

***Case No COMP/M.5717 -
THE STANLEY
WORKS/ THE BLACK
& DECKER
CORPORATION***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 12/03/2010

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EUROPEAN COMMISSION

Brussels, 12.3.2010
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In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 party:

Dear Sir/Madam,

**Subject: Case No COMP/M.5717 – The Stanley Works/ The Black & Decker Corporation
Notification of 05/02/2010 pursuant to Article 4 of Council Regulation No 139/2004¹**

1. On 05/02/2010, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 (the "EC Merger Regulation") by which The Stanley Works ("Stanley", USA) acquires within the meaning of Article 3(1)(b) of the EC Merger Regulation the sole control of the Black & Decker Corporation ("Black & Decker", USA) (altogether the "Parties") (the "proposed transaction") by way of purchase of shares.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of the EC Merger Regulation and does not raise serious doubts as to its compatibility with the common market and the EEA Agreement.

I. THE PARTIES AND THE OPERATION

3. Stanley is a worldwide manufacturer mainly of hand tools and engineered solutions for industrial, construction, do-it-yourself (DIY) use, and security solutions for commercial applications.

¹ OJ L 24, 29.1.2004 p. 1.

4. Black & Decker is a worldwide manufacturer mainly of power tools and accessories, hardware and home improvement products, and fastening and assembly systems.
5. The Parties signed a Merger Agreement on 2 November 2009. Pursuant to the agreement, Black & Decker will be merged with a wholly-owned subsidiary of Stanley and will thus become a wholly-owned subsidiary of Stanley. Hence Stanley will acquire sole control of Black & Decker.
6. Therefore the proposed transaction constitutes a concentration within the meaning of Article 3(1)(b) of the EC Merger Regulation.

II. COMMUNITY DIMENSION

7. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion² (Stanley: EUR 3,001 million, Black & Decker: EUR 4,137 million). Each of them has a Community-wide turnover in excess of EUR 250 million (Stanley: EUR [...], Black & Decker: EUR [...]), and they do not achieve more than two-thirds of their aggregate Community-wide turnover within one and the same Member State.
8. The proposed transaction therefore has a Community dimension pursuant to Article 1(2) of the EC Merger Regulation.

III. THE RELEVANT MARKETS

9. The Parties are active in the manufacture and supply of a wide range of products: (i) different types of tools (hand tools and accessories; electric power tools and accessories; pneumatic fastening tools and hydraulic tools); (ii) assembly line fastening systems; (iii) automotive solutions; (iv) security solutions and mechanical access control; (v) home improvement products; (vi) office products, distribution services and licensed products.
10. However, their activities only overlap with respect to (i) hand tools; (ii) electric power tools; and (iii) pneumatic tools.

Relevant product markets

11. The tools supplied by the Parties may be grouped under the following main types, according to their power source: (i) hand tools, powered manually by the user; (ii)

² Turnover calculated in accordance with Article 5(1) of the EC Merger Regulation and the Commission Consolidated Jurisdictional Notice (OJ C95, 16.04.2008, p1).

electric power tools, powered either by mains electricity or a battery³; and (iii) pneumatic fastening tools, powered by compressed air⁴.

12. The Parties consider that a separate relevant product market has to be defined for each of the three main types of tools (i.e. hand tools, electric power tools and pneumatic tools) as there are important differences in their functionality, features and prices. The Parties also submit that the technology and know-how required to produce them are different. The market investigation conducted by the Commission with regard to the proposed transaction clearly showed that each of the three main types of tools are not considered substitutable by market participants and should be considered distinct product markets. Therefore, the Commission has analyzed hand tools, electric power tools and pneumatic tools as separate markets in its examination of the proposed transaction.
13. In line with a previous national decision⁵, the Parties also submit that the relevant product market should be further narrowed by distinguishing, within each distinct power-source heading (hand, electric, pneumatic), between the different categories of tools (e.g. within the hand tool market, several product categories can be identified, such as hitting tools, screwdrivers, wrenches etc.). The market investigation largely supported the Parties' views that, within each distinct tool market, a further segmentation by category of tools should be considered. On the other hand, it has been confirmed that a further segmentation of the market by distinguishing between different sub-categories of tools – like for instance distinguishing between different types of screwdrivers, etc. - would not be appropriate.
14. Furthermore, the Parties are of the opinion that each of the tool categories should be further sub-divided by type of customer, and therefore distinguish between individual consumers, who require the tools for their non-professional DIY activities, and professional users who require the product for their professional use. A potential further segmentation by type of professional user (i.e. professional builders, industrial manufacturers and automotive repair garages) would, according to the Parties, not be appropriate as the various professional users have similar requirements (with a focus on quality, durability and ergonomics), the sales take place largely through large wholesalers and distributors and the tools sold to them are in most cases the same.
15. The market investigation largely supported the Parties opinion regarding a segmentation of each tool category by type of customers (i.e. DIY versus professional users). A clear majority of the respondents consider that professional users require higher quality tools and that prices for this customer segment is therefore also typically higher than in the DIY-segment. With respect to an even narrower segmentation by type of professional

