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Answer of Ling-Temco-Vought, Inc. and Jones & Laughlin Industries, Inc.

ANSWER OF LING-TEMCO-VOUGHT, INC. AND JONES & LAUGHLIN INDUSTRIES, INC.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, Plaintiff,	:	
v.	:	Civil Action No. 69-438
LING-TEMCO-VOUGHT, INC., JONES & LAUGHLIN STEEL CORPORATION and JONES & LAUGHLIN INDUSTRIES, INC., Defendants.	:	(Filed May 5, 1969)

ANSWER OF LING-TEMCO-VOUGHT, INC. AND JONES & LAUGHLIN INDUSTRIES, INC.

Defendants Ling-Temco-Vought, Inc. and Jones & Laughlin Industries, Inc., by their attorneys, answer the Complaint filed in this action and plead as follows:

FIRST DEFENSE

The Complaint fails to state any claim upon which relief can be granted in that the averments contained therein do not make out a violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

SECOND DEFENSE

The acquisition of the stock of Jones & Laughlin Steel Corporation by Ling-Temco-Vought, Inc. (or Jones & Laughlin Industries, Inc.) was solely for investment and not for using the same by voting or otherwise to bring about, or in attempting to bring about, a substantial lessening of competition. The intent of Ling-Temco-Vought, Inc. (and Jones & Laughlin Industries, Inc.) has been and is to maintain Jones & Laughlin Steel Corporation as a separate corporation engaged in the steel industry with its own management and headquarters in Pittsburg, Pennsylvania.

THIRD DEFENSE

No relief can be granted upon the Complaint because the acquisition of the stock of Jones & Laughlin Steel Corporation by Ling-Temco-Vought, Inc. (or Jones & Laughlin Industries, Inc.) is not violative of Section 7 of the Clayton Act, or any other antitrust law, under previous and present judicial doctrine upon which defendants relied—and which was acknowledged at all material times by the United States—and because a deter-

mination to the contrary and its application to such acquisition, in light of the relevant facts, would represent such an abrupt and fundamental shift in doctrine as to amount to an improperly retrospective application of Section 7 of the Clayton Act or any other antitrust law.

FOURTH DEFENSE

In answer to each numbered paragraph of the Complaint:

1. Admit that the Complaint purports to be instituted under the antitrust laws of the United States cited in said Pragraph.

2. For the purposes of this action, do not deny that they are subject to suit within the Western District of Pennsylvania.

3. - 5., inclusive. Admit Paragraphs 3. - 5., inclusive, except as to the definitions, which require no answer.

6. - 7., inclusive. Admit Paragraphs 6. and 7. insofar as the references to "LTV" therein are limited to Ling-Temco-Vought, Inc.

8. Admit Paragraph 8 except that they allege that the exchange offer was made to all holders of J & L Steel common stock other than Ling-Temco-Vought, Inc. and J & L Industries; that the acceptance dates for the exchange offer vary depending upon when the tenders are made; that the exchange offer is presently scheduled to expire May 5, 1969, unless further extended; and that the exchange offer is subject to all terms and conditions of the Preliminary Injunction issued in this action on April 14, 1969.

9. Admit that the business activities of the various operating subsidiaries of Ling-Temco-Vought, Inc., when considered together, are highly diversified and include those described in Paragraph 9. Allege that neither Ling-Temco-Vought, Inc. nor any of its subsidiaries is engaged in steel production or steel manufacturing of any kind. Deny that Ling-Temco-Vought, Inc. or any of its subsidiaries is engaged in the car rental business. Allege that certain reports based upon hearsay indicate some of the other rankings described in Paragraph 9, but have no knowledge or information sufficient to form a belief as to the truth thereof, and further allege that such rankings, in any event, are meaningless in the absence of averments concerning such facts as the relative sales and/or assets of the various business enterprises engaged in the described activities. Deny that the averments of Paragraph 9 are material or relevant to any issue in this action.

10. Admit that since 1961, Ling-Temco-Vought, Inc. and/or its subsidiaries have acquired corporations in the approximate number averred but allege that the great majority of such acquired corporations were, in the Complaint's term, "smaller firms"—many of which firms had individual assets of less than $3 million—and that some of such corporations

were disposed of in whole or in part. Further admit that in 1967, the combined revenues of Ling-Temco-Vought, Inc. and its subsidiaries totaled approximately $1.9 billion. Otherwise have no knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 10. Deny that the averments of Paragraph 10 are material or relevant to any issue in this action.

11. Admit the averments of Paragraph 11, with respect to Ling-Temco-Vought, Inc., except as to National Car Rental System, Inc. Allege that Ling-Temco-Vought, Inc. presently owns no stock or other interest in National Car Rental System, Inc. Otherwise allege that each of the described subsidiaries of Ling-Temco-Vought, Inc. is listed on a national stock exchange and issues public reports to its stockholders and various governmental agencies.

12. Admit that Ling-Temco-Vought, Inc. provides certain commonly applicable management and other services to its subsidiaries; that on occasion Ling-Temco-Vought, Inc. provides its subsidiaries with financial aid, usually of an indirect nature; that Ling-Temco-Vought, Inc. encourages its subsidiaries to diversify their business activities; and that acquisitions by such subsidiaries are subject to review and recommendation by Ling-Temco-Vought, Inc., among other reasons, with reference to compliance with the antitrust laws of the United States. Otherwise deny the allegations of Paragraph 12 and allege that such subsidiaries conduct their business operations autonomously.

13. Admit the first sentence and that hearsay reports coincide with the averments of the second sentence. On information and belief allege that J&L Steel's share of national steel production is significantly below 10% and further allege that there are fully integrated steel companies which are much larger than Jones & Laughlin Steel Corporation. Otherwise have no information sufficient to form a belief as to the truth of the averments of Paragraph 13.

