

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

SMITHS GROUP PLC,

SAFRAN S.A.,
MORPHO DETECTION, LLC, and
MORPHO DETECTION INTERNATIONAL, LLC,

Defendants.

HOLD SEPARATE STIPULATION AND ORDER

It is hereby stipulated and agreed by and between the undersigned parties, subject to approval and entry by the Court, that:

I. DEFINITIONS

As used in this Hold Separate Stipulation and Order:

- A. “Acquirer” means the entity to which defendants divest the Divestiture Assets.
- B. “Smiths” means defendant Smiths Group plc, a United Kingdom public liability company headquartered in London, England, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. “Safran” means defendant Safran S.A., a French corporation with its headquarters in Paris, France, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

D. “Morpho” means defendants Morpho Detection, LLC, a Delaware limited liability company with its headquarters in Newark, California, and Morpho Detection International, LLC, a Delaware limited liability company with its headquarters in Irving, Texas, their respective successors and assigns, and their respective subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their respective directors, officers, managers, agents, and employees. Morpho is a wholly owned subsidiary of Safran.

E. “ETD devices” means explosive trace detection equipment, which is used to detect trace amounts of explosive residue on hands, belongings, or cargo or in the air after an alert is triggered from a primary screening device.

F. “Desktop ETD devices” means stationary ETD devices used for secondary screening of passengers and cargo traveling by air.

G. “Divestiture Assets” means Morpho’s global explosive trace detection (“ETD”) business, including but not limited to:

- (1) Morpho’s leases or subleases to the following facilities:
 - (a) Morpho’s R&D, manufacturing, sales, and service facility located at 23 Frontage Road, Andover, Massachusetts 01810 (“Andover facility”);
 - (b) Morpho’s R&D facility located at 1251 East Dyer Avenue, Suite 140, Santa Ana, California 92705 (“Santa Ana facility”);

(c) Morpho's sales and service depot located at Granary House, Station Road, Great Shelford, Cambridge, England CB22 5LR;

(d) Morpho's service depot located at 1585 Britannia Road, East, Unit B3, Mississauga, Ontario L4W 2M4, Canada; and

(e) Morpho's service depot located at 7-9 Orion Road, Unit 1, Lane Cover NSW 2066, Australia.

(2) All tangible assets used in connection with Morpho's global ETD business, including, but not limited to, all research and development assets; all manufacturing equipment, tooling and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property; all licenses, permits and authorizations issued by any governmental organization; all contracts, teaming arrangements, agreements, leases, commitments, certifications, and understandings, including service contracts, service subcontracts, and supply agreements or contracts; all customer lists, customer records, contracts, accounts, and credit records; all repair and performance records and all other records; and

(3) All intangible assets used in connection with Morpho's global ETD business, including, but not limited to, all patents, licenses and sublicenses, intellectual property (including the ionization process technology, the high-volume particle vapor sampling technology, and the mass spectrometry technology), copyrights, trademarks and trade names (excluding trademarks and trade names related to the words "Morpho" or "Morpho Detection"), service marks, service names, technical information, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, customization and design of new algorithms, engineering specifications, specifications for materials, specifications for parts and components, safety procedures for the handling of

materials and substances, quality assurance and control procedures, design tools and simulation capability, all manuals and technical information defendants provide to their own employees, customers, suppliers, agents or licensees, and all research data relating to Morpho's global ETD business, including, but not limited to, designs of experiments, and the results of successful and unsuccessful designs and experiments.

II. OBJECTIVES

The proposed Final Judgment filed in this case is meant to ensure defendants' prompt divestiture of the Divestiture Assets for the purpose of establishing a viable competitor in the business of developing, engineering, producing, distributing, selling, and servicing desktop ETD devices in order to remedy the effects that the United States alleges would otherwise result from Smiths' acquisition of Morpho. This Hold Separate Stipulation and Order ensures, prior to such divestitures, that the Divestiture Assets remain an independent, economically viable, and ongoing business concern that will remain independent, and uninfluenced by defendants, and that competition is maintained during the pendency of the ordered divestitures.

III. JURISDICTION AND VENUE

The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia. Defendants waive service of summons of the Complaint.

IV. COMPLIANCE WITH AND ENTRY OF FINAL JUDGMENT

A. The parties stipulate that a Final Judgment in the form attached hereto as Exhibit A may be filed with and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. § 16, and without further notice to any party or other

proceedings, provided that the United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

B. Defendants agree to arrange, at their expense, publication as quickly as possible of the newspaper notice required by the APPA, which shall be drafted by the United States in its sole discretion. The publication shall be arranged no later than three (3) business days after defendants' receipt from the United States of the text of the notice and the identity of the newspaper within which the publication shall be made. Defendants shall promptly send to the United States (1) confirmation that publication of the newspaper notice has been arranged, and (2) the certification of the publication prepared by the newspaper within which the notice was published.

C. Defendants shall abide by and comply with the provisions of the proposed Final Judgment, pending the Judgment's entry by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Hold Separate Stipulation and Order by the parties, comply with all the terms and provisions of the proposed Final Judgment. The United States shall have the full rights and enforcement powers in the proposed Final Judgment, including Section X, as though the same were in full force and effect as the final order of the Court.

D. Defendants shall not consummate the transaction sought to be enjoined by the Complaint herein before the Court has signed this Hold Separate Stipulation and Order.