³ Electric power tools are powered either by a battery (cordless) or by being plugged into an electric output (corded). Electric power tools include a large number of different product families, such as drills, impact wrenches and impact drivers.

⁴ Pneumatic tools, such as fasteners and framing nailers, are tools driven by compressed air, which is supplied by a compressor. The pneumatic tools are more rapid, powerful and durable, and are primarily designed for a professional use.

⁵ Lettre du ministre de l'économie, des finances et de l'industrie en date du 30 novembre 2005, au conseil de la société Stanley, relative à une concentration dans le secteur de l'outillage, Bulletin Officiel de la Concurrence, de la Consommation et de la Répression des Fraudes, N°5 du 29 avril 2006.

user (i.e. professional builders, industrial manufacturers and automotive repair garages), the results of the market investigation were not conclusive. However, for the purpose of the proposed transaction, the question of whether or not to make a further distinction within the professional segment can be left open as such a distinction would not affect the competitive assessment.

16. The market investigation also addressed the question of a possible segmentation of the markets according to price and/or quality. Although there appears to be quality differences ranging from the highest quality to a variety of mid- and lower qualities (including a number of private label tools), it appears that to some extent high and low qualities correlate with professional and DIY use. Although the market investigation did not bring a clear-cut result with respect to such potential market segmentation, a majority of the respondents considered tools of different quality/price levels within a given product category to be substitutable. Given the correlation between price/quality and the segmentation between professional and DIY-users, no distinction within each of the tools categories and customer segments according to price/quality will be made in the competitive assessment.
17. One further distinction addressed in the market investigation was potential separate markets for own label ("brand") and private label products. The market investigation was, however, not conclusive on this issue. While some respondents were of the opinion that certain private label products are of inferior quality and cheaper, others indicated that some private label products compete across the entire quality/price spectrum. Therefore, for the purpose of this decision, no distinction is made between private and brand label products.
18. With respect to electric power tools, the market investigation addressed the question of a potential sub-segmentation of the market by distinguishing between corded and cordless (powered by a battery) electric tools. According to the Parties, the question of this segmentation can be left open, as the proposed transaction would not raise competition concerns under any potential market definition (i.e. whether cordless or corded electric power tools belong to the same or separate markets). According to the market investigation, regarding the differentiation between corded and cordless electric power tools, a majority stated that there should be a sub-segmentation, e.g. because of comfort, different functionalities (and also prices). For the purpose of this decision, however, the question of whether or not to make a further distinction according to corded or cordless electric tools can be left open as such a distinction would not affect the competitive assessment.
19. With regard to pneumatic fastening tools, the Parties put forward that in the EEA such tools are exclusively used by professional users. Competitors and customers agreed with the segmentation according to the application, and most differentiate between gas cordless nailers and other pneumatic tools. A large majority of respondents also confirmed that pneumatic fastening tools are almost exclusively for professional use. However they indicated that the tools sold to different professional user groups are broadly similar. For the purpose of this decision the assessment will deal with pneumatic tools for professional use segmented by application.
20. Based on the above, for the purpose of the present decision markets will be analyzed by distinguishing between different tool types, product categories and customer segments (i.e. DIY consumers versus professional users).

