

Case No COMP/M.6773 - CANON/ IRIS

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 18/02/2013

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EUROPEAN COMMISSION

Brussels, 18.02.2013

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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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

To the notifying party:

**Subject: Case No COMP/M.6773 - Canon/ I.R.I.S.
Commission decision pursuant to Article 6(1)(b) of Council Regulation
No 139/2004¹**

1. On 14 January 2013, the Commission received notification of a proposed concentration following a referral pursuant to Article 22 of the Merger Regulation by which the undertaking Canon Inc. ('Canon', Japan) acquires within the meaning of Article 3(1)(b) of the Merger Regulation control of the whole of the undertaking I.R.I.S. Group SA ('I.R.I.S.', Belgium) by way of public bid announced on 18 September 2012.
2. Canon is designated hereinafter as the "notifying party," and together, Canon and I.R.I.S. are referred to as the "parties to the proposed transaction" or "the parties".

(1) THE PARTIES AND THE OPERATION

3. Canon is active in a wide array of consumer and professional imaging and other electronic equipment, as well as in related software and services. These products comprise (i) office automation equipment including printers, copiers, scanners and multi-functional combinations thereof as well as some related software sales and services; (ii) cameras, lenses and camcorders; (iii) medical equipment; and (iv)

¹ OJ L 24, 29.1.2004, p. 1 ("the Merger Regulation"). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ("TFEU") has introduced certain changes, such as the replacement of "Community" by "Union" and "common market" by "internal market". The terminology of the TFEU will be used throughout this decision.

semiconductor manufacturing equipment and other mainly industrial products. The proposed transaction mainly concerns its production and commercialisation of document scanners and multi-functional peripherals ("MFPs"). The latter can carry out several document-related functions, such as scanning, copying and printing. Furthermore, Canon produces certain software related to this hardware, in particular software which controls the output of scanners, called capture software, which is embedded in or bundled with sales of its own hardware.

4. I.R.I.S. develops and commercialises software related to office automation equipment, and provides some related hardware sales and services. In particular, I.R.I.S. primarily develops and commercialises software related to document capture, which comprises software for: (i) "optical character recognition" ("OCR") used to convert scanned images into editable, searchable documents, (ii) workflow automation, which uses "intelligent document recognition" ("IDR") to automate the processing, classification and routing of electronic documents and data contained within those documents through an enterprise workflow, and (iii) document management, which facilitates document storage, search, retrieval, versioning and archiving, among other features. Compared to Canon, I.R.I.S. offers the more sophisticated software solutions. In addition, I.R.I.S. sells a limited range of small scanning devices, namely portable document scanners, business card scanners, wand scanners and pen scanners.
5. Currently, Canon holds a 17% non-controlling interest in I.R.I.S. and intends to acquire sole control by purchasing all outstanding shares through public bid. On 18 September 2012, Canon and I.R.I.S. reached an agreement under which the Board of Directors of I.R.I.S. will support Canon's public bid.
6. Through the proposed transaction, [...]*

(2) EU DIMENSION

7. Based on the turnover realised by the parties in 2011, the proposed transaction would not have an EU dimension.² However, by accepting the Article 22 referral request on 26 November 2012, which was made by the Belgian competition authority and subsequently joined by the national competition authorities of Austria, France, Ireland, Italy, Portugal and Sweden, the Commission has acquired jurisdiction over the notified transaction. All seven referring Member States are hereinafter referred to as "the referring Member States."

² While the undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million (in 2011, Canon achieved a worldwide turnover of more than EUR 32 000 million and I.R.I.S. of more than EUR 121 million), only Canon has an EU-wide turnover in excess of EUR 250 million. In 2011, Canon achieved an EU wide turnover of more than [...]*, while I.R.I.S. only realised around EUR [...]* within the EU.

