

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Civil No. 73-246
v.)	
)	Filed: May 7, 1973
AMERICAN TECHNICAL INDUSTRIES,)	
INC.)	
)	
Defendant.)	

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 15 of the Act of Congress of October 15, 1914, as amended, (15 U.S.C. § 25) commonly known as the Clayton Act, in order to prevent and restrain the continuing violation by the defendant, as hereinafter alleged, of Section 7 of the Clayton Act, as amended, (15 U.S.C. § 18).

2. The defendant is found and transacts business within the Middle District of Pennsylvania.

II

DEFINITION

3. As used herein, "artificial Christmas trees" means trees over two feet in height made of polyvinyl chloride, polyethylene or aluminum which are manufactured and sold domestically, or manufactured abroad and imported, and which are used indoors during the Christmas season.

III

THE DEFENDANT

4. American Technical Industries, Inc. (hereinafter referred to as "ATI") is made a defendant herein. ATI is a corporation organized and existing under the laws of the State of New York, and maintains its principal offices in New York, New York. ATI is engaged primarily in the manufacture, import, and sale of artificial Christmas trees throughout the United States, and manufactures artificial Christmas trees in facilities in Coxsackie, New York; Lexington, Kentucky; Mira Loma, California; and Austin, Texas. In 1970, ATI had total sales of about \$16.8 million.

IV

TRADE AND COMMERCE

5. Artificial Christmas trees are primarily sold by the manufacturers and importers thereof, either directly or through distributors, to chain, department, garden, variety, and specialty stores throughout the United States. Some retail stores import artificial Christmas trees directly.

6. ATI and other domestic manufacturers of artificial Christmas trees purchase substantial quantities of raw materials from suppliers located in foreign countries or states other than those in which their manufacturing facilities are located. Such raw materials are shipped in interstate commerce into the states where these facilities are located. The domestically manufactured finished artificial Christmas trees are shipped by the manufacturers thereof in interstate commerce to various distributors and purchasers throughout the United States. In addition, substantial quantities of artificial Christmas trees are purchased by importers from suppliers located in foreign countries for sale in the United States and these trees are shipped by the importers thereof in interstate commerce to various purchasers throughout the United States. ATI and the manufacturers of artificial Christmas trees are engaged in interstate commerce in the sale of artificial Christmas trees.

7. In 1970, there were approximately \$38.9 million in sales of artificial Christmas trees by domestic manufacturers and importers, of which approximately 90 percent were domestically manufactured. This market is highly concentrated. The four leading artificial Christmas tree firms accounted for approximately 67.7 percent of the total sales of artificial Christmas trees in 1970.

8. ATI is the largest domestic manufacturer of artificial Christmas trees. In 1970, ATI had sales of artificial Christmas trees of approximately \$12 million or 30.9 percent of the market.

9. Masterpiece, Inc. (hereinafter referred to as "Masterpiece") is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, and maintains its principal offices in Blakely, Pennsylvania. Masterpiece is engaged in the manufacture and sale of artificial Christmas trees, which are manufactured in Blakely, Pennsylvania, and sold throughout the United States. In 1970, Masterpiece had sales of artificial Christmas trees of approximately \$1.6 million and ranked seventh with 4.2 percent of the market.

10. As a result of the acquisition of Masterpiece, ATI's share of the artificial Christmas tree market increased from 30.9 percent to 35.1 percent, strengthening its already leading position in the artificial Christmas tree market. Further, the acquisition has increased the market share of the four largest artificial Christmas tree firms from 67.7 percent to 71.9 percent.

11. As part of the acquisition, ATI acquired all the patents formerly held by the president of Masterpiece, including the "Mountain King" patent. The "Mountain King" patent is claimed to represent a new method of constructing artificial Christmas trees.

V

VIOLATION ALLEGED

12. ATI acquired all the stock of Masterpiece on July 29, 1971. The effect of this acquisition may be substantially to lessen competition or to tend to create a monopoly in