Relevant geographical markets

21. The Parties submit that the relevant geographical market could be national, although there are some indications that the market could be wider (i.e. EEA-wide). According to the Parties (i) prices are generally determined at national level, (ii) most of the customers still purchase nationally, and (iii) the identity and market position of both customers and competitors vary significantly between the EEA Member States. Despite these factors indicating that the relevant geographical market should be defined as national, the Parties point out several other factors indicating that the geographical market could be wider, such as: (i) the organisation of the production of tools on a pan-European or (more often) worldwide basis, (ii) the tendency of a large number of customers to coordinate their purchasing policies on a European-wide or even global basis and (iii) the absence of regulatory or legal barriers to trade between the EEA Member States.
22. The results of the market investigation conducted by the Commission generally supported the Parties' submission that the geographical scope of the markets is national although it also showed some indications that the market could be wider, such as the tendency of some of the customers to source globally. However, it is not necessary to conclude on the exact geographic scope of the relevant market(s) since the competitive assessment does not change whether the relevant geographic market definition is national or EEA-wide.
23. Based on the above, for the purpose of the present decision, the affected markets will be analyzed on both EEA-wide and national basis.

IV. COMPETITIVE ASSESSMENT

24. Although the Parties sell a very wide range of products, there are only a limited number of product markets in the EEA for which the Parties' activities overlap and even fewer product markets where their combined market shares⁶ are above [20-30]%.
25. Moreover, the increments brought about by the proposed transaction are generally rather limited as the Parties' activities are largely complementary. Stanley's business is primarily focussed on the hand tools and pneumatic tools segments, while Black & Decker is mainly active in electric power tools⁷. Therefore, the proposed transaction only gives rise to overlaps with respect to a limited number of products.

⁶ In this decision all the market shares indicated are based upon sales (value) and estimated market size by the Parties.

⁷ Black & Decker does not sell any hydraulic tools, and the volumes sold by Stanley in the EEA are very modest (in 2008, Stanley's sales in the EEA amounted to approximately EUR [...]).

1. Hand tools and accessories

26. The Parties' combined market shares at EEA level in the various hand tools markets in which their activities overlap are modest and below [20-30]%⁸ in every case.
27. Under the narrower product market definition⁹ (i.e. separate product markets for each product family and distinguishing by customer type), the proposed transaction would lead to national affected markets with respect to the following product families: (i) in the individual consumers segment: screwdriver bits, measuring tapes, levels and squares, laser measurement tools, laser levels and detectors¹⁰ and work facilitation products; (ii) in the professional users segment: hand riveters, laser levels¹¹ and self storage products.

Hand tools for individual DIY (do-it-yourself) customers

28. The related national market shares are shown in the table below¹²:

8 2008 EEA, Parties market shares: (i) Screwdriver bits (consumers) (Stanley [0-5]% and Black & Decker [10-20]%), (ii) Short and long measuring tapes (consumers) (Stanley [10-20]% and Black & Decker [0-5]%; although Black & Decker is no longer selling these products), (iii) Hand riveters (professional) (Stanley [5-10]% and Black & Decker [5-10]%), (iv) Levels and squares (consumers) (Stanley [20-30]% and Black & Decker [0-5]%), (v) Laser measurement tools (consumer) (Stanley [10-20]% and Black & Decker [5-10]%), (vi) Laser levels (professional) (Stanley [5-10]% and Black & Decker [5-10]%), (vii) Laser levels and detectors (consumers) (Stanley [10-20]% and Black & Decker [10-20]%) and (viii) Work facilitation products (consumer) (Stanley [0-5]% and Black & Decker [10-20]%).

9 A further segmentation of these markets according to (i) type of professional customer, (ii) private vs. own label or (iii) price/quality, will not affect the competitive assessment on the basis of the information submitted by the Parties. With respect to (i), the Parties are generally active in different professional segments, and the overlaps in their activities would therefore only be reduced in case of such further segmentation. As regards (ii), removing private label products from the market would not cause any significant increases in the Parties' market shares. Finally, with respect to (iii), the Parties' products are typically positioned in different price/quality segments for each of the affected markets.

¹⁰ Detectors are battery-operated products used prior to drilling or hammering, for the purpose of sub-surface detection (i.e. to detect what is within or behind a wall). The use of detectors is frequently linked with the use of laser levels (laser levels are devices to measure levels to indicate whether a surface is fully level or vertical). Therefore, laser levels and detectors will be addressed together as a product family. However, even if the two products were to be looked at separately, such a distinction would not affect the competitive assessment.

