Electronic News
ONE OF THE FAIRCHILD BUSINESS NEWSPAPERS
VOL. 19, NO. 964 NEW YORK, N.Y., MONDAY, FEBRUARY 25, 1974 FIFTY CENTS

IBM Charges Espionage In Answer to Memorex

By JACK FRASER and RON ISCOFF

LOS ANGELES - IBM last week answered Memorex' $3 billion antitrust suit with charges that Memorex engaged in "knowing and deliberate ... unlawful conduct ..." in obtaining trade secrets and encouraged "industrial espionage."

IBM. which is requesting jury trial for the suit also blamed nationwide recession and inflation fortius 1970-71 price moves, and denied they were designed to stifle competition.

While IBM filed no counterclaim motions IBM lawyers said they retain the right to mount a countersuit to the Memorex suit at a later time.

The document, filed in Federal District Court in San Francisco late last Friday says that IBM undertook its pricing and marketing changes in 1970-71 because of a need to increase profits and were not designed to inhibit independent peripherals and leasing firms.

According to the IBM document, the company "experienced the effects of a nation-wide recession combined with inflation" in the period 1970-71, which caused "a substantial number of IBM customers to return IBM equipment.

"IBM's sales force in 1970 achieved only 50 per cent of its selling objectives." the document says. In 1971 the document says "IBM experienced the worst sales record in its history for its EDP equipment."

While IBM was facing massive competition from independents the document says. "Memorex engaged in an extensive and continuing course of conduct calculated to obtain IBM's trade secrets and confidential information ..."

The "unlawful activity" IBM alleges included, according to the

See IBM, Page 19

Electronic News
February 25, 1974
Pages 1 and 19

This sheet is OCR'ed from the original

The second sheet is the scanned original with contrast enhanced and noise removed

IBM Charges Espionage Industrial in Answer to Memorex

Continued from Page One

document.

• "The knowing and deliberate use of confidential IBM personnel information in the conscious recruitment of IBM employes possessing ... trade secrets ..."

• "The knowing and deliberate solicitation, purchase and acceptance of IBM trade secrets and confidential information from. industrial espionage rings ... .

• The deliberate use of unlawfully obtained ... trade secrets in the design, production and marketing of Memorex EDP products and services.

The IBM document claims Memorex could 'not have produced and marketed some of its products in the time they were produced without the alleged misappropriation of trade secrets IBM ,did not list the Memorex products it meant in the charge.

IBM asked that "Memorex take nothing from IBM" and that Memorex pay costs of the suit and that "the court grant such other and further relief as it deem proper and just."

Memorex brought suit on Dec-14, 1973 charging IBM, IBM World. Trade and other IBM subsidiaries with monopolizing the IBM compatible computer peripherals market (EN; Dec 17).

Separate suits were brought by Memorex Corp, Memorex' leasing subsidiary, ILC Peripherals and a number Memorex foreign subsidiaries.

Damages sought before trebling as required under punitive provisions of the Clayton Act are $750 million for Memorex, $100 million for ILC Peripherals, and $200 million for Memorex' foreign subsidiaries.

Proposed motions for partial summary judgment in Memorex' behalf were on file last week As proposed by Memorex' attorneys, the motion reads "during the period since 1969 defendant IBM has in accordance with the aforesaid findings of fact ... violated Section 2 of the Sherman Act ... by .monopolizing and attempting to monopolize the development, production, distribution, sale, leasing and servicing of computer peripheral products for use with IBM CPU's and of each of the various peripheral products including, but limited to disk drives, disk drive controllers, disk packs and communication controllers.

No date has been set for these motions.

IBM's counsel by last week had filed six notices for taking depositions from over 300 firms.

The notices ask for subpoenas to produce documents from virtually all computer and peripherals makers, software houses and other related to the industry.

Depositions have already begun. They are being taken at the U.S. court house in Foley Square, New York City in most cases; however, they will be taken in the community where the business is located, IBM counsel reported.

IBM is calling for documents showing each EDP product a company offers or has offered for sale or lease from 1950 through 1972. The documents from the companies' depositions are also to show gross revenue derived from the companies' EDP business.