(3) MARKET DEFINITION

(a) Relevant product markets

8. The parties are both active in the sale of branded automated office equipment. Canon manufactures and supplies a broad range of single function peripherals ("SFPs"), including printers, scanners and facsimile machines and MFPs. I.R.I.S. resells a limited range of small scanners, which it buys from original equipment manufacturers ("OEMs") and sells under its own brand name. Therefore, the parties only overlap in the area of portable document scanners. Portable document scanners are described as sheet-feed devices capable of scanning A4 documents without a mains power supply, because they are USB- or battery powered.
9. In addition to this horizontal overlap, the proposed transaction brings about a vertical relationship between I.R.I.S.'s activities in the development and sale of capture software and Canon's activities in the manufacture of office automation equipment with scanning functionality.

1. Portable document scanners

10. Referring to the Commission's decisional practice on branded office automation equipment,³ the notifying party submits that regular format⁴ scanners, broken down into further segments would constitute the relevant product market for assessing the horizontal effects of the proposed transaction. The notifying party further distinguishes between personal automatic sheet-feed scanners (which would include higher-end automatic sheet-feed portable document scanners), and portable document scanners, possibly further broken down into (low-end) manual and (higher-end) automatic sheet-feed portable documents scanners.
11. While the Commission has previously assessed the market for regular format branded office automation equipment and its possible segmentation, it has ultimately left the exact product market definitions open. In previous cases, the Commission did not have to assess whether portable document scanners constitute a separate product market.
12. In the market investigation, the Commission tested whether portable document scanners and other regular format scanning devices, namely personal desktop sheet-feed scanners, flatbed scanners and home-office MFPs, are substitutable from a demand-side perspective. The majority of customers⁵ of portable document scanners who responded

³ COMP/M.5672 – Canon/Océ.

⁴ As opposed to large format equipment that allows for scanning of documents in A2 or larger format, regular format scanners typically scan documents in A4 format, and sometimes also documents in A3 format.

⁵ Customers contacted by the Commission in its market investigation comprise distributors, as well as larger end-customers.

to the Commission's request for information would not switch to any other scanning device if the price for portable document scanners increased 5 to 10 % on a permanent basis. Only a small percentage of customers would switch to home-office MFPs. Typical customers of portable document scanners include professionals who frequently work away from their offices and may need to capture documents without office infrastructure. Examples given in the market investigation comprise insurance agents, financial and tax consultants, delivery drivers, field sales people, lawyers, accountants, and auditors. When travelling, portability of a scanner is of particular importance. For this reason, even in the event of a price increase, customers of portable document scanners are reluctant to switch to non-portable devices.

13. Moreover, the market investigation revealed strong indications that portable document scanners with and without an automatic document feeder ("ADF") are not substitutable from a demand-side perspective. Manual sheet-feed portable document scanners (without ADF) are usually very lightweight (around 350 to 700 grams) with slow scanning speeds (typically below 8 pages per minute ("ppm")). End-customer prices for these devices range between EUR 90 to 250. Automatic sheet-feed portable document scanners (with ADF) feature faster scanning speeds (typically 8 to 15 ppm) facilitated by an ADF, are higher priced (generally above EUR 250), heavier (typically around or greater than 1 kg) and offer more advanced functionality, such as the ability to scan both sides of a page at once. Indeed, the majority of customers for whom portable document scanners with ADF is the preferred choice would not switch to a model without ADF in the event of a 5 to 10% price increase, because they value the functionality of an ADF and its scanning speed over price. On the other hand, customers who are more price sensitive and who therefore tend to buy portable document scanners without ADF would not switch to the significantly more expensive device if the prices for portable document scanners without ADF were to raise by 5 to 10%.
14. For the purpose of this decision, the Commission considers portable document scanner to constitute a relevant product market. As the proposed transaction does not give rise to serious doubts under any possible relevant product market segmentation, it can be left open whether the market for portable document scanners should be further segmented between portable document scanners with ADF and portable document scanners without ADF.