¹¹ With respect to the professional users segment, detectors were not grouped together with laser levels, as Black & Decker does not sell any professional detectors, and Stanley is only selling a niche product launched at the end of 2009.

¹² Table 1 does not address the following affected markets where the overlap is less than [0-5]%; the supply of screwdriver bits in Belgium, Germany, Italy, the Netherlands and Portugal; and the supply of levels and squares in Ireland and UK. Neither does the table include the Parties' 2008 market shares for the supply of short and long measurement tapes in France (Stanley [30-40]%; Black & Decker [0-5]%), Ireland (Stanley [30-40]%; Black & Decker [0-5]%), Italy (Stanley [20-30]%; Black & Decker [0-5]%) and the United-Kingdom (Stanley [20-30]%; Black & Decker [0-5]%), as Black & Decker is no longer selling these products.

Table 1: National market shares in the individual DIY segment, 2008

Segment	Country	Stanley	Black & Decker	Combined
Screwdriver bits	France	[10-20]%	[5-10]%	[10-20]%
	Ireland	[0-5]%	[10-20]%	[20-30]%
	United Kingdom	[0-5]%	[10-20]%	[20-30]%
Levels and squares	France	[40-50]%	[0-5]%	[40-50]%
Laser measurement tools	France	[30-40]%	[5-10]%	[40-50]%
	Italy	[10-20]%	[5-10]%	[20-30]%
Laser levels and detectors	France	[10-20]%	[10-20]%	[20-30]%
	Ireland	[10-20]%	[5-10]%	[20-30]%
	Italy	[5-10]%	[10-20]%	[20-30]%
	Poland	[10-20]%	[0-5]%	[10-20]%
	Spain	[5-10]%	[10-20]%	[10-20]%
	Sweden	[0-5]%	[20-30]%	[30-40]%
	United Kingdom	[10-20]%	[10-20]%	[20-30]%
Work facilitation	United Kingdom	[0-5]%	[10-20]%	[10-20]%

Source: Form CO

29. Post-transaction, the Parties will hold a relatively modest combined market share - below 30% - on every affected market, except for the supply of levels and squares as well as laser measurement tools in France ([40-50]% on both markets) and the supply of laser levels and detectors in Sweden ([30-40]%). However and even while the increment brought about by the proposed transaction is not always negligible ([5-10]% in France with regard to laser measurement tools) the merging entity would continue to face competition from a number of other suppliers.

30. In respect of the supply of levels and squares (combined market share of [40-50]%) in France, the increment is modest ([0-5]%). Stanley was already the market leader pre-merger. Post-merger the combined entity would continue to face competition from established players such as Fisher Daxex ([10-20]%) and Leroy Merlin ([10-20]%).

31. Considering the supply of laser measurement tools, the merged entity with a market share of [40-50]% would face competition from companies such as Bosch ([20-30]% market share), Fischer Darex ([5-10]% market share) and Laserline ([5-10]% market share).
32. With respect to the supply of laser levels and detectors in Sweden (combined market share of [30-40]%), the increment brought about by the proposed transaction is very limited (Stanley [0-5]%, Black & Decker [20-30]%) and the new combined entity would continue to face competition from companies such as Zircon ([10-20]%), Bosch ([10-20]%), Hultafors (<[0-5]%) and Hilti (<[0-5]%).
33. Based on the above, the proposed transaction does not raise serious doubts as to its compatibility with the common market and with the EEA-agreement even for the narrowest product or geographic market definitions.

Hand tools for professional users

34. The related national market shares are shown in the table below¹³:

Table 2: National market shares in the professional users segment, 2008

Segment	Country	Stanley	Black & Decker	Combined
Hand riveters	Belgium	[10-20]%	[10-20]%	[20-30]%
	Czech Republic	[10-20]%	[0-5]%	[10-20]%
	Finland	[0-5]%	[10-20]%	[10-20]%
	France	[20-30]%	[10-20]%	[30-40]%
	The Netherlands	[0-5]%	[20-30]%	[20-30]%
Laser levels	Belgium	[0-5]%	[10-20]%	[10-20]%
	Ireland	[10-20]%	[5-10]%	[10-20]%
	Italy	[10-20]%	[5-10]%	[10-20]%
	The Netherlands	[0-5]%	[10-20]%	[20-30]%
	Portugal	[0-5]%	[20-30]%	[30-40]%
	Spain	[0-5]%	[10-20]%	[10-20]%
	United Kingdom	[0-5]%	[20-30]%	[20-30]%

Source: Form CO

¹³ Table 2 does not address the market for the supply of laser levels in Sweden, where the overlap is [0-5]%. Neither does the table include the Parties' 2008 market shares for the supply of soft storage products in Italy (Stanley [20-30]%; Black & Decker [0-5]%) and the United-Kingdom (Stanley [10-20]%; Black & Decker [0-5]%), as Black & Decker has recently ceased selling these products.