Electronic News
ONE OF THE FAIRCHILD BUSINESS NEWSPAPERS
VOL. 19, NO. 964 NEW YORK, N.Y., MONDAY, FEBRUARY 25, 1974 FIFTY CENTS

IBM Charges Espionage In Answer to Memorex

By JACK FRASER and RON ISCOFF

LOS ANGELES — IBM last week answered Memorex $3-billion antitrust suit with charges that Memorex engaged in "knowing and deliberate . . . unlawful conduct . . . in obtaining trade secrets and encouraged "industrial espionage."

IBM, which is requesting a jury trial for the suit, also blamed nationwide recession and inflation for its 1970-71 price moves, and denied they were designed to stifle competition.

While IBM filed no counterclaim motions, IBM lawyers said they retain the right to mount a countersuit to the Memorex suit at a later time.

The document, filed in Federal District Court in San Francisco late last Friday, says that IBM undertook its pricing and marketing changes in 1970-71 because of a need to increase profits and were not designed to inhibit independent peripherals and leasing firms.

According to the IBM document, the company "experienced the effects of a nation-wide recession combined with inflation" in the period 1970-71, which caused "a substantial number of IBM customers to return IBM equipment."

"IBM's sales force in 1970 achieved only 50 per cent of its selling objectives," the document says. In 1971, the document says "IBM experienced the worst sales record in its history for its EDP equipment."

While IBM was facing massive competition from independents, the document says, "Memorex engaged in an extensive and continuing course of conduct calculated to obtain IBM's trade secrets and confidential information . . ."

The "unlawful activity" IBM alleges included, according to the

See IBM, Page 19

Electronic News
February 25, 1974
Pages 1 and 19
Contrast electronically enhanced and noise removed

IBM Charges Espionage Industrial in Answer to Memorex

Continued from Page One

document:

• "The knowing and deliberate use of confidential IBM personnel information in the conscious recruitment of IBM employes possessing . . . trade secrets . . ."

• "The knowing and deliberate solicitation, purchase and acceptance of IBM trade secrets and confidential information from industrial espionage rings . . ."

• "The deliberate use of unlawfully obtained . . . trade secrets in the design, production and marketing of Memorex' EDP products and services."

The IBM document claims Memorex could not have produced and marketed some of its products in the time they were produced without the alleged misappropriation of trade secrets. IBM did not list the Memorex products it meant in the charge.

IBM asked that "Memorex take nothing from IBM . . ." and that Memorex pay costs of the suit and that "the court grant such other and further relief as it deem proper and just."

Memorex brought suit on Dec. 14, 1973, charging IBM, IBM World Trade and other IBM subsidiaries with monopolizing the IBM-compatible computer peripherals market (EN, Dec. 17).

Separate suits were brought by Memorex Corp., Memorex leasing subsidiary, ILC Peripherals and a number of Memorex' foreign subsidiaries.

Damages sought, before trebling as required under punitive provisions of the Clayton Act are $750 million for Memorex, $100 million for ILC Peripherals, and $200 million for Memorex' foreign subsidiaries.

Proposed motions for partial summary judgment in Memorex' behalf were on file last week.

As proposed by Memorex attorneys, the motion reads "during the period since 1969, defendant IBM has, in accordance with the aforesaid findings of fact violated Section 2 of the Sherman Act . . . by monopolizing and attempting to monopolize the development, production, distribution, sale, leasing and servicing of computer peripheral products for use with IBM CPU's and of each of the various peripheral products including, but limited to, disk drives, disk drive controllers, disk packs and communication controllers."

No date has been set for these motions.

IBM's counsel by last week had filed six notices for taking depositions from over 300 firms.

The notices ask for subpoenas to produce documents from virtually all computer and peripherals makers, software houses and others related to the industry.

Depositions have already begun. They are being taken at the U.S. court house in Foley Square, New York City, in most cases, however, they will be taken in the community where the business is located, IBM counsel reported.

IBM is calling for documents showing each EDP product a company offers or has offered for sale or lease from 1950 through 1972.

The documents from the companies' depositions are also to show gross revenue derived from the companies' EDP business.