2. Other office automation equipment

15. In addition to the market for portable document scanners, Canon is also active in a number of other office automation equipment in which I.R.I.S. is not active.
16. In order to determine possibly vertically affected office automation equipment markets, the notifying party used the Commission's classification as set out in the decision in case COMP/M.5672 – Canon/Océ. In this decision, the Commission distinguished between regular format and large format devices, which constitute relevant product markets. Regular format equipment was further divided into SFPs and MFPs and additional distinctions were made between black & white versus

colour office automation equipment and different speed ranges (small office, office, and production). Within the category of large format printers, the Commission distinguished between printers used for computer aided design (CAD) and large format printers for graphic arts. Ultimately, the Commission left the product market definitions within the two main categories of regular format and large format equipment open.

17. Based on this decisional practice, the notifying party submits that the following segments of office automation equipment are vertically affected: (i) flatbed scanners, (ii) workgroup scanners, (iii) departmental scanners, (iv) production scanners and (v) large-format MFPs.
18. For the purpose of this decision, the exact product market definition for these segments of office automation equipment can be left open as the proposed transaction does not give rise to competition concerns under any possible relevant product market segmentation.

3. Capture software

19. The notifying party submits that capture software constitutes the relevant product market. Together with document management software, capture software forms part of the larger area of enterprise content management software ("ECM software"). Essentially, capture software is designed to facilitate and automate the capture, processing and manipulation of documents and data, and to manage the office automation equipment used in these processes. Documents are captured from equipment such as scanners or MFPs or imported from email attachments and acted upon by the capture software so that the documents can subsequently be fed into document management software or other components of an ECM system.
20. The notifying party further explains that capture software solutions vary based on a large number of factors, but these solution can be grouped into the following three basic categories based on the general use for which they are intended.
21. Ad-hoc scanning software facilitates the conversion of individual document images, whether scanned from an attached or networked MFP or scanner or taken from an email attachment, to a searchable full text document on an ad-hoc basis.
22. Batch scanning software provides largely the same functionalities as ad-hoc scanning software, but is designed to facilitate the automated scanning and processing of large batches of documents. Software within this category will typically monitor scans coming from a centralised scanner or MFP, scan and perform further processing steps, indexation and recognition of the document and routing the document to the relevant archiving or document management system.
23. Batch workflow processing software provides the functionalities included in the above two categories, but also supports a richer level of data extraction and workflow automation. For example, the software may recognise forms scanned by an MFP, extract the data contained within the form and feed it into an appropriate application or database

or validate it against existing information, while routing the form to the appropriate employees in a workflow process.

24. The notifying party further explains that all three categories of capture software are sold to customers such as distributors, resellers and end customers, independently from office automation equipment. The notifying party calls these sales non-embedded/non-bundled sales of capture software. As such, non-embedded and non-bundled capture software constitutes complementary products to office automation equipment with scanning functionality.
25. In addition, the notifying party submits that ad-hoc scanning software is also sold directly to hardware OEMs (original equipment manufacturers) and other software companies. In the notifying party's view, these sales of embedded or bundled ad-hoc capture software constitute a separate product market.
26. Hardware OEMs who are typically based outside the EEA either integrate capture software directly into their office automation equipment hardware (in this case the notifying party speaks of embedded software), or bundle the respective software with hardware for sale on to consumers. In the latter case, the end consumers would usually have to install the bundled capture software, which is typically provided on a CD-ROM or DVD together with the hardware device.
27. Software companies would integrate acquired ad-hoc scanning software in their own software solutions.
28. As regards non-embedded and non-bundled capture software, the market investigation broadly confirmed the proposed segmentation of the market for capture software in ad-hoc scanning, batch scanning and batch workflow processing based on different functionalities and price ranges.
29. As regards embedded capture software, the market investigation also revealed an additional factor to take into account when assessing I.R.I.S.' position in the development and sale of capture software.
30. Capture software is based on so-called optical character recognition ("OCR") technology, which converts document images into searchable electronic file formats. It appears that the development of OCR technology is a rather complex process and there are different degrees of sophistication. For instance, OCR technology varies as to the number of different languages it can recognise and process. While OCR is integral part of all capture software, not all capture software vendors develop their own OCR technology. In fact, several capture software vendors license OCR technology from competing software developers. The market investigation revealed that I.R.I.S. is one of the few integrated capture software vendors that have developed their own OCR technology. I.R.I.S. licenses this technology *inter alia* to its competitors in capture software. The notifying party submits that these licenses of OCR technology form part of a market for embedded/bundled capture software. However, in light of the responses of the Commission's requests of information to competitors and customers of capture

software, it appears more accurate to describe the licensing of OCR technology as an activity that takes place upstream to the market level of capture software.

