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KINETIC CONCEPTS SUES HILLENBRAND INDUSTRIES

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Pg. 3, Col. 1

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Kinetic Concepts Inc files \$200 million antitrust lawsuit against Hillenbrand Industries, contending that Hillenbrand tried to capture an unfairly large share of hospital-bed business; suit charges that Hill-Rom Co, unit of Hillenbrand, required that hospitals and purchasing groups buy all their hospital beds from Hill-Rom

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Article 12

KCI sues old rival for new damages
 Chuck McCollough

08/18/1995
 San Antonio Express-News
 (Copyright 1995)

Express-News Business Writer

Kinetic Concepts Inc. on Thursday filed a federal antitrust lawsuit against a competitor in a case that could bring \$600 million to the San Antonio medical equipment manufacturer.

KCI, which makes specialized therapeutic hospital beds, successfully sued the same competitor, Hillenbrand Industries Inc. and one of its subsidiaries, last year for nearly \$90 million.

Hillenbrand called the new suit "baseless."

The latest filing alleges that Batesville, Ind.-based Hillenbrand and two of its subsidiaries caused KCI damages in excess of \$200 million.

Under federal antitrust laws, damages could be tripled to more than \$600 million, said Bianca Rhodes, KCI senior vice president.

The suit, filed in San Antonio, claims one subsidiary, **Hill-Rom Co. Inc.**, used its "monopoly power in the hospital bed business" to enable another subsidiary, Support Systems International, or SSI, an unfair advantage in the specialty hospital bed market.

KCI and SSI were both in the specialty hospital-bed business before SSI merged with **Hill-Rom** last year.

The suit filed is unrelated to KCI's successful patent infringement suit against SSI settled in September 1994 for \$84.75 million, Rhodes said.

Hillenbrand President and Chief Executive August Hillenbrand said: "From July 1993 to June 1995, the antitrust division of the U.S. Justice Department thoroughly examined Hillenbrand Industries and our **Hill-Rom** subsidiary and found absolutely no antitrust business practice or behavior."

KCI's Rhodes said: "The new lawsuit seeks to level the playing field in our business and create a competitive market that will ultimately benefit our customer the hospitals which use our products," Rhodes said.

The lawsuit outlines a number of actions that KCI said shows **Hill-Rom** and SSI violated antitrust laws.

The allegations include:

That **Hill-Rom** used its 90 percent market share as leverage to require hospitals and purchasing groups to agree to exclusively use SSI specialty beds in order to receive substantial discounts.

That **Hill-Rom** used predatory pricing practices against Medical Retro Design, a former KCI subsidiary, and that SSI did the same against KCI.

KCI, which is traded on the Nasdaq National Market, closed Thursday at \$9, down 12 cents.

Hillenbrand, which is traded on the New York Stock Exchange, closed Thursday at \$29.37, down 12 cents.



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HILLENBRAND SAYS ANTITRUST SUIT CLAIMS ARE BASELESS

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08/17/1995
PR Newswire
(Copyright (c) 1995, PR Newswire)

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BATESVILLE, Ind., Aug. 17 /PRNewswire/ -- Hillenbrand Industries Inc. (NYSE: HB) today said the charges made in an antitrust suit filed August 16 by Kinetic Concepts Inc., a Texas manufacturer of specialized therapy rental beds, are baseless.



"From July 1993 to June 1995, the antitrust division of the U.S. Department of Justice thoroughly examined Hillenbrand Industries and our Hill-Rom subsidiary and found absolutely no antitrust business practices or behavior," said W August Hillenbrand, president and chief executive officer.

"The conclusion of the two-year federal investigation with no action taken by the government confirmed what we have always said: that we conduct business with the highest integrity and in a pro-competitive manner. We will defend our reputation to the fullest extent possible," Hillenbrand said.

Hillenbrand Industries Inc., Batesville, Ind., is the parent holding company for five wholly owned subsidiaries, including Hill-Rom Company Inc., also of Batesville, Ind. Hill-Rom is the leading manufacturer of patient care products, and the leading provider of specialized rental therapy products designed to assist in managing the complications of patient immobility.

