

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: William E. Kovacic, Chairman
Pamela Jones Harbour
Jon Leibowitz
J. Thomas Rosch

_____)
In the Matter of)
)
) Docket No. 9327
Polypore International, Inc.,)
)
a corporation.)
_____)

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and of the Clayton Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission (the "Commission"), having reason to believe that respondent Polypore International, Inc. ("Daramic"), a Delaware corporation subject to the jurisdiction of the Commission having its principal place of business in North Carolina, entered into an agreement, in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, pursuant to which Daramic purchased 100 percent of the stock of Microporous Holding Corporation, the parent company of Microporous Products L.P. ("Microporous"), headquartered in Piney Flats, Tennessee, from Industrial Growth Partners II L.P. ("IGP") and other stockholders in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and through conduct and agreements Daramic monopolized the North American markets for deep-cycle, motive, and UPS battery separators and otherwise restrained trade significantly in the North American automotive separator market, and it appearing to the Commission that a proceeding in respect thereof wouldg a e12..8(i)*0 Tc20 Tc2mo a e12..8tt thn

separator products. In the United States, Daramic has manufacturing plants in Owensboro, Kentucky, and Corydon, Indiana. Daramic also has facilities in Selestat,

7. Battery separators are porous electronic insulators placed between positively and negatively charged lead plates in flooded lead-acid batteries to prevent electrical short circuits while allowing ionic current to flow through the separator.
8. Deep-cycle separators are made of either rubber or a blend of rubber and PE and are a necessary component that enables deep-cycle batteries to be frequently exhausted then recharged again. Deep-cycle separators are primarily used in golf cart and floor scrubber batteries.

17. North American battery makers have a strong preference for their nearest source of supply and do not import separators from abroad. Long supply chain logistics increase the chances that a battery factory could be shut down if separators are not on hand when needed. Consequently, even if there were an otherwise viable alternative source of supply, North American battery manufacturers would strongly prefer domestic sources for separators. Moreover, PE separator manufacturers from abroad, such as Asia, will not find it practical to compete in North America at either pre-merger or post-merger prices.

VI. COMPETITION & CONCENTRATION

18. Each of the relevant product markets is highly concentrated in North America.
19. Since the acquisition of Microporous by Daramic, there are just two battery separator companies that supply North America. Entek International LLC, the sole remaining

24. Daramic and Microporous sold separators in different segments of the UPS market.

VIII. ENTRY

32. Entry into each relevant product markets would not be timely, likely, or sufficient in its magnitude, scope, or character to deter or counteract the anticompetitive effects arising from this acquisition.
33. Testing and qualification present a significant barrier to entry. The testing required by U.S. battery manufacturers is comprehensive and lengthy. Because the individual battery makers often have their own design and testing requirements, there are no one-size-fits-all separators that can be used from one customer to the next without appropriate testing. This means that even an incumbent in the battery separator market would have to submit its product to testing, lasting from a few months to more than two years, before it could be qualified by an additional battery manufacturer.
34. Reputation presents a significant barrier to entry. The original equipment manufacturers that buy batteries from the customers of Daramic and Microporous demand warranties from the battery makers. Battery manufacturers are reluctant to seek supply from an unknown separator manufacturer because the quality of the battery is largely dependent

45. Daramic has the market/monopoly power to exclude competition and/or increase prices and reduce innovation and has illegally and wrongfully maintained its market power.
46. Daramic engaged in the conduct described above to preclude or deter Microporous from expanding or otherwise achieving sufficient scale, and thereby destroy competition and increase its market dominance.

XI. UNFAIR METHOD OF COMPETITION

47. Daramic entered into a joint marketing agreement in 2001 with Hollingsworth & Vose, a firm that manufactures absorbed-glass-mat battery separators, in order to prevent them from entering the PE separator market. This agreement is, at a minimum, an overbroad agreement in restraint of trade, and may be an illegal market allocation agreement that is not justified by any legitimate business purpose.

XII. VIOLATIONS

COUNT I– ILLEGAL ACQUISITION

48. The allegations contained in Paragraphs 1-47 are repeated and realleged as though fully set forth here.
49. The effect of the Acquisition may be substantially to lessen competition or tend to create a monopoly in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45.

COUNT II– UNFAIR METHOD OF COMPETITION

50. The allegations contained in Paragraphs 1-47 are repeated and realleged as though fully set forth here.
51. Daramic has, through the acquisition of Microporous, and the other conduct alleged herein, engaged in unfair methods of competition in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45.

COUNT III – MONOPOLIZATION

52. The allegations contained in Paragraphs 1-47 are repeated and realleged as though fully set forth here.

53. Daramic has, through the acquisition of Microporous, and the other conduct alleged herein, engaged in unfair methods of competition in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45.

XIII. NOTICE

Proceedings on the charges asserted against you in this complaint will be held before an Administrative Law Judge (ALJ) of the Federal Trade Commission, under Part 3 of the Commission's Rules of Practice, 16 C.F.R. § 3.1, *et seq.* A copy of Part 3 of the Rules is enclosed with this complaint.

You may file an answer to this complaint. Any such answer must be filed within 20 days after service of the complaint on you. If you contest the complaint's allegations of fact, your answer must concisely state the facts constituting each ground of defense, and must specifically admit, deny, explain, or disclaim knowledge of each fact alleged in the complaint. You will be deemed to have admitted any allegations of the complaint that you do not so answer.

If you elect not to contest the allegations of fact set forth in the complaint, your answer shall state that you admit all of the material allegations to be true. Such an answer will constitute a waiver of hearings as to the facts alleged in the complaint and, together with the complaint, will provide a record basis on which the ALJ will file an initial decision containing appropriate