31. For this reason, the Commission assessed the proposed transaction's impact on an overall capture software market (and the possible three narrower product markets, namely ad hoc scanning, batch scanning and batch workflow processing software), as well as on a possible separate upstream market for the licensing of OCR technology.
32. For the purpose of this decision, the exact product market definition for capture software can however be left open as the proposed transaction does not give rise to competition concerns under any possible relevant product market segmentation.

(b) Relevant geographic markets

1. Portable document scanners

33. The notifying party submits that the market for portable document scanners is EEA-wide, since it considers transport costs to be low, region-specific technical requirements to be lacking and substantially similar market conditions to be prevailing throughout the EEA.
34. While acknowledging evidence supporting an EEA-wide geographic market definition, the Commission has previously left open the geographical definition of the market for branded office automation equipment.⁶
35. The results of market investigation were mixed. Like for other office automation equipment, competitors typically sell portable document scanners through distribution systems which are organised on a national level. Accordingly, two thirds of all customer respondents source portable document scanners at the national level. It should however be noted that the remainder of customers source at the EEA or worldwide level.
36. Furthermore, at the wholesale level, most competitors who responded to the market investigation charge the same prices for their models of portable document scanners throughout the EEA. It was pointed out that price variations at the retail level mainly stem from local differences in VAT, exchange rate fluctuations and different volume discounts granted at the wholesale level. In addition, all but one of the competitor respondents sell their portable document scanners under the same brands throughout the EEA. It also appears that local differences in technical regulations are not considered as material barriers to entry (the majority of competitors who replied to the market investigation are even unaware of different national regulations applying to portable scanners).
37. For the purpose of this decision, the exact geographic scope of the market for portable document scanners can be left open, as the proposed transaction will not give rise to serious doubts under any possible geographic market definition (EEA-wide or national).

⁶ COMP/M.5672 – Canon/Océ; COMP/M.5534 – RICOH/IKON.

2. Other office automation equipment

38. Referring to the Canon/Océ decision, the notifying party submits that the relevant geographic scope of the markets of vertically affected office automation equipment is EEA wide.
39. For the purpose of this decision, the exact geographic scope of the market for office automation equipment can be left open, as the proposed transaction will not give rise to serious doubts under any possible geographic market definition (EEA-wide or national).

3. Capture software

40. Referring to the Commission's case law,⁷ the notifying party submits that the markets for the development and licensing of the different types of capture software are EEA-wide.
41. The Commission's market investigation confirmed that the development and licensing of the different type of capture software takes place at least at the EEA level, if not at the worldwide level.⁸ I.R.I.S.' competitors in capture software confirmed that development takes place at least at the EEA level, the large majority of respondents to the market investigation explained that the same competitive conditions prevail throughout the EEA and that they face the same competitors in this geographic area. Also, most respondents indicated that there were no price variations throughout the EEA.
42. For the purpose of this decision, in line with its decisional practice, the Commission considers that the geographic scope of the various possible markets related to capture software (overall capture software market, and the possible three narrower product markets ad hoc scanning-, batch scanning- and batch workflow processing software, as well as an upstream market for the licensing of OCR technology) is EEA-wide.

(4) COMPETITIVE ASSESSMENT

(a) Horizontal assessment

43. While the parties' activities also overlap in software distribution and IT services, only the market for portable document scanners is horizontally affected.
44. As regards horizontal effects, the Commission assessed the competitive impact of the proposed transaction on the possible product markets for (i) an overall market for portable document scanners, and narrower markets for (ii) portable document scanners with ADF, and (iii) portable document scanners without ADF.
45. The only available third party market data on the sale of portable document scanners within the EEA (InfoSource) does not cover the sales of all competitors. The

⁷ COMP/M.5904 – SAP/Sybase.

