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***Case No COMP/M.1643 -
IBM / SEQUENT***

Only the English text is available and authentic.

**REGULATION (EEC) No 4064/89
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 23/09/1999

*Also available in the CELEX database
Document No 399M1643*



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 23.09.1999
SG(99) D/7705

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EEC) No 4064/89 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying parties

Dear Sirs,

Subject: Case No IV/M.1643 – IBM / SEQUENT

Notification of 20 August 1999 pursuant to Article 4 of Council Regulation No 4064/89

1. On 20 August 1999, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89¹ by which the undertaking International Business Machines Corporation (“IBM”), U.S.A., will acquire sole control within the meaning of Article 3(1)(b) of the Council Regulation of Sequent Computer Systems Inc. (“Sequent”), USA.
2. After examining the notification, the Commission has concluded that the notified concentration falls within the scope of Council Regulation (EEC) No 4064/89 and does not raise serious doubts as to its compatibility with the common market and with the functioning of the EEA Agreement.

I. THE PARTIES

3. IBM develops, manufactures and markets information technology (“IT”) systems, equipment, computer software and services on a global scale.
4. Sequent develops, manufactures and markets open system servers and certain related peripherals and services.

¹ OJ L 395, 30.12.1989, p.1; corrected version OJ L 257 of 21.9.1990, p. 13; as last amended by Regulation (EC) No 1310/97, OJ L 180, 9.7.1997, p. 1, corrigendum in OJ L40, 13.2.1998, p. 17.

II. THE OPERATION

5. The proposed operation consists of the acquisition of sole control by IBM of Sequent.

III. CONCENTRATION

6. The acquisition of Sequent by IBM Sequent constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

IV. COMMUNITY DIMENSION

7. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion². Each of them has an aggregate Community-wide turnover in excess of EUR 250 million. None of the undertakings does achieve more than two-thirds of their aggregate Community-wide turnover within one and the same Member State. The notified operation therefore has a Community dimension. It does not constitute a co-operation case under the EEA Agreement, pursuant to Article 57 of that Agreement.

V. COMPETITIVE ASSESSMENT

A. Relevant product markets

8. The notifying parties consider that the relevant product markets concerned by the proposed operation is the IT (“Information Technology”)-market, consisting of IT-Systems and IT-Services.

IT-Systems

9. According to the notifying parties, IT-Systems of all kind are able to meet the needs of both small and large enterprises. Features like networking, clustering, scalability, multiprocessing, interoperability, the use of open systems, and the widespread use of off-the-shelf key components can be combined in flexible and different ways in IT-Systems. As far as basic functionality is concerned, a server system may not itself be different from other IT-Systems, for example workstations or personal computers. Moreover, customers seek for IT solutions that may run on many different IT-Systems. In view of the large variety of customer requirements, purchase decisions are based on different criteria. Any IT-System, therefore, can be configured in a suitable way to meet the individual requirements. However, the notifying parties have considered narrower categories of IT-Systems, for example servers, workstations, and personal computers, which may constitute separate relevant product markets.
10. Third parties, i.e. competitors and customers, who replied to the Commission’s request for information have expressed the view that IT-Systems can be divided at least into a

2 Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Notice on the calculation of turnover (OJ C66, 2.3.1998, p25). To the extent that figures include turnover for the period before 1.1.1999, they are calculated on the basis of average ECU exchange rates and translated into EUR on a one-for-one basis.

number of individual product categories, *inter alia*, servers, workstations, personal computers. Servers comprise products designed for simultaneous sharing by multiple users. As such, key features are resilience, data capacity and performance scalability, among others. They differ from other IT-product categories, such as workstations and personal computers, which are designed for single users, where graphics capability, audio and ergonomics tend to dominate.

11. As far as servers are concerned, third parties considered a further division of servers can be made into low-end servers, mid-range servers and high-end servers. These product categories satisfy specific user requirements and different usage scenarios. The classification into these categories could be made along different criteria, however, the most common appears to be price bands according to standard industry practice (high-end servers cost over US\$ 1 million, midrange servers are priced between US\$ 100,000 and 999,999 and low-end servers cost less than US\$ 100,000). In view of the fast changing server technology, in particular the currently ongoing merge of mid-range and high-end servers towards one server category, price bands may change considerably and constantly.
12. The view of third parties is largely in line with previous Commission's decisions³. The Commission, therefore, considers the relevant product market concerned by the proposed operation is at least the market for servers. For the purpose of this case, however, it is not necessary to further delineate the relevant product market for servers because in all alternative market definitions considered, effective competition would not be significantly impeded in the EEA or any substantial part of that area.

IT-Services

13. IT-Services comprise professional services, *inter alia*, IT consulting, education & training. For the purpose of this case, however, it is not necessary to further delineate the relevant product market since, even if alternative definitions were considered, there would be no creation or strengthening of a dominant position.

B. Relevant geographic markets

14. The notifying parties have taken the view that the geographic scope of IT-Systems and IT-Services is global. Customer preferences, the need to provide businesses with similar IT solutions have lead to products that are offered on a world-wide basis. Third parties, who replied to the Commission's request for information, have largely shared the view of the parties. Given the low transport costs relative to price, the similarity of consumer preferences, product specifications and patterns of sales of major manufacturers throughout EEA countries, the relevant geographic market appears to be at least EEA-wide, which is also in line with previous Commission's decisions⁴. However, it is not necessary to further delineate the relevant geographic market because, in all alternative geographic market definitions considered, effective competition would not be significantly impeded in the EEA or any substantial part of that area.

³ IV/M.1120 – Compaq/Digital, IV/M.977 – Fujitsu/Amdahl, IV/M.963 – Compaq/Tandem

⁴ IV/M.1120 – Compaq/Digital, IV/M.963 – Compaq/Tandem, IV/M.1580 – CAI/Platinum

C. Competitive Assessment

Servers

15. The proposed operation would lead to overlap in servers as demonstrated in the table below.

Product categories	IBM (in %)		Sequent (in %)		Combined entity (in %)	
	Worldwide	EEA	Worldwide	EEA	Worldwide	EEA
All servers	26	30	0.8	1	27	31
Low-end servers	20	23	0.1	0.1	20	23
Mid-range servers	27	32	2	3	29	35
High-end servers	34	43	1	1	35	44
Mid-range + high-end servers	31	37	1	2	32	39

16. As a result of the proposed operation, the increase in market share is very small. Sequent is a niche player on the market of servers, although the company has some sophisticated concepts to offer in server technology. Major competitors are Sun Microsystems, Hewlett Packard, Compaq, Fujitsu with market shares in the range between 10-20% for each of the product categories mentioned above. Furthermore, a number of smaller competitors achieve market shares in the range of 2-6%.
17. Third parties expressed the view that, although Sequent has currently a technology lead in some server technology, manufacturers of servers work on similar technical concepts which will be introduced on the market in the near future. Furthermore, competitors have put their development efforts on other new technologies, which could be seen as a further evolution in server technology in the future.

IT-Services

18. The overlap in IT-services would be very small as Sequent currently provides services only related with its own product portfolio. In the EEA, the addition of market share would be minimal, i.e. of less than 1%. Furthermore, Sequent offers mainly maintenance and consulting services for its own server products but has no coverage of wider professional IT-services. The market share of IBM is of less than 15% for IT-services, even if considered on narrower subcategories of IT-services.

Summary

19. It can be concluded from the above that the proposed operation would not create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the EEA or any substantial part of that area.

VI. CONCLUSION

20. For the above reasons, the Commission decides not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation (EEC) No 4064/89.

For the Commission,