

1 MARQUIS L. SMITH
2 MARK F. ANDERSON
3 Antitrust Division
4 Department of Justice
5 450 Golden Gate Avenue-Room 16432
6 Box 36046
7 San Francisco, California 94102
8 Telephone: (415) 556-6300

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 NISSAN MOTOR CORPORATION
15 IN U.S.A.,
16 Defendant.

Civil No. **C-72-1212**

Filed: **June 30, 1972**

17
18 COMPLAINT

19 The United States of America, plaintiff, by its attor-
20 neys, acting under the direction of the Acting Attorney
21 General of the United States, brings this civil action
22 against the above-named defendant, and complains and alleges
23 as 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, (15
28 U.S.C. § 4), as amended, entitled "An Act to protect trade
29 and commerce against unlawful restraint and monopolies",
30 commonly known as the Sherman Act, in order to prevent and
31
32

1 restrain continuing violations by the defendant, as herein-
2 after alleged, of Section 1 of said Act.

3 2. The defendant transacts business and is found within
4 the Northern District of California.

5 II

6 DEFINITIONS

7 3. As used herein:

8 (a) "dealer" means any corporation, firm,
9 partnership, or individual franchised
10 by defendant Nissan as a retail seller
11 of Datsun motor vehicles in the United
12 States;

13 (b) "automobile broker or discount house"
14 means any person, firm, partnership,
15 or corporation, not a franchised dealer
16 of any automobile, that purchases motor
17 vehicles for resale.

18 III

19 THE DEFENDANT

20 4. Nissan Motor Corporation in U.S.A. (hereinafter
21 referred to as "Nissan") is made a defendant herein. Nissan
22 is a corporation organized and existing under the laws of the
23 State of California, with its principal place of business in
24 Gardena, California.

25 IV

26 CO-CONSPIRATORS

27 5. Nissan dealers throughout the United States have
28 participated as co-conspirators with defendant Nissan in
29 the offense hereinafter alleged and have performed acts
30 and made statements in furtherance thereof.

V

TRADE AND COMMERCE INVOLVED

1
2
3 6. Defendant's parent company and sole owner, Nissan
4 Motor Company, Ltd., Tokyo, Japan, manufactures Datsun motor
5 vehicles, and parts and accessories therefor, in Japan. After
6 importation, these products are distributed and sold by de-
7 fendant to franchised Datsun dealers throughout the United
8 States.

9 7. In fiscal year 1971, defendant Nissan's sales of
10 Datsun motor vehicles and related parts and accessories in
11 the United States were in excess of \$467,000,000.

12 8. A substantial amount of Datsun motor vehicles are
13 ordered by defendant Nissan and are shipped from Japan to
14 its dealers pursuant to advance orders to Nissan from said
15 dealers.

16 9. There is a substantial, continuous and uninterrupted
17 flow of Datsun motor vehicles, related parts and accessories,
18 in interstate and foreign commerce from points of manufacture
19 in Japan to the co-conspirator dealers and then to the
20 consuming public.

21 VI

22 OFFENSE

23 10. Beginning sometime prior to 1966 and continuing
24 thereafter up to and including the date of the filing of
25 this complaint, the defendant and dealer co-conspirators have
26 been engaged in an unlawful combination and conspiracy in
27 unreasonable restraint of the hereinabove described inter-
28 state and foreign commerce in Datsun motor vehicles in vio-
29 lation of Section 1 of the Sherman Act, 15 U.S.C. § 1. Said
30 combination and conspiracy is continuing and will continue
31 unless the relief hereinafter prayed for is granted.
32

- 1 (c) consumers have been deprived of the
2 opportunity of buying Datsun motor
3 vehicles distributed by defendant
4 Nissan at competitive prices;
- 5 (d) automobile brokers and discount houses
6 have been generally unable to purchase
7 Datsun motor vehicles;
- 8 (e) Datsun dealers have been prevented
9 from selling Datsun automobiles at
10 prices, to purchasers, and into terri-
11 tories, of their own choice; and
- 12 (f) competition generally in the sale of
13 Datsun motor vehicles has been restrained,
14 suppressed, and eliminated.

15 PRAYER

16 WHEREFORE, the plaintiff prays:

- 17 1. That the aforesaid combination and conspiracy be
18 adjudged and decreed to be unlawful and in violation of
19 Section 1 of the Sherman Act.
- 20 2. That the defendant and each of its officers, directors,
21 agents, managers, employees, successors, assigns, and all
22 other persons acting or claiming to act on behalf of the
23 defendant be perpetually enjoined and restrained from
24 directly or indirectly continuing, maintaining, enforcing,
25 or renewing the aforesaid combination and conspiracy and
26 from engaging in any practices, combination, or conspiracy
27 having a like or similar purpose or effect.
- 28 3. That the defendant and its officers, directors,
29 agents, representatives, and all persons acting or claiming
30
31
32

1 to act on behalf of the defendant be perpetually en-
2 joined from imposing or attempting to impose any
3 limitation or restriction as to the persons to whom,
4 or the prices at which, any dealer may advertise or sell
5 motor vehicles to others.

6 4. That the defendant be required to advise
7 all of its dealers in writing that they may advertise
8 or sell motor vehicles to consumers, leasing companies,
9 automobile brokers, discount houses, or any other
10 persons at such prices, and in such areas as such
11 dealers choose.

12 5. That the defendant be required to revise its
13 current and future dealer sales agreements (including
14 those now in effect), catalogs, price lists, and other
15 materials so as to conform to the provisions of the
16 judgment entered in this cause, and, in particular,
17 (1) to omit from any such catalogs, price lists, and
18 other promotional materials, any prescribed or sug-
19 gested prices, terms, and conditions for the resale
20 of motor vehicles, except as prescribed by 15 U.S.C.
21 § 1232 and (2) to omit from defendant's current and
22 future dealer sales agreements (including those now
23 in effect) any provisions restricting in any way the
24 advertising decisions of dealers.

25 6. That the plaintiff have such other and
26 further relief as the nature of the case may require
27 and the Court may deem just and proper.
28
29
30
31
32

7. That the plaintiff recover its taxable costs.

Richard G. Kleindienst

RICHARD G. KLEINDIENST
Attorney General

MARK F. ANDERSON

Attorney, Department of Justice

Walker B. Comegys

WALKER B. COMEGYS
Acting Assistant Attorney General

Baddia J. Rashid

BADDIA J. RASHID

MARQUIS L. SMITH

Attorneys, Department of Justice