⁸ In line with the Commission's findings in previous cases dealing with distribution and IT services markets [COMP/M.6323 – Tech Data Europe/MuM Vad Business], the market investigation revealed that the markets for distribution and services which are downstream from the development and sale of capture software may have a narrower geographic scope. In particular the distribution of more sophisticated batch scanning and batch workflow processing software requires service support, which possibly requires local presence. However, this issue is not relevant as the proposed transaction does not give rise to any affected markets as regards the markets for the distribution of and services related to capture software.

Commission's market investigation therefore tried to reconstruct the market. Taking into account several new market entries in 2011 and 2012, the Commission focused on 2012.

46. According to the Commission's findings, in 2012 around 75 000 portable document scanners were sold in the EEA. The Commission was not able to precisely reconstruct the corresponding value of the market. However, the vast majority of competitors confirmed that in the area of portable document scanners, volume and value market shares do not vary significantly. Accordingly, the Commission determined the parties' position on the market for portable document scanners and its possible segmentations at the EEA level and at the national level in the referring Member States on the basis of volume market shares, as follows.

Portable document scanners

47. In 2012, the parties' combined market shares for portable document scanners amounted to [30-40]*% at the level of the EEA, while it ranged between [10-20]*% to over [60-70]*% in the referring Member States, see table 1 below.

Table 1: Portable document scanners (TOTAL) – 2012 – the parties' market shares based on sales volumes in units

	Canon	I.R.I.S.	Comb'd
EEA	[30-40]*%	[5-10]*%	[30-40]*%
Austria	[5-10]*%	[5-10]*%	[10-20]*%
Belgium	[20-30]*%	[30-40]*%	[50-60]*%
France	[20-30]*%	[5-10]*%	[30-40]*%
Ireland	[5-10]*%	[10-20]*%	[10-20]*%
Italy	[30-40]*%	[20-30]*%	[50-60]*%
Portugal			
l	[10-20]*%	[10-20]*%	[30-40]*%
Sweden	[60-70]*%	[0-5]*%	[60-70]*%

48. While the combined market share of the parties is relatively high at the level of the EEA and even higher in Belgium, Italy and Sweden, the competitive assessment showed that the notified transaction will nevertheless not lead to significant competition concerns.

49. First of all, the merged entity will continue to face competition by a large number of players. At least nine competitors of Canon and I.R.I.S. sell portable document scanners within the EEA.⁹ Two of those competitors hold relatively strong positions with market shares between 20-30% at the level of the EEA, see table 2 below.

Table 2: Portable document scanners (TOTAL) – 2012 – competitors' market shares based on sales volumes in units

	A	B	C	D	E	F	G	H	J
EEA	[0-5]%	[5-10]%	[0-5]%	[20-30]%	[0-5]%	[0-5]%	[0-5]%	[20-30]%	[0-5]%

⁹ A small number of potential competitors for portable document scanners have not responded to the Commission's request for information. Hence, it cannot be excluded that the actual number of competitors active in the EEA is slightly higher.

Austria	[0-5]%	[5-10]%	[10-20]%	[20-30]%	[5-10]%	[0-5]%	[0-5]%	[30-40]%	[0-5]%
Belgium	[0-5]%	[10-20]%	[0-5]%	[10-20]%	[5-10]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%
France	[0-5]%	[5-10]%	[0-5]%	[20-30]%	[0-5]%	[0-5]%	[0-5]%	[30-40]%	[0-5]%
Ireland	[0-5]%	[40-50]%	[20-30]%	[0-5]%	[10-20]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%
Italy	[0-5]%	[5-10]%	[5-10]%	[10-20]%	[5-10]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%
Portugal	[0-5]%	[20-30]%	[0-5]%	[0-5]%	[5-10]%	[30-40]%	[0-5]%	[0-5]%	[0-5]%
Sweden	[0-5]%	[5-10]%	[0-5]%	[10-20]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%	[0-5]%