/CONTACT: (Media) Mark E. Craft, Vice President, Public Affairs, 812-934-8197, or (Investors) Mark R. Lanning, Vice President, Treasurer, 812-934-7256, both of Hillenbrand/ 15:53 EDT

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DOW JONES NEWSWIRES™

Kinetic Concepts, Hillenbrand -2-: Claims \$200M Damages >KNCI

08/17/1995

Dow Jones News Service

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DOWJONES

SAN ANTONIO, Texas -DJ- Kinetic Concepts Inc. (KNCI) filed a civil antitrust lawsuit against Hillenbrand Industries Inc. (HB), its Hill-Rom Co. unit and its Support Systems International unit, which was merged into Hill-Rom in 1994.

In a press release, Kinetic Concepts said its lawsuit claims that Hill-Rom's alleged antitrust activities caused damages in excess of \$200 million.

A spokesman for Hillenbrand said the company has not received a copy of the complaint and has no comment at this time. He said that as a matter of company policy, Hillenbrand does not comment on litigation.

Kinetic Concepts said its lawsuit, filed in the federal district court for the western district of Texas, alleges violations of the federal Sherman and Clayton antitrust acts as well as the Texas Business and Commerce Code.

The lawsuit alleges that Hill-Rom used its monopoly in the hospital bed business to enable Support Systems to gain an unfair advantage in the specialty hospital bed business, where it competes with Kinetic Concepts.

The lawsuit alleges that Hill-Rom and Support Systems illegally "bundled" Hill-Rom hospital beds and Support Systems specialty beds, requiring hospitals and purchasing groups to agree to exclusively use Support Systems specialty beds in order to receive substantial discounts on Hill-Rom hospital beds and headwall units. Hill-Rom has a more than 90% market share in hospital beds, Kinetic Concepts said.

(MORE) DOW JONES NEWS 08-17-95

9:46 AM

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BUSINESS
CORPORATE SNAPSHOT
CORPORATE SNAPSHOT; HILLENBRAND INDUSTRIES INC.
HAROLD SWISHER

06/04/1995
 The Courier-Journal Louisville, KY
 METRO
 04E
 (Copyright 1995)

Nature of business: A holding company for five diversified, wholly owned and autonomously managed operating companies in the funeral-service, health-care and high-security lock markets.

Corporate headquarters: 700 Ind. 46 East, Batesville 47006-8835.

Employees: 10,000 in its operations in North America and Europe.

Revenue: \$1.58 billion in fiscal 1994 (ended Dec. 3); \$396.28 million in first quarter (ended March 4).

Profits: \$89.46 million in fiscal 1994 (after an after-tax charge of \$52.5 million for settlement of a patent-infringement suit); \$27.51 million in first quarter.

STRENGTHS First quarter revenue of \$396.28 million was up 5 percent from the year-ago quarter, with growth reported in all segments. The company is expanding, having completed the acquisition of L. & C. Arnold AG, a German manufacturer of hospital and nursing-home beds, in February 1994, and the acquisitions of Industrias Arga, S.A. de C.V., a Mexican casket manufacturer and distributor, and Lincoln Casket Co., a Detroit casket distributor, in December 1993. Company increased the 1995 quarterly dividend rate to 15 cents a share from 14 1/2 cents. **WEAKNESSES** Hillenbrand was notified in 1993 that it is a part of the Department of Justice Antitrust Division's continuing investigation into the hospital-bed industry. The company is cooperating with the investigation, saying it believes it is not in violation of any antitrust law or statute. Hillenbrand has voluntarily entered into remediation agreements with environmental authorities regarding alleged violations of certain permit conditions. The company has also been notified it is a potentially responsible party in certain offsite disposal facilities. The company believes the cost of all plans of abatement and waste-site cleanups won't exceed \$10 million. The company settled a patent-infringement suit brought by Kinetic Concepts Inc. last September, subsequent to trial, for a cash payment of \$84.8 million reflected in 1994 third-quarter results as an unusual charge to operations (\$52.5 million, or 74 cents a share, after tax). **REGULAR BOARD MEETINGS** Met four times during fiscal 1994.

