

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :
 :
 Plaintiff :
 :
 v. : Civil No. 70-2829
 : Filed: June 30, 1970
 J. P. STEVENS & CO., INC., :
 :
 Defendant. :
 :
- - - - -X

COMPLAINT

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

I

JURISDICTION AND VENUE

1. This complaint is filed and this action is instituted against the above-named defendant under Section 4 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. § 4), commonly known as the Sherman Act, in order to prevent and restrain continuing violation by defendant, as hereinafter alleged, of Section 1 of the Sherman Act.

transacts business and is found within the Southern District of New York.

II

THE DEFENDANT

3. J. P. Stevens & Co., Inc., hereinafter referred to as Stevens, is hereby made the defendant herein. Stevens is a corporation existing under the laws of Delaware and has its principal place of business in New York, New York. It is engaged in the manufacture of textiles, including sheets and pillowcases, hereinafter referred to collectively as sheets. Stevens distributes its sheets for sale throughout the United States.

III

CO-CONSPIRATORS

4. Various corporations and individuals not made defendants in this complaint, including wholesalers and department stores that resell Stevens' prime line sheets, participated as co-conspirators in the offense alleged herein and performed acts and made statements in furtherance thereof.

IV

NATURE OF TRADE AND COMMERCE INVOLVED

5. Sheets are made in a variety of sizes from various textile fibers, but most sheets are made of cotton or of a blend of cotton and synthetic fiber. In general, the lower the thread count (the number of threads per square inch), the lower the quality and texture. Sheets are made in muslins and percales, muslins have a lower thread count than the percales. A combed percale is finer in texture than a carded percale.

6. The sheets of each manufacturer bearing the same count and composition are identical in manufacture but are commonly packaged differently. One type of package, which usually bears the manufacturer's name and which is widely recognized and promoted, has a trademark or trade name identifying the sheets therein as prime line sheets of the manufacturer. Other types of packages, containing the same sheets, bear either a private label belonging to a large scale retailer or a secondary trademark or trade name. For the most part, such packages do not show the manufacturer's name or their source.

7. For the most part, sheet manufacturers distribute sheets either directly to retailers or through wholesalers for resale to retailers. In each major population center the sheet manufacturer's largest volume retailer customers are the department stores, upon which the manufacturer relies for promotion and advertising of his prime line sheets. Such retailers customarily offer sheets at specially reduced prices, referred to as "white sales", only at certain seasonal periods.

8. In 1966, domestic manufacturers of sheets sold approximately 14.9 million dozen sheets and 13.4 million dozen pillowcases for approximately \$421 million. With sales of more than \$30 million annually, Stevens accounts for approximately 8 percent of industry sales. Sales of Stevens prime line sheets exceeded \$20 million in 1966.

9. Stevens has mills located in Georgia, North Carolina and South Carolina, warehouses in California, Texas and Illinois and a place of storage in New

Jersey. It regularly ships sheets from such mills, warehouses and place of storage in interstate commerce to customers located throughout the United States.

V

OFFENSE

10. Beginning at least as early as 1961 and continuing to the date of the filing of this complaint, the defendant and co-conspirators have engaged in a combination and conspiracy in restraint of the aforesaid interstate trade and commerce in Stevens prime line sheets, in violation of Section 1 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. § 1), commonly known as the Sherman Act. This combination and conspiracy will continue unless the relief hereinafter prayed for is granted.

11. The aforesaid combination and conspiracy has consisted of a continuing understanding and concert of action among the defendant and co-conspirators, the substantial terms of which have been and are:

- (a) to stabilize retail prices for Stevens prime line sheets; and
- (b) to eliminate, curtail and restrict the sale of Stevens prime line sheets by cut-price retailers.

12. For the purpose of formulating and effectuating the aforesaid combination and conspiracy, the defendant and co-conspirators did the following things, among

- (a) Stevens consulted with its department store retailers concerning suggested

retail prices on Stevens prime line sheets to be issued by Stevens for use during regular and white sale periods;

- (b) Stevens prepared and distributed suggested retail price lists for such sheets during regular and white sale periods;
- (c) the aforesaid department store retailers resold Stevens prime line sheets at or above the aforesaid suggested retail prices;
- (d) certain department stores reported to the defendant instances of other retailers selling Stevens prime line sheets below the suggested price;
- (e) Stevens refrained from selling its prime line sheets to cut-price retailers;
- (f) Stevens persuaded its wholesalers not to sell Stevens prime line sheets to cut-price retailers.

VI

EFFECTS

13. The aforesaid combination and conspiracy has had the following effects, among others:

- (a) Competition in the sale and distribution restrained.

(b) Retail prices for Stevens prime
line sheets were stabilized at
artificial levels.

(c) Consumers purchasing Stevens prime
line sheets were deprived of the
benefits of price competition.

PRAYER

WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that the defendant has engaged in a combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in Stevens prime line sheets, as hereinabove alleged, in violation of Section 1 of the Sherman Act.

2. That the defendants, its successors, assignees, and transferees, and each of its officers, directors, agents, employees and representatives, and all persons acting or claiming to act on its behalf, be perpetually enjoined and restrained from, in any manner, directly or indirectly, continuing, maintaining, or renewing the aforesaid combination and conspiracy to restrain interstate trade and commerce as hereinbefore alleged, or from engaging in any other combination or conspiracy having a similar purpose or effect, or from adopting or following any practice, plan, program or device having the purpose or effect of continuing, maintaining, or renewing the aforesaid violation.

3. That the defendant be perpetually enjoined and
or understandings with wholesalers or retailers:

- (a) to fix, maintain, or stabilize the retail price for sheets;
- (b) to restrict the stores in which sheets may be resold;
- (c) to restrict the specific retailers or classes of retailers to whom sheets may be sold.

4. That the defendant be enjoined and restrained for a period of years from publishing, distributing or communicating suggested or recommended retail prices for Stevens sheets.

5. That the defendant be enjoined for a period of years from applying or seeking to apply any state fair trade law against any person buying or selling Stevens sheets.

6. That the plaintiff have such other, further and different relief as the Court may deem just and proper.

7. That the plaintiff recover the costs of this suit.

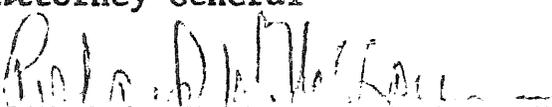
Dated: New York, New York

1970



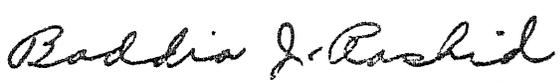
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