manufacturer to be a viable line of supply. If any product, no matter how insignificant in terms of its numbers or percentage, is unavailable, it will cause the downstream buyer to go to a manufacturer that has all required products available for purchase. No buyer will change its buying pattern by going elsewhere to find 15 doors of a unique design or size for a special order, as opposed to including the special order as part of the normal full truckload (1080 door) order, assuming the entire order can be purchased from a single source.

Unless the Towanda plant is able to provide all designs and all sizes of molded panel doorskins, it is likely that our customers will look to do business with either Premdor, Inc. or Jeld-wen, the only two molded panel doorskin manufacturers with a full line of designs and sizes. These two companies, if Premdor, Inc. acquires Masonite Corporation, will be the only vertically integrated door manufacturers. As such they will certainly have the capability of coordination with regard to doorskins and doors to the detriment of the non-vertically integrated companies and the marketplace in general. Further, for those distributors and users who require the Masonite product, Premdor, Inc. will hold a monopoly in regard to designs and sizes not available to non-vertically integrated manufacturers (Complaint, paragraph 35).

At the present time Masonite's Laurel, Mississippi plant produces eleven (11) product designs, eighty-nine (89) product sizes and the Craftcore profiled core that its Towanda, Pennsylvania facility is not able to produce. While the Competitive Impact Statement leads the reader to believe that Premdor will divest assets, including the Towanda plant, intellectual property, dies necessary to manufacture all designs and sizes of molded door skins, and services to operate the facility, there is no assurance contained in the Final Judgment that the acquirer will purchase the additional dies necessary to produce all products currently available through Masonite Corporation. In fact, the acquirer is not required to make all products nor is Premdor required to provide all product dies at the time of sale of the Towanda facility.

It is also erroneous to assume that price alone is a determining factor (Complaint, paragraph 28). In fact, even if we are able to sell the most commonly used designs and sizes of molded panel doors at a lesser price (even a significantly lesser price) we could not compete with the manufacturer that is able to provide all designs and all product sizes. By the Justice Department's own admission, the lack of all sizes and designs

has been a significant deterrent to entry into the U.S. market by off-shore molded panel doorskin manufactures (Complaint, paragraph 26). The lack of a full line (all sizes and designs) would serve as the same deterrent to any entity that may acquire and attempt to operate the Towanda plant, and to any non-integrated manufacturer attempting to compete with a vertically integrated manufacturer.

Since downstream door buyers frequently treat doors as a commodity and often switch purchases from one manufacturer to another, the two year constraint placed on the defendants in the Final Judgment will do no more than postpone the opportunities for coordination by the two vertically integrated companies thereby creating the exact monopolistic marketplace described by the Department of Justice in the Competitive Impact Statement.

Further, the Final Judgment fails to insure continued free competition as it presently exists, and thereby fails as a satisfactory remedy, because: it does not guarantee the non-vertically integrated companies with a source for all items presently produced by Masonite; Premdor, Inc. is not required to make available all items to the non-integrated companies; and the Department of Justice cannot force Premdor to sell those items produced in Laurel to the non-integrated companies.

The Final Judgment in its present form is anti-competitive because it: (1) forces a buyer to go to a different supplier to obtain the full range of products necessary to meet its needs; (2) harms a buyer by positioning a vertically integrated manufacturer in a manner that would allow that manufacturer to charge more for a product because it is not available through a non-vertically integrated manufacturer; (3) harms a buyer by establishing an environment conducive to coordination between the vertically integrated manufacturers based on Premdor's access to designs and/or sizes presently available from Masonite that will not be available to the non-vertically integrated manufacturers (Complaint, paragraph 39).

For these reasons we again urge that the Department of Justice rescind this Judgment, and move to block the Premdor acquisition of the Masonite Molded Doorskin business, including the post acquisition divestiture of the Towanda facility.

Respectfully yours,

James K. Mitchell,

*Vice President Administration.*

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## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to The National Cooperative Research and Production Act of 1993—The Digital Subscriber Line Forum

Notice is hereby given that, on July 24, 2001, pursuant to Section 6(a) of the National Cooperative Research and

Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), The Digital Subscriber Line Forum ("DSL") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, BABT, Santa Clara, CA; BATM, Rosh Ha'ayin, ISRAEL; Institute for Information Industry (III), Taipei, TAIWAN; OPASTCO, Washington, DC; Realtek Semiconductors, Hsinchu, TAIWAN; Aspex Technology, Mountain View, CA; DV Tel, Inc., Totowa, NJ; Partner Voxstream, Vojens, DENMARK; Telefonica Investigacion y Desarrollo, Madrid, SPAIN; Maxxio Technologies, Vienna, AUSTRIA; Motive Communications, Austin, TX; Exigen Group, Saint John, New Brunswick, CANADA; Communication Authority, Budapest, HUNGARY; Tioga Technologies, Tel Aviv, ISRAEL; and sentitO Networks, Rockville, MD, have been added as parties to this venture.

Also, CooperCom, Santa Clara, CA; iBeam Broadcasting, Sunnyvale, CA; Pivotech Systems, Piscataway, NJ; CS Telecom, Fontenay-Aux-Roses, FRANCE; Fuzion Wireless Communications, Boca Raton, FL; Accelerated Networks, Moorpark, CA; Tripath Technology, Santa Clara, CA; and Eurobell PLC, Crawley, West Sussex, UNITED KINGDOM, have been dropped as parties to this venture.

In addition, Netcom Systems, Chatsworth, CA, has been acquired by Spirent Communications, Nepean, Ontario, CANADA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and DSL intends to file additional written notifications disclosing all changes in membership.

On May 15, 1995, DSL filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 25, 1995 (60 FR 38058).

The last notification was filed with the Department on April 17, 2001. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on June 1, 2001 (66 FR 29834).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

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