TOP OFFICERS, COMPENSATION (James G. Thorne has served as an executive officer of the company since April 11, 1994.)

W August Hillenbrand, president and chief executive officer -- \$638,367 in salary; \$77,340 in other annual compensation; \$128,727 in all other compensation; and 4,516 shares of stock under the long-term incentive plan.

Lonnie M. Smith, senior executive vice president -- \$498,827 in salary; \$39,841 in all other compensation; and 3,529 shares of stock under the long-term incentive plan.

Tom E. Brewer, senior vice president, chief financial officer and treasurer -- \$286,827 in salary; \$36,846 in all other compensation; and 1,015 shares of stock under the long-term incentive plan.

Mark R. Lindenmeyer, vice president, general counsel and secretary -- \$173,615 in salary; \$4,975 in all other compensation; and 615 shares of stock under the long-term incentive plan.

James G. Thorne, vice president of human resources -- \$148,173 in salary; \$1,848 in all other compensation; and 533 shares of stock under the long-term incentive plan.

STOCK Symbol, HB; traded on the New York Stock Exchange. Friday's closing price: \$28.75. 52-week price range: \$26.63-\$36.75. Dividend yield: 2 percent. Earnings per share: \$1.26 in fiscal 1994 (after an after-tax charge of 74 cents per share for settlement of a patent-infringement suit); 39 cents in 1995's first quarter.

FIVE OPERATING COMPANIES Batesville Casket Co. Inc.: Manufacturer of metal and hardwood burial caskets, cremation urns and caskets, and related support services. The Forethought Group Inc.: Provider of inflation-protected, life-insurance- based funeral planning. Hill-Rom Co. Inc.: Manufacturer of patient-care products, provider of specialized rental therapy products for acute and long-term care health-care facilities and home-care patients. Block Medical Inc.: Manufacturer of portable disposable and ambulatory electronic infusion pumps for home-care patients. Medeco Security Locks Inc.: Manufacturer of high-security mechanical locks and lock cylinders and high-security electronic-access controls and vending- lock systems.

ANALYST'S COMMENTS Pamela Singleton of Merrill Lynch & Co., New York, has lowered her "intermediate term investment recommendation on Hillenbrand Industries from an Above Average to a Neutral" because of the uncertainty over when falling order rates for acute-care hospitals' capital equipment will stabilize. Singleton does not expect the shares to outperform the market over the next few months. However, she remains "confident that the company's efforts to develop new products for acute care providers; expand into the growing extended care and home care markets, and focus international operations on low cost, profitable growth . . . will result in a resumption in profit gains in 1996." She is therefore continuing to carry a Buy recommendation for the long term. Singleton is forecasting negative earnings comparison for the second quarter because of "margin pressure in health care with a larger loss from Germany operations, and continued weakness in the Hill-Rom portion of the business." She is therefore lowering her second-quarter estimate and expects the company to resume positive earnings comparisons in the August quarter. She is reducing the fiscal 1995 earnings-per-share estimate from \$2 to \$1.90, but maintains her preliminary estimate for fiscal 1996 at \$2.30 per share. **BOARD OF DIRECTORS, NUMBER OF SHARES OWNED** (Share totals include shares owned by trusts, charitable foundations, family partnerships, limited partnerships and immediate family members.)

Lawrence R. Burtschy, 58, president of L.R. Burtschy & Co. (6,021,296). Daniel A. Hillenbrand, 71, chairman of company (2,001,472). Ray J. Hillenbrand, 60, personal investments (2,581,415). John C. Hancock, 65, consultant (13,000). George M. Hillenbrand II, 55, personal investments (6,033,664). John A. Hillenbrand II, 63, personal investments (4,235,718). Lonnie M. Smith, 50, senior executive vice president of company (131,173). Peter F. Coffaro, 66, chairman of Pabco Fluid Power Co., Ohio Valley Flooring and Anchor Flange Co. (48,936). Edward S. Davis, 63, partner of Hughes Hubbard & Reed, Attorneys (4,000). Leonard Granoff, 68, president of Koffler Corp. (25,000). W August Hillenbrand, 54, president and chief executive officer of company (3,507,555).