E. This Hold Separate Stipulation and Order shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

F. In the event (1) the United States has withdrawn its consent, as provided in Paragraph IV(A) above, or (2) the proposed Final Judgment is not entered pursuant to this Hold Separate Stipulation and Order, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Hold Separate Stipulation and Order, and the making of this Hold Separate Stipulation and Order shall be without prejudice to any party in this or any other proceeding:

G. Defendants represent that the divestiture ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claim of mistake, hardship or difficulty of compliance as grounds for asking the Court to modify any of the provisions contained therein.

V. HOLD SEPARATE PROVISIONS

Until the divestitures required by the Final Judgment have been accomplished:

A. Defendants shall preserve, maintain, and continue to operate the Divestiture Assets as an independent, ongoing, economically viable competitive business, with management, sales, and operations of such assets held entirely separate, distinct and apart from those of defendants' other operations. Defendants shall not coordinate the operation, production, marketing, or terms of sale of any products or services with those produced by or sold by the Divestiture Assets. Within twenty (20) days after the entry of the Hold Separate Stipulation and Order, defendants will inform the United States of the steps defendants have taken to comply with this Hold Separate Stipulation and Order.

B. Defendants shall take all steps necessary to ensure that (1) the Divestiture Assets will be maintained and operated as an independent, ongoing, economically viable and active competitor in the development, engineering, production, distribution, sale, and servicing of ETD devices; (2) management of the Divestiture Assets will not be influenced by defendants; and (3) the books, records, competitively sensitive sales, marketing, and pricing information, and decision-making concerning the development, engineering, production, distribution, sale, or servicing of products by or under the Divestiture Assets will be kept separate and apart from defendants' other operations.

C. Defendants shall use all reasonable efforts to maintain and increase the sales and revenues of the products and services produced by or sold under the Divestiture Assets, and shall maintain at 2017 or previously-approved levels for 2018, whichever are higher, all promotional, advertising, marketing, sales, technical assistance and service support for the Divestiture Assets.

D. Defendants shall provide sufficient working capital and lines and sources of credit to continue to maintain the Divestiture Assets as an economically viable and competitive, ongoing business, consistent with the requirements of Paragraphs V(A), (B), and (C).

E. Defendants shall take all steps necessary to ensure that the Divestiture Assets are fully maintained in operable condition at no less than current capacity and sales, and shall maintain and adhere to normal repair and maintenance schedules for the Divestiture Assets.

F. Defendants shall not, except as part of a divestiture approved by the United States in accordance with the terms of the proposed Final Judgment, remove, sell, lease, assign, transfer, pledge, or otherwise dispose of any of the Divestiture Assets.

G. Defendants shall maintain, in accordance with sound accounting principles, separate, accurate and complete financial ledgers, books and records that report on a periodic

basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues, and income of the Divestiture Assets.

H. Defendants shall take no action that would jeopardize, delay, or impede the sale of the Divestiture Assets.

I. Defendants' employees with primary responsibility for the development, engineering, production, distribution, sale, or servicing of ETD devices shall not be transferred or reassigned to other areas within the company except for transfer requests initiated by employees pursuant to defendants' regular, established job posting policy. Defendants shall provide the United States with ten (10) calendar days notice of such transfer.

J. Defendants shall appoint, subject to the approval of the United States, a person or persons to oversee the Divestiture Assets, who will be responsible for defendants' compliance with this section. This person shall have complete managerial responsibility for the Divestiture Assets, subject to the provisions of the proposed Final Judgment. In the event such person is unable to perform his or her duties, defendants shall appoint, subject to the approval of the United States, a replacement within ten (10) working days. Should defendants fail to appoint a replacement acceptable to the United States within this time period, the United States shall appoint a replacement.

K. Defendants shall take no action that would interfere with the ability of any trustee appointed pursuant to the Final Judgment to complete the divestitures pursuant to the Final Judgment to an Acquirer acceptable to the United States.

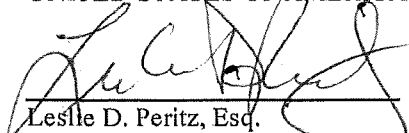
**VI. DURATION OF HOLD SEPARATE AND ASSET
PRESERVATION OBLIGATIONS**

Defendants' obligations under Section V of this Hold Separate Stipulation and Order shall remain in effect until (1) consummation of the divestitures required by the proposed Final Judgment or (2) further order of the Court. If the United States voluntarily dismisses the Complaint in this matter, defendants are released from all further obligations under this Hold Separate Stipulation and Order.


Dated:

Respectfully submitted,


FOR PLAINTIFF
UNITED STATES OF AMERICA


Leslie D. Peritz, Esq.
United States Department of Justice
Antitrust Division, Litigation II Section
450 Fifth Street, NW
Suite 8700
Washington, DC 20530
Tel.: (202) 616-2313
Fax: (202) 514-9033
Email: leslie.peritz@usdoj.gov

FOR DEFENDANT
SMITHS GROUP PLC


Mary Lehner, Esq. (D.C. Bar #472968)
Freshfields Bruckhaus Deringer US LLP
700 Thirteenth Street, NW
Washington, D.C. 20005-3960
Tel: (202) 777-4566
Fax: (202) 777-4555
Email: Mary.Lehner@freshfields.com

FOR DEFENDANTS
SAFRAN S.A.,
MORPHO DETECTION LLC, and
MORPHO DETECTION INTERNATIONAL, LLC


David A. Clanton, Esq. (D.C. Bar #376880)
Baker & McKenzie
815 Connecticut Avenue, NW
Washington, D.C. 20006
Tel.: (202) 452-7014
Fax: (202) 416-6929
Email: david.clanton@bakermckenzie.com

ORDER

IT IS SO ORDERED by this Court, this ____ day of _____.

United States District Judge