35. Post-transaction, the merged entity would hold combined market shares below [30-40]% on all professional hand tool markets, except for hand riveters in France ([30-40]%) and the supply of laser levels in Portugal ([30-40]%).
36. With respect to the supply of hand riveters in France, the merging entity will hold a market share of [30-40]% and would continue to face competition from Würth ([5-10]%), Berner ([5-10]%), Gesipa ([5-10]%), SAM ([5-10]%) and a number of other competitors such as Bralor, Far, KS Tools and Beta. Furthermore, the Parties focus on different end-users and use different distribution channels (i.e. Stanley sells hand tools riveters through professional outlets, aimed mainly at automotive repair customers, while Black & Decker sells its tools exclusively to industry for use on assembly lines by industrial manufacturers and other heavy industry end-users).
37. With respect to the supply of laser levels in Portugal where the Parties' combined market share would be [30-40]%, the increment brought about by the proposed transaction is limited ([0-5]%) and the combined entity would face the competition of large companies such as Trimble/Spectra Precision ([20-30]% market share), Bosch/CST Berger ([10-20]% market share), Topcon ([10-20]% market share), Stabila ([5-10]% market share), Leica ([5-10]% market share) and Laserliner ([5-10]% market share).

General Considerations

Alternative suppliers

38. According to the Parties, there are a large number of competitors in the hand tool market. The market investigation demonstrated that there are significant alternative suppliers in all markets. Furthermore a clear majority of the respondents to the market investigation recognised multi-sourcing as common practise. The customers and competitors did not generally consider the Parties each other's closest competitors. No concerns relating to hand tools for DIY consumers were raised during the market investigation.

Ease of Entry

39. The Parties submit that barriers to entry are low, as it is not necessary for an entrant to be able to produce the products itself. Today, a number of companies source their products from manufacturers in Asia, and it is therefore not necessary to acquire specific know-how or technologies for the purpose of production. Respondents to the Commission's questionnaires confirmed the Parties' argument that it is possible for new entrants to source products from outside the EEA and thereby extensive know-how regarding production would not be required. However, it was also pointed out that distribution and reputation could play an important role for the success of new entrants. However it does not appear that a determined new entrant could not establish himself.

Closeness of Competition

40. The customers or competitors did not generally consider the Parties each other's closest competitors. During the market investigation no substantiated concerns were submitted to the Commission.

Conclusion for Hand tools

41. Based on the above, the proposed transaction does not raise serious doubts in the market for hand tools as to its compatibility with the common market and with the EEA-agreement even for the narrowest product or geographic market definitions.

3. Electric power tools

42. As described above, Black & Decker is mainly active on this segment, whereas Stanley has only limited activities on each of the affected markets. For this reason, there are only few overlaps, and the market share accretion brought about by the proposed transaction is minimal.

43. The Parties' combined market shares at EEA level in the electric power tools segment are relatively limited and always below [10-20]%¹⁴.

44. Based on the product market definition¹⁵, the proposed transaction would lead to national affected markets with respect to the following product families: (a) in the individual consumers segment: (i) drill bits, (b) on the professional user segment: (ii) cordless drills, (iii) cordless impact wrenches, (iv) cordless impact drivers, (v) cordless sanders, (vi) polishers and grinders, and (vii) cordless drills.