(Figures for this chart are the latest available)

Caption: W. August Hillenbrand; PHOTO; FILE LOCATION HILLENBRAND, W. AUGUST

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**BUSINESS
HILLENBRAND TO SETTLE SUIT OVER PATENTS FOR \$84.7 MILLION
RIC MANNING**

09/20/1994
The Courier-Journal Louisville, KY
METRO
12B
(Copyright 1994)

Hillenbrand Industries Inc. of Batesville, Ind., said yesterday it has agreed to pay a Texas hospital-bed maker \$84.7 million to settle a patent-infringement suit.

The suit was filed by Kinetic Concepts Inc. of San Antonio against SSI Medical Services Inc. of Charleston, S.C.

SSI, which was acquired by Hillenbrand in 1984, supplies special therapy beds. Kinetic said SSI's RestCue bed, a low-air-loss bed introduced in 1989, violated three patents it held.

Kinetic filed suit in 1992 in U.S. District Court asking for \$100 million in damages. The suit went to trial last month in San Antonio and on Friday, an eight-person jury ruled in favor of Kinetic.

The settlement and its amount were announced yesterday. Hillenbrand spokesman Mark Craft said the terms of the agreement prohibit him from discussing the details.

Diane Rath, a spokeswoman for Kinetic, said the suit was based on technology used in the company's Biodyne and Therapulse beds. Both beds use air cushions and a rotating platform to prevent and treat pressure ulcers and blood clots that can result from a lack of movement.

The suit claimed that SSI's RestCue bed violated three Kinetic patents used in the Biodyne and Therapulse beds.

Craft said the RestCue bed was removed from the market about a year ago and replaced by a more advanced design.

Bob Anning, an analyst who follows Hillenbrand for Merrill Lynch in Cincinnati, said he believes Hillenbrand was tired of fighting the case and reluctant to leave the amount of the award in the hands of the jury.

"I think this settlement was reached just to get this thing behind them," Anning said. "Remember, this was a Texas jury trial and they can be a little dangerous."

Hillenbrand had already taken a \$6 million charge to cover the costs of fighting the patent suit.

Anning said he expects the company to take a charge against third-quarter earnings, which are scheduled to be reported next week, and report a loss for the quarter. He said Hillenbrand has about \$170 million in cash on hand.

Hillenbrand had earnings of \$132.7 million last year on revenue of \$875.6 million. Kinetic had earnings of \$8.06 million on sales of \$268.8 million.

Hillenbrand recently announced plans to consolidate SSI's headquarters with its Batesville-based Hill-Rom hospital bed business by the end of this year.



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DOW JONES NEWSWIRES™

Hillenbrand Counterclaim -2: Alleges Anticompetitive Conduct

12/02/1996
Dow Jones News Service
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BATESVILLE, Ind. (Dow Jones)--Hillenbrand Industries Inc. (HB) filed a counterclaim to the antitrust lawsuit launched by Kinetic Concepts Inc. (KNCI) in 1995.

In a press release, Hillenbrand said the counterclaim, which was filed on Nov. 20 in U.S. District Court in San Antonio, Texas, alleges Kinetic attempted to monopolize the therapeutic bed market and tried to interfere with Hillenbrand's business relationships by conducting a campaign of anticompetitive conduct against the company and its Hill-Rom Company Inc. unit.

The company also alleges Kinetic "abused the legal process for its own advantage, interfered with existing Hill-Rom contractual relationships, interfered with Hill-Rom's prospective contractual and business relationships, commercially disparaged Hillenbrand/Hill-Rom by uttering and publishing false statements to customers and committed libel and slander in statements."