14. Admit that steel is an important and widely used product in the United States. Admit that hearsay reports approximate the averments of the second sentence, but, on information and belief, allege that such figures do not represent market shares. Further allege that hearsay reports indicate that the two largest steel producers account for approximately 40% of United States domestic steel production, the four largest for approximately 55%, and the next four steel producers for approximately 20%, and, on information and belief, that such figures likewise do not represent market shares. Admit the third sentence and allege that entrance barriers into steel production are not merely high, but effectively prohibit any entry through internal expansion into the integrated steel industry. Further allege that the only two new entrants into integrated steel production since World War II received substantial assistance from agencies

of the United States Government. Have no knowledge sufficient to form a belief as to the truth of the fourth sentence. Further allege that Jones & Laughlin Steel Corporation is a small producer in the full context of the structure of the steel industry, that the averred static condition of the steel industry, over an uninterrupted period of two decades, indicates that the acquisition of Jones & Laughlin Steel Corporation by Ling-Temco-Vought, Inc. (or Jones & Laughlin Industries, Inc.), a newcomer in the industry, promises beneficial competitive effects, rather than a lessening of competition or tendency to create a monopoly in contravention of Section 7 of the Clayton Act.

15. Admit the third sentence with respect to subsidiaries of Ling-Temco-Vought, Inc. Admit the fourth sentence. Otherwise deny the averments of Paragraph 15 for lack of knowledge or information sufficient to form a belief as to the truth thereof and allege that such other averments are immaterial and irrelevant to any issue in this action.

16. - 18., inclusive. Have no knowledge or information sufficient to form a belief as to the truth thereof and allege that the averments thereof are immaterial and irrelevant to any issue in this action.

19. - 21., inclusive. Admit that officials of Ling-Temco-Vought, Inc., and/or its subsidiaries, other than J&L Steel, have considered growth by internal expansion and by acquisition in the business areas described in Paragraph 19 and in many of the fields described in Paragraphs 20 and 21. Allege that compliance with the antitrust laws of the United States was a precondition to the consummation of any acquisition by Ling-Temco-Vought, Inc., and/or its subsidiaries. Further allege that prior to the acquisition of Jones & Laughlin Steel Corporation, a legal opinion had been received, advising that such acquisition would not violate the antitrust laws of the United States. Further allege that the averments of Paragraphs 19 - 21, inclusive, are immaterial and irrelevant to any issue in this action.

22. Admit that prior to acquiring Jones & Laughlin Steel Corporation, Ling-Temco-Vought, Inc., and/or its subsidiaries, considered the acquisition of other steel companies. Otherwise deny the averments of Paragraph 22. Allege that the averments of this Paragraph are immaterial and irrelevant to any issue in this action.

23. - 24., inclusive. Have no knowledge or information sufficient to form a belief as to the truth of the averments of Paragraphs 23 and 24. Allege that the averments of Paragraphs 23 - 24, inclusive, are immaterial and irrelevant to any issue in this action.

25. Deny the averments of Paragraph 25 and allege that Ling-Temco-Vought, Inc., and/or any of its subsidiaries, was not a "potential competitor" of J&L Steel as that term has ever been judicially or legislatively defined within the meaning of the antitrust laws.

26. Have no knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 26.

27. Deny that Ling-Temco-Vought, Inc., and/or any of its subsidiaries, was a "potential competitor" in any of the industries described in Paragraph 27 in any sense material or relevant to the issues in this action, or as the term "potential competitor" has ever been judicially or legislatively defined within the meaning of the antitrust laws. Otherwise have no knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 27.

28. The averments of Paragraph 28 state the plaintiff's definitions or legal conclusions, which require no answer. In any event, allege that they lack knowledge or information as to the truth or basis of the averred conclusions.

29. Lack sufficient information or knowledge to form a belief as to the truth of Paragraph 29.

30. Deny the averments of Paragraph 30 and ellege that Ling-Temco-Vought, Inc. and its subsidiaries do not engage and have not engaged in the described practices and that such practices are contrary to their recorded and effective policies.

31. On information and belief, admit the first sentence. Further admit that subsidiaries of Ling-Temco-Vought, Inc. operate in a variety of product markets and that Ling-Temco-Vought, Inc. and its subsidiaries make substantial purchases of a variety of goods and services from many different suppliers. Deny the last sentence of Paragraph 31. Deny the remaining averments of Paragraph 31 for lack of knowledge and information sufficient to form a belief as to the truth thereof and allege that said averments are not material or relevant to any issue in this action.

32. Admit the averments of Paragraph 32, subject to the above-stated answers to Paragraphs 6 through 8 of the Complaint and subject to the ownership of the J & L Steel common stock, acquired by Ling-Temco-Vought, Inc. and/or J & L Industries, by the trustees of a voting trust.

33. - 34., inclusive. Deny the averments of Paragraphs 33 and 34 and allege that the acquisition of Jones & Laughlin Steel Corporation by Ling-Temco-Vought, Inc., and/or its subsidiaries, will not lessen competition in any line of commerce within the meaning of the antitrust laws but will increase competition.

35. Deny each and every averment of the Complaint not heretofore specifically admitted, qualified, controverted or denied.

WHEREFORE, having fully answered the Complaint filed against them, defendants Ling-Temco-Vought, Inc. and Jones & Laughlin Industries, Inc., pray that the said Complaint be dismissed with prejudice, that the Preliminary Injunction entered on consent herein be dissolved, and that all costs of this action be taxed against the plaintiff.