50. Several of these competitors indicated that they could increase production within a few months if post-merger the merged entity raised prices for portable document scanners.
51. With the exception of Ireland, the merged entity will face competition from at least four other players in all of the referring countries. In Ireland, three other players were active in 2012.
52. Secondly, given the small size of sales of portable document scanners at the national level, market shares fluctuate significantly from one year to the next. Hence, market shares do not accurately reflect market power of the respective players. This applies in particular to the sales of portable document scanners in Austria, Belgium, Ireland, Portugal and Sweden, which ranged between 90 to 1 500 units in 2012.
53. Thirdly, while being a relatively small niche market, the market for portable document scanners is still in flux and likely to grow. The market for portable document scanners grew roughly 50% from 2011 (~52 000 units in the EEA) to 2012 (~75 000 units in the EEA) and several competitors and customers expect this trend to continue.
54. Fourthly, the number of recent entries in the market for portable document scanners suggests relatively low barriers to entry. Three competitors (Brother, Epson and Kodak) entered the market for portable document scanners as recently as 2012, two competitors (HP and Rollei) entered in 2011 (although one of these two competitors already exited in 2011) and one (Mustek) entered in 2010.
55. Fifthly, the parties' products are not closest substitutes. Canon only sells portable document scanners with ADF, whereas the bulk of I.R.I.S.' sales of portable document scanners concerns the segment without ADF. Furthermore, the only I.R.I.S. model of portable document scanner with ADF is technically different from Canon's models in the sense that its ADF cannot be used on the move, but only in its docking station. In addition, I.R.I.S. sales of this model are [...]*
56. Sixthly, I.R.I.S. only resells portable document scanners manufactured by OEMs. [...]* any other company could easily start to sell portable document scanners using the same business model. Indeed, one of I.R.I.S.' current suppliers of portable document scanners on an OEM basis confirmed in the market investigation that it also sells portable document scanners on an OEM basis to other players within the EEA.
57. Seventhly, portable document scanners face to a certain extent competition by other scanning devices. Indeed, several competitors forecast increased competitive pressure on the low-end portable document scanners by smart phones and tablets with scanning functionality. In addition, in the event of a price increase, a small percentage of customers would switch from a high-end portable document scanner

with ADF to a home-office MFP. Obviously for those customers small size and other functionalities than portability are of key importance.

58. The absence of significant competition concerns is further confirmed by the fact that the vast majority of the competitors and all the customers of portable document scanners who responded to the Commission's market investigation did not raise any concerns as regards the horizontal overlap of the parties' activities.
59. For these reasons, the proposed transaction will not lead to a significant impediment to effective competition on an overall market for portable document scanners, both in the EEA and in the referring Member States.

Portable document scanners with ADF

60. As regards portable document scanners with ADF, in 2012 the parties' combined market share exceeded [60-70]*% in the EEA and was even higher in Belgium, France, and Sweden, see table 3 below.

Table 3: Portable document scanners with ADF – 2012 –market shares based on sales volumes in units

	Canon	I.R.I.S.	Comb'd	A	B	C	D
EEA	[60-70]*%	[0-5]*%	[60-70]*0%	[0-5]%	[30-40]%	[0-5]%	[0-5]%
Austria	[30-40]*%	[0-5]*%	[30-40]*0%	[0-5]%	[60-70]%	[0-5]%	[0-5]%
Belgium	[60-70]*%	[10-20]*%	[70-80]*0%	[0-5]%	[10-20]%	[0-5]%	[0-5]%
France	[60-70]*%	[0-5]*%	[70-80]*0%	[0-5]%	[20-30]%	[0-5]%	[0-5]%
Ireland	[90-100]*%	[0-5]*%	[90-100]*0%	[0-5]%	[0-5]%	[0-5]%	[0-5]%
Italy	[60-70]*%	[0-5]*%	[70-80]*0%	[0-5]%	[20-30]%	[0-5]%	[0-5]%
Portugal	[20-30]*%	[0-5]*%	[30-40]*0%	[0-5]%	[0-5]%	[60-70]%	[0-5]%
Sweden	[80-90]*%	[0-5]*%	[80-90]*0%	[0-5]%	[10-20]%	[0-5]%	[0-5]%