Electric power tools for individual (DIY) consumers

45. The related national market shares are shown in the table below:

Table 3: National market shares for the individual DIY segment, 2008

Segment	Country	Stanley	Black & Decker	Combined
Drill bits (consumers)	Germany	[0-5]%	[10-20]%	[10-20]%
	Netherlands	[0-5]%	[10-20]%	[10-20]%
	Portugal	[0-5]%	[20-30]%	[20-30]%
	Spain	[0-5]%	[20-30]%	[20-30]%
	United-Kingdom	[0-5]%	[10-20]%	[10-20]%

Source: Form CO

¹⁴ 2008 EEA (Parties' best estimates): (i) Cordless drills (Stanley [0-5]% and Black & Decker [5-10]%), (ii) Cordless impact wrenches (Stanley [0-5]% and Black & Decker [5-10]%) and (iii) Drill bits (Stanley [0-5]% and Black & Decker [10-20]%).

¹⁵ A further segmentation of these markets according to (i) type of professional customer, (ii) private vs. own label or (iii) price/quality, will not affect the competitive assessment on the basis of the information submitted by the Parties. With respect to (i), the Parties are generally active in different professional segments, and the overlaps in their activities would therefore only be reduced in case of such further segmentation. As regards (ii), removing private label products from the market would not cause any significant increases in the Parties' market shares. Finally, with respect to (iii), the Parties' products are typically positioned in different price/quality segments for each of the affected markets.

46. Post transaction, the Parties will hold a relatively modest combined market shares (around [20-30]%) on all relevant markets. Furthermore the increment is in all cases very modest (less than [0-5]%). The proposed operation will not change the market situation significantly even for the narrowest product or geographic market definitions. No concerns were raised during the market investigation

Electric power tools for professional users

47. The related national market shares are shown in the table below:

Table 4: National market share for the professional users segment, 2008

Segment	Country	Stanley	Black & Decker	Combined
Cordless drills	Belgium	[0-5]%	[10-20]%	[10-20]%
	Denmark	[0-5]%	[20-30]%	[20-30]%
	Norway	[0-5]%	[10-20]%	[10-20]%
	Sweden	[0-5]%	[20-30]%	[20-30]%
	United-Kingdom	[0-5]%	[30-40]%	[30-40]%
Cordless impact wrenches	Belgium	[5-10]%	[10-20]%	[20-30]%
	Portugal	[0-5]%	[10-20]%	[20-30]%
	Spain	[5-10]%	[10-20]%	[10-20]%
	United-Kingdom	[5-10]%	[10-20]%	[10-20]%
Cordless impact drivers	Belgium	[0-5]%	[10-20]%	[10-20]%
	France	[5-10]%	[10-20]%	[10-20]%
	Spain	[0-5]%	[10-20]%	[10-20]%
	United-Kingdom	[0-5]%	[20-30]%	[20-30]%
Cordless sanders, polishers and grinders	United-Kingdom	[0-5]%	[30-40]%	[30-40]%
Corded drills	United-Kingdom	[0-5]%	[20-30]%	[20-30]%

Source: Form CO

48. Post-transaction, the combined entity will hold a modest market share (around [20-30]%) on all affected markets, except for the market for supply of cordless drills in the United Kingdom ([30-40]%), for the supply of cordless impact drivers in the United Kingdom ([20-30]%) and for the United Kingdom supply of cordless sanders, polishers and grinders ([30-40]%). However, the increment brought about by the proposed transaction is small (respectively [0-5]%, [0-5]% and [0-5]%). While the increment in France in the cordless impact drivers is higher ([5-10] market share) the Parties' combined market shares remain modest ([10-20] market share).
49. In the markets where the combined market share would be less than [20-30]% with small increments the proposed operation will not raise competition concerns. Moreover in the United Kingdom the combined entity will continue to face competition from significant competitors post-merger. In the cordless drill market, the combined entity will face Makita ([20-30]%), Bosch ([10-20]%), Hilti ([10-20]%), Hitachi ([0-5]%) and TTI ([0-5]%). UK competitors in cordless impact wrenches are Makita ([20-30]%) and Bosch ([10-20]%). In the cordless impact drivers, in the cordless sanders and in the corded drills (all professional) segments, the Parties named Bosch, TTI and Makita as main competitors (without specifying market shares).

General Considerations

Ease of entry

50. While the Parties argue, in addition, that the proposed transaction does not result in competition concerns since allegedly that the market entry barriers are low, the market investigation pointed out that market entry barriers could be higher than indicated by the Parties, including investment, innovation, brand loyalty from end-users, quality considerations, low margins, ability to propose a wide range of products, price considerations or the level of services.

