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10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEW MEXICO

12 UNITED STATES OF AMERICA,)
13 Plaintiff,) Civil Action No. 9186
14 v.) Filed: October 19, 1971
15 WOLVERINE WORLD WIDE, INC.,) (15 U.S.C. § 1; Conspiracy in
16 Defendant.) Restraint of Interstate Trade
17 and Commerce)

18 COMPLAINT

19 The United States of America, plaintiff, by its attorneys,
20 acting under the direction of the Attorney General of the United
21 States, brings this civil action to obtain equitable relief
22 against the above-named defendant and complains and alleges as
23 follows:

24 I

25 JURISDICTION AND VENUE

26 1. This complaint is filed and this action is instituted
27 under Section 4 of the Act of Congress of July 2, 1890, as amended
28 (15 U.S.C. § 4), commonly known as the Sherman Act, in order to
29 prevent and restrain the continuing violation by the defendant,
30 as hereinafter alleged, of Section 1 of said Act (15 U.S.C. § 1).
31 2. The defendant transacts business and is found within
32 the District of New Mexico.

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II

THE DEFENDANT

3. Wolverine World Wide, Inc. (hereinafter referred to as "Wolverine") is hereby made the defendant herein. Wolverine is a corporation which was organized on or about March 3, 1969 under the laws of the State of Delaware and has its principal place of business in Rockford, Michigan. On or about May 14, 1969, Wolverine succeeded to the assets and business of Wolverine Rockford, Inc., a Michigan corporation, which prior to on or about April 29, 1969 had been named Wolverine World Wide, Inc. Wherever hereinafter used, the term "Wolverine" refers to Wolverine World Wide, Inc., a Delaware corporation, and to Wolverine World Wide, Inc. and Wolverine Rockford, Inc., a Michigan corporation, during the applicable periods. During the period of time covered by this complaint, Wolverine has engaged in the business of manufacturing shoes and selling shoes to retailers throughout the United States. During the year 1970, Wolverine's sales of shoes manufactured by it were approximately \$100 million.

III

CO-CONSPIRATORS

4. Various retailers of shoes in the Southwest, and other corporations, partnerships, and individuals not made defendants in this complaint, participated as co-conspirators with the defendant in the offense alleged herein and performed acts and made statements in furtherance thereof.

IV

DEFINITIONS

As used herein, the term:

- (a) "Southwest" means the States of New Mexico, Arizona, Oklahoma and Texas;

1 (b) "shoes" means men's, women's and children's
2 footwear manufactured by Wolverine and sold under its
3 labels; and

4 (c) "retailer" means any shoe store, leased shoe
5 department, specialty or sports store handling any
6 shoes manufactured by Wolverine.

7 V

8 TRADE AND COMMERCE

9 5. The defendant Wolverine manufactures men's, women's
10 and children's shoes at factories located principally in the
11 States of Michigan and Massachusetts. Wolverine sells and
12 ships its shoes in interstate commerce to retailers through-
13 out the United States and in the Southwest. Wolverine sells
14 its shoes directly to such shoe retailers without distributing
15 them through wholesalers, jobbers or other intermediaries. It
16 employs various salesmen who assist retailers in the Southwest
17 in the selection and purchasing of shoes offered by Wolverine.
18 Orders for shoes are placed by retailers with Wolverine and
19 shipped by Wolverine directly from its factories or its ware-
20 houses in interstate commerce to retailers in the Southwest.

21 6. The principal branded shoes sold by Wolverine in the
22 Southwest have been Hush Puppies, Bates and Bates Floaters.
23 During the year 1970, Wolverine sold approximately \$6.5 million
24 in Hush Puppies shoes and approximately \$250,000 in Bates and
25 Bates Floaters shoes to retailers in the Southwest.

26 VI

27 OFFENSE ALLEGED

28 7. Since at least as early as January 1967, the exact
29 date being to the plaintiff unknown, and continuing there-
30 after up to the date of the filing of this complaint, the
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1 defendant and co-conspirators have engaged in a combination
2 and conspiracy in unreasonable restraint of the aforesaid
3 interstate trade and commerce in shoes in violation of Section
4 1 of the Act of Congress of July 2, 1890, as amended (15 U.S.C.
5 § 1), commonly known as the Sherman Act. Said offense is con-
6 tinuing and will continue unless the relief hereinafter prayed
7 for is granted.