61. Despite the merged entity's high combined market shares, the proposed transaction will not lead to serious competition concerns on the market for portable document scanners with ADF for the following reasons.
62. First, with the exception of Belgium, the increment in market share in the segment for portable document scanners with ADF is very small, ranging from [0-5]*% to [0-5]*%, which is in line with the finding that the bulk of I.R.I.S. sales fall into the category of portable document scanners without ADF.
63. Secondly, in the EEA, the combined entity would continue facing competition from four competitors, one of which is a well-established player holding a market share of [30-40] % in the EEA. In the event of a post-merger price increase by the merged entity, at least two of the four competitors would be able to increase sales of portable document scanners with ADF within three to four months. In Belgium, the combined entity would continue facing competition from two of these four EEA competitors which already had sales in Belgium in 2012, one of which indicated it would be able to increase its sales of portable document scanners with ADF in case of a price increase.
64. Moreover, the additional arguments that were validated for the overall market for portable document scanners also hold true for the market for portable document scanners with ADF. This market is still in flux and likely to grow. At the level of the EEA, this

segment grew from around 27 000 units in 2011 to around 37 500 units in 2012. In Belgium the sale of portable document scanners with ADF grew from about 300 units in 2011 to around 500 units in 2012. Furthermore, there was a market entry in 2012. As explained above, due to technical differences, the parties' models of portable document scanners with ADF are also not each other's' closest substitute. I.R.I.S. does not manufacture but only resells portable document scanners with ADF which it sources from an OEM. This OEM also markets the respective devices under its own brand and sells to other competitors. Finally, the market investigation indicated that portable document scanners with ADF face some competition by home-office MFPs.

65. For these reasons, the proposed transaction will also not lead to a significant impediment to effective competition on a possible narrower market for portable document scanners with ADF, both in in the EEA and in the referring Member States.

Portable document scanners without ADF

66. Canon is not active at all in the market for portable document scanners without ADF. The proposed transaction will therefore not lead to any change to I.R.I.S.' current position in this market.

Conclusion of horizontal assessment

67. In light of the foregoing, the Commission concludes that the proposed transaction will not significantly impede effective competition on the market for portable document scanners and its possible narrower markets or segments.

(b) Vertical and conglomerate assessment

68. The notifying party explains that the vertical and complementary relationships between the parties' activities concern the link between the document capture software developed and sold by I.R.I.S. and the office automation equipment used for scanning of Canon. As at least a basic version of such document capture software is needed to process scanned documents, producers of office automation equipment with scanning functionality embed or bundle simple capture software together with their hardware. In addition, some purchasers of such equipment also purchase additional, more sophisticated, capture software.
69. As regards vertical and conglomerate effects, the Commission assessed the competitive impact of the proposed transaction based on the following possible upstream markets: (i) an overall market for capture software, (ii) the three possible narrower product markets, i.e. ad hoc scanning-, batch scanning- and batch workflow processing software, and (iii) an upstream market for the licensing of OCR technology, and the following possible downstream markets for (i) flatbed scanners, (ii) workgroup scanners, (iii) departmental scanners, (iv) production scanners and (v) large-format MFPs.
70. The notifying party submits that (i) I.R.I.S. holds market shares below [10-20]*% in all the different markets for OCR licensing and capture software and the merged entity will therefore not have the ability to foreclose downstream customers of capture software from an essential input, and (ii) while Canon has significant market shares in some of the individual office automation equipment markets, other manufacturers together represent a much larger potential source of demand for capture software so that Canon would not be in a position to foreclose I.R.I.S.' competitors in capture software.

