

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

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

In the Matter of)	
)	
Thoratec Corporation,)	
a corporation)	
)	Docket No. 9339
and)	
)	
HeartWare International, Inc.,)	
a corporation.)	

ORDER DISMISSING COMPLAINT

On July 28, 2009, the Federal Trade Commission issued the Administrative Complaint in this matter, having reason to believe that Respondents Thoratec Corporation (“Thoratec”) and HeartWare International, Inc. (“HeartWare”) had entered into a merger agreement in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and which, if consummated, would violate Section 5 of the FTC Act, and Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18. Complaint Counsel and the Respondents have now filed a Joint Motion to Dismiss Complaint, which states that the Respondents have decided not to proceed with the proposed merger and that Thoratec has withdrawn its Hart-Scott-Rodino Notification and Report Form filed for the proposed transaction.¹

The Commission has determined to dismiss the Administrative Complaint without prejudice as the most important elements of the relief set out in the Notice of Contemplated Relief in the Administrative Complaint have been accomplished without the need for further administrative litigation.² In particular, the Respondents have announced that they have decided

¹ See Joint Motion to Dismiss Complaint (Aug. 5, 2009), *available at* <http://www.ftc.gov/os/adjpro/d9339/090805jointmodismisscmplt.pdf>.

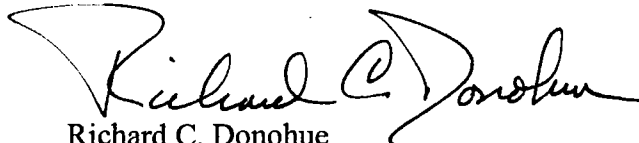
² Cf. Order Dismissing Complaint, In the Matter of CSL Limited and Cerberus-Plasma Holdings, LLC (June 22, 2009), *available at* <http://www.ftc.gov/os/adjpro/d9337/090622commorderdismisscomplaint.pdf>; Order Dismissing Complaint, In the Matter of Inova Health System Foundation and Prince William Health System,

not to proceed with the proposed acquisition, and Thoratec has withdrawn its Hart-Scott-Rodino Notification and Report Form filed for the proposed transaction. As a consequence, the Respondents would not be able to effect the proposed transaction without filing new Hart-Scott-Rodino Notification and Report Forms.

For the foregoing reasons, the Commission has determined that the public interest warrants dismissal of the Administrative Complaint in this matter. The Commission has determined to do so without prejudice, however, because it is not reaching a decision on the merits. Accordingly,

IT IS ORDERED THAT the Administrative Complaint in this matter be, and it hereby is, dismissed without prejudice.

By the Commission.



Richard C. Donohue
Acting Secretary

ISSUED: August 11, 2009

Inc., Docket No. 9326 (June 17, 2008), *available at* <http://www.ftc.gov/os/adjpro/d9326/080617orderdismisscpt.pdf>; Order Dismissing Complaint, In the Matter of Red Sky Holdings LP and Newpark Resources, Inc., Docket No. 9333 (Dec. 10, 2008), *available at* <http://www.ftc.gov/os/adjpro/d9333/081210redskycmpt.pdf>; Order Dismissing Complaint, In the Matter of Equitable Resources, Inc., Dominion Resources, Inc., Consolidated Natural Gas Company, and The Peoples Natural Gas Company, Docket No. 9322 (Jan. 31, 2008), *available at* <http://www.ftc.gov/os/adjpro/d9322/080204complaint.pdf>.