As reported, Kinetic Concepts filed a lawsuit claiming Hillenbrand engaged in anti-competitive practices that caused damages of more than \$200 million. The company claimed Hillenbrand and its units engaged in "predatory pricing on hospital beds and specialty beds" and sold products below its variable or total cost in order to limit or eliminate competition.

Hillenbrand Industries is a holding company for four units that serve the health care, death care and high security lock markets.

Kinetic Concepts makes and distributes therapeutic systems for skin breakdown, circulatory problems and pulmonary complications associated with patient immobility.

(END) DOW JONES NEWS 12-02-96

10:46 AM

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Non-recurring entries skew KCI annual report
Dino Chiecchi Express-News Business Writer

02/09/1996
San Antonio Express-News
(Copyright 1996)

Kinetic Concepts Inc. earned \$28.4 million in 1995 compared to \$64.4 million one year ago, company officials reported.

The drop in net earnings - nearly 56 percent - was due to \$43.2 million, or 98 cents a share, in non-recurring items which appeared in 1994's annual report, KCI officials said.

KCI's non-recurring items included \$84.4 million in a patent infringement lawsuit settlement with Hill-Rom/SSI, the sale of the company's medical services division and other reserve provisions, which occurred in September 1994.

Excluding the non-recurring items, 1995 earnings jumped 39 percent to \$29.4 million, or 65 cents a share, compared to \$21.2 million, or 48 cents a share, one year ago.

Revenue for the year dropped nearly 10 percent to \$243 million compared to \$270 million one year ago.

Excluding the non-recurring items, revenue jumped 9 percent to \$242 million compared to \$222 million one year ago.

"Revenue growth was solid and broad-based," said Raymond Hannigan, president and chief executive officer.

"We have transformed our largest business - the traditional acute care hospital market - from a declining business into a growth segment through more aggressive marketing and new product introductions," Hannigan said in a statement.

Net earnings for the fourth quarter were \$8.1 million, or 18 cents a share, compared to \$8.3 million, or 19 cents per share, officials said.

Excluding the non-recurring items, net earnings were \$8 million compared to \$7.6 million - a 6 percent jump, company officials said.

Kinetic Concepts stock, traded on the Nasdaq National Market, closed at \$12 a share, up .

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**BUSINESS
OBSTRUCTION PROBE AGAINST HILL-ROM CLOSED BY GOVERNMENT
ASSOCIATED PRESS**

10/21/1995
The Courier-Journal Louisville, KY
METRO
12B
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INDIANAPOLIS -- After spending million of dollars defending itself against two Justice Department probes, the nation's leading supplier of hospital beds has been cleared of any wrongdoing, the company said yesterday.

The government told **Hill-Rom** Co., a division of Hillenbrand Industries Inc., on Thursday that it had closed its criminal investigation against the company. That news came after its antitrust investigation into **Hill-Rom** was dropped in June.

"We are now cleared, exonerated on both charges," said Tom Brewer, senior vice president and chief financial officer of Batesville, Ind.-based Hillenbrand. "For 2 1/2 years the cloud was hanging over us. There was the question of our credibility in the marketplace, with our customers, etc . . ."

By some estimates, **Hill-Rom** controls up to 90 percent of the U. S. market for hospital beds. Competitors have filed antitrust lawsuits over the company's dominant role in the industry. Brewer would only say that **Hill-Rom** controls well over 50 percent of the market.

As part of the government's antitrust investigation, Hillenbrand turned over more than 9 million documents, including correspondence, business plans, purchase orders and cost records from several years, Brewer said.

It had more than 7 million additional documents awaiting government review when the obstruction of justice charges were dropped, he said.

Pamela Singleton, an analyst at Merrill Lynch & Co. Inc., said the termination of the investigation will allow Hillenbrand "to focus on growing."

"It's a big plus for the integrity of the company," she said. "Anybody that wasn't going to buy from them because of some criminal investigation doesn't have that anymore."

Hillenbrand and **Hill-Rom** still face an antitrust lawsuit filed in August by a competitor. **Kinetic Concepts Inc.** of San Antonio, Texas, already was paid \$84.75 million by Hillenbrand last year to settle a patent-infringement case.

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