71. In its market investigation, the Commission tested both arguments.

1. Input foreclosure

72. In assessing the likelihood of an anticompetitive input foreclosure scenario, the Commission examines, first, whether the merged entity would have, post-merger, the ability to substantially foreclose access to inputs, second, whether it would have the incentive to do so, and third, whether a foreclosure strategy would have a significant detrimental effect on competition downstream.¹⁰
73. The notifying party explains that the merged entity will not enjoy sufficient market power as regards any kind of capture software and OCR licensing to foreclose its downstream hardware competitors.
74. The Commission assessed whether a change of the merged entity's business strategy, resulting for example in exclusive captive use of I.R.I.S.' capture software and OCR technology would enable Canon to foreclose its competitors. Such ability is unlikely, when there are enough alternative suppliers on the market.
75. In the absence of exhaustive third party market data, the Commission collected market data from seven competitors on the market for capture software on an EEA wide basis (ABBYY, IBM, ITESOF, Janich & Klass, Kodak, Kofax, and Nuance). However, not all companies that are active in the overall capture software market and its possible sub-markets - ad-hoc scanning software, batch scanning software and batch workflow processing software – could be questioned and their sales data collected on the EEA level. Nevertheless, already on the basis of the data submitted, in any of these possible markets, I.R.I.S. market shares would amount to significantly less than [10-20]*%. I.R.I.S. market shares would become smaller, if sales data of all relevant players could have been collected.
76. The same is true for the possible upstream OCR market. I.R.I.S. market share amounts to less than [10-20]*% on the basis of the data collected by the Commission at the EEA level. The market investigation confirmed that at least three players hold significantly stronger market positions than I.R.I.S. on this possible upstream market.
77. The Commission analysed in detail the concerns raised by some customers in particular as regards the switching to another supplier of OCR engines. Some OCR customer respondents brought forward that switching is costly, time consuming and altogether difficult as OCR engines may be customized to the specific software products in question. In this context the Commission investigated also, whether vertically-integrated companies might be in a specific and difficult situation of being obliged to purchase OCR licences for the capture software they develop for use in their office automation equipment from other vertically-integrated suppliers. The market investigation revealed that at least three major suppliers in the EEA, ABBYY, Nuance and A2iA are credible, strong developers and licensors of OCR in the market and are not active at the downstream hardware level. Hence the described difficulties in switching do not result from the absence of credible alternatives to I.R.I.S. and are therefore not merger specific.

¹⁰ Guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings (2008/C 265/07), paragraph 32.

78. For these reasons, a risk of input foreclosure can be excluded in the present case.

2. Customer foreclosure

79. In assessing the likelihood of an anticompetitive customer foreclosure scenario, the Commission examines, first, whether the merged entity would have the ability to foreclose access to downstream markets by reducing its purchases from its upstream rivals, second, whether it would have the incentive to reduce its purchases upstream and third, whether a foreclosure strategy would have a significant detrimental effect on consumer in the in the downstream market.¹¹

80. The notifying party acknowledges that on some of the downstream office automation equipment markets (namely (i) flatbed scanners, (ii) workgroup scanners, (iii) departmental scanners, (iv) production scanners, (v) large-format MFPs, and (vi) portable document scanners), its market shares are relatively high. However, when considering the sales of all types of scanning equipment that use capture software in the EEA in 2011, according to InfoSource data, the notifying party accounted only for around [10-20]*%. Moreover, as regards embedded capture software, much of the software which Canon embeds in its office automation scanning equipment is Canon's own software. This would limit the degree to which Canon is pre-merger a source of demand for the software products of I.R.I.S.' competitors.

81. The market investigation confirmed that even if post-merger Canon discontinued its purchases of capture software on the market, the merged entity's competitors in capture software would still benefit from a sufficiently large source of demand for their products. In fact, the vast majority of competitors of I.R.I.S. in capture software who replied to the Commission's request for information indicated that there would still be sufficient demand for their capture software products if Canon stopped purchasing capture software on the market.

82. For these reasons, a risk of customer foreclosure can be excluded in the present case.

3. Conclusion on vertical and conglomerate aspects

83. In light of the foregoing, the Commission concludes that the proposed transaction will not lead to a significant impediment to effective competition due to the vertical or conglomerate relationship between I.R.I.S. capture software and Canon's office automation equipment.

(5) CONCLUSION

84. For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation.

¹¹ Guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings (2008/C 265/07), paragraph 59.

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