Conclusions for Electric power tools

51. However, in view of the low increments brought about by the proposed transaction, the number of remaining market players and the results of the market investigation the proposed transaction does not raise serious doubts with respect to its compatibility with the common market and with the EEA-agreement even for the narrowest product or geographic market definitions in this segment of the electric power tools market.

3. Pneumatic fastening tools

52. Stanley and Black & Decker have overlapping activities in the pneumatic fastening tools segment, but their market shares in the EEA are modest and increments are low.
53. The Parties' combined market shares at EEA level in the pneumatic fastening tools segment are relatively limited and always below [10-20]%¹⁶.

¹⁶ 2008 EEA (Parties' best estimates): (i) Pneumatic fastening tools and fasteners for soft materials (Stanley [10-20]% and Black & Decker [0-5]%), (ii) framing nailers and nails (Stanley [10-20]% and Black & Decker [0-5]%) and (iii) roofing nailers and nails (Stanley [10-20]% and Black & Decker [0-5]%).

54. Based on the product market definition¹⁷, the proposed transaction would lead to national affected markets with respect to the product families listed in the table below.

55. The related national market shares are shown in the table below:

Table 5: National market share for pneumatic fastening tools (professional users)

Segment	Country	Stanley	Black & Decker	Combined
All pneumatic fastening tools and fasteners	Belgium	[10-20]%	[0-5]%	[10-20]%
	France	[20-30]%	[0-5]%	[20-30]%
	Italy	[10-20]%	[0-5]%	[10-20]%
	Norway	[20-30]%	[0-5]%	[20-30]%
Framing nailers and nails	Norway	[20-30]%	[0-5]%	[20-30]%
Roofing nailers and nails	Norway	[10-20]%	[0-5]%	[20-30]%
Pneumatic framing nailers (market excluding gas cordless products)	Belgium	[60-70]%	[0-5]%	[60-70]%
	Italy	[40-50]%	[0-5]%	[40-50]%

Source: Form CO

56. Post transaction, the Parties will hold modest market shares (around [20-30]% market share) except in the framing nailers and nails area in Norway ([20-30]% and [20-30]% market share) with relatively low ([0-5]%) increment. In addition, in Norway the combined entity will face numerous competitors including Nordisk Kartro (Duofast/Paslode) ([10-20]% market share), Essve (Makita) (5-10% market share) and Hitachi/Basso (5-10% market share).

57. Pre-merger the Parties hold already important market shares in the pneumatic framing nailers market (excluding gas cordless products) in Italy ([40-50]% market share) and Belgium ([60-70]% market share) and the proposed transaction will only result in low increments less than [0-5]% [...]. In addition, in Italy the combined entity will face

¹⁷ A further segmentation of these markets according to (i) type of professional customer, (ii) private vs. own label or (iii) price/quality, will not affect the competitive assessment on the basis of the information submitted by the Parties. With respect to (i), the Parties are generally active in different professional segments, and the overlaps in their activities would therefore only be reduced in case of such further segmentation. As regards (ii), removing private label products from the market would not cause any significant increases in the Parties' market shares. Finally, with respect to (iii), the Parties' products are typically positioned in different price/quality segments for each of the affected markets.

competition from Trafilera Punteria Ghezi SNC ([10-20]% market share), Bea Italiana ([10-20]% market share), OMER ([10-20]% market share), Fasco SPA ([5-10]% market share), ITW ([5-10]% market share) and Romeo Maestri e Figli ([5-10]% market share) while in Belgium it will have for competitors ITW ([10-20]% market share), Certis ([10-20]% market share) and Cerclindus ([10-20]% market share). It is also claimed by the Parties that the revenues of Stanley and Black & Decker are relatively low in this segment (€...) for Stanley, and €... for Black & Decker). It should also be noted that other brands are much stronger in nearby countries and that these suppliers would be in a position to increase or commence sales in Italy with minor expense.

58. The market investigation conducted by the Commission has indicated that the proposed transaction will not have any appreciable impact on any of the affected markets.

Conclusion for Pneumatic fastening tools

59. In view of the low increment brought about by the proposed transaction, the several competitors active in the market and the results of the market investigation, the Commission concludes that the proposed transaction does not raise serious doubts with respect to its compatibility with the common market and with the EEA-agreement even for the narrowest product or geographic market definitions in the market for pneumatic fastening tools.