8 8. The aforesaid combination and conspiracy has consisted
9 of a continuing agreement, understanding and concert of action
10 among the defendant and co-conspirators, the substantial terms
11 of which have been and are to eliminate competition in the sale
12 of shoes manufactured by the defendant by raising, fixing and
13 stabilizing the retail prices of such shoes in the Southwest.

14 9. Pursuant to the aforesaid combination and conspiracy,
15 the defendant and co-conspirators have agreed that:

16 (a) retailer co-conspirators selling Wolverine's
17 shoes would adhere to resale prices suggested by
18 Wolverine;

19 (b) Wolverine would threaten to refuse to sell
20 shoes to retailers that do not agree to adhere to
21 resale prices suggested by Wolverine;

22 (c) retailer co-conspirators would not advertise
23 Wolverine's shoes at prices lower than the resale
24 prices suggested by Wolverine;

25 (d) Wolverine would refuse to grant advertising
26 allowances to retailers that advertise Wolverine's
27 shoes at prices lower than the resale prices suggested
28 by Wolverine; and

29 (e) Wolverine would induce and persuade retailers
30 not to sell Wolverine's shoes at prices lower than the
31 resale prices of competing co-conspirator retailers.
32

1 10. During the period of time covered by this complaint,
2 and for the purpose of effectuating the aforesaid combination
3 and conspiracy, the defendant and co-conspirators, by agree-
4 ment, understanding and concert of action, have done the things
5 which as hereinbefore alleged they have combined and conspired
6 to do.

7 VII

8 EFFECTS

9 11. The aforesaid combination and conspiracy has had the
10 following effects, among others:

11 (a) retail prices on shoes have been raised,
12 fixed and stabilized at artificial and non-competitive
13 levels;

14 (b) price competition among retailers of shoes
15 in the Southwest has been restrained, suppressed and
16 eliminated; and

17 (c) purchasers of Wolverine brands of shoes
18 have been denied the right to obtain such shoes from
19 retailers at competitively determined prices.

20 VIII

21 PRAYER

22 WHEREFORE, plaintiff prays:

23 1. That the Court adjudge and decree that defendant
24 Wolverine and the co-conspirators have engaged in an un-
25 lawful combination and conspiracy in restraint of the
26 aforesaid interstate trade and commerce in shoes, in
27 violation of Section 1 of the Sherman Act.

28 2. That defendant, its officers, directors and agents,
29 and all other persons acting or claiming to act on its behalf,
30 and each of its members, be enjoined and restrained from
31
32

1 continuing, maintaining or renewing the combination and
2 conspiracy hereinbefore alleged, in any manner, directly
3 or indirectly, or from engaging in any other combination,
4 conspiracy, contract, agreement, understanding or concert
5 of action having a similar purpose or effect, and from
6 adopting or following any practice, plan, program or
7 device having a similar purpose or effect.

8 3. That defendant be enjoined and restrained from
9 agreeing with or soliciting the agreement of any retailer
10 of shoes to price at, or to refrain from pricing below,
11 any price recommended by defendant Wolverine, or any other
12 price.

13 4. That defendant be enjoined and restrained from
14 directly or indirectly conditioning the granting of ad-
15 vertising allowances which it makes available to retailers
16 of shoes on adherence to any particular resale price.

17 5. That defendant be enjoined and restrained from
18 directly or indirectly communicating, suggesting or
19 recommending resale prices to any retailer of shoes for
20 a period of years.

21 6. That defendant be enjoined and restrained for a
22 period of years from directly or indirectly applying or
23 seeking to apply any state fair trade law against any
24 retailer of shoes.

25 7. That defendant Wolverine be ordered to provide
26 each retailer to whom it has furnished a schedule of
27 suggested retail prices for shoes with a copy of the
28 judgment herein, and to advise such retailers that they
29 are free to price shoes manufactured by Wolverine at any
30 price they individually choose.

1 8. That plaintiff have such other, further, general
2 and different relief as the case may require, and the Court
3 may deem just and proper in the premises.

4 9. That the plaintiff recover the costs of this action.

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6 
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