4. Absence of conglomerate effects

60. Although the proposed transaction will increase the combined entity's range of products, the Parties submit that this will not raise any concerns with respect to conglomerate (portfolio) effects. According to the Parties, none of the conditions for conglomerate effects to raise concerns apply with regard to the proposed transaction.
61. First, the Parties submit that the combined entity will not enjoy significant market power, as they are faced with concentrated and strong customers with significant buyer power. Second, according to the Parties, the market is not amenable for tying or bundling strategies, as different tool categories (e.g. hand tools and power tools) are not usually purchased or negotiated for together. Third, competitors can easily extend their range of products by sourcing from low-cost countries. Fourth, competitors with a narrower range of products will not be marginalised as it is possible to maintain a significant position in certain markets without offering a full range of products.¹⁸ Finally, the Parties submit that the combined entity would not be able to raise prices given the significant buyer power and the low barriers to entry.
62. According to previous Commission decisions¹⁹, conglomerate concerns may arise from the parties' significant portfolio of brands and the fact that the parties have large market shares in numerous product markets where their activities do not overlap.

¹⁸ The Parties have provided the following examples of successful single-product or narrower-focus manufacturers: Raaco (storage), Metrica (measurement), Wera (screwdrivers), Knipex (pliers), Stabila (levels), and Fisco (tapes). According to the Parties, these companies are prominent suppliers in their respective categories in spite of their narrow focus.

¹⁹ See for example decision COMP/M.3732 - *Procter & Gamble/Gillette* or COMP/M. 938 - *Guinness / Grand Metropolitan*.

63. The main potential anticompetitive effect in the context of a conglomerate merger is that of foreclosure. The combination of products in related markets may confer the combined entity the ability to leverage a strong market position from one market to another by means of tying or bundling or other exclusionary practices. Tying and bundling as such are common practices which often do not lead to anticompetitive consequences. Nevertheless in certain circumstances, these practices may lead to a reduction in actual or potential rivals' incentive or ability to compete²⁰.
64. The Commission has analyzed whether the positions of the Parties in hand tools (Stanley) and electric power tools (Black & Decker) could lead to anticompetitive effects in the tools sector, notably whether the proposed transaction could lead to the marginalization of competitors in tools sector through bundling, tying or other exclusionary practices.
65. While the overwhelming majority of respondents to the market investigation carried out by the Commission have not raised any objections to the proposed transaction, some respondents have, however, expressed concerns with respect to possible anticompetitive effects related to an increased portfolio of the combined entity.
66. The Commission has carefully examined whether the proposed transaction would enable the Parties to adopt a foreclosure strategy using bundling/tying practices within the tools markets.
67. The majority of the customer (distributor) respondents to the market investigation carried out by the Commission pointed out that Stanley and Black & Decker have no must-stock brands. However, it is also true that a minority of respondents took the view that Stanley and/or Black & Decker manufacture must-stock brands.
68. Although some of the tools manufactured by the Parties are considered must-stock brands for some customers, a large majority of the customers also stated that they do not rely solely on one supplier for their tools (hand,- electric power and pneumatic tools) and they multi-source products in order to be able to offer the end-users a choice of a variety and range of different products from different suppliers.
69. With respect to discounts policies, [Information on the Parties' discount policy]. The market investigation [...] that in the tools sector discounts, if any, are generally negotiated for each tool category separately and are based on the volume/turnover.
70. It was also recognised by the major part of the respondents to the market investigation that the proposed transaction could bring benefits to customers as they would be able to source a wider range of products from the combined entity and thereby reducing administrative and logistic costs.
71. In the light of the above, there is no evidence to suggest that the proposed transaction would provide the ability and incentive to the Parties to engage in anticompetitive foreclosure to the detriment of consumers through tying or bundling practices. Therefore, it can be concluded that the proposed transaction does not raise serious doubts as regards conglomerate effects.

²⁰ "Guidelines on the assessment of non-horizontal mergers under the Council Regulation of the control of concentrations between undertakings", OJ C 265/2008, paragraph 93.

IV. CONCLUSION

72. For the above reasons, the Commission has decided 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 (EC) No 139/2004.

For the Commission
(signed)
Joaquín ALMUNIA
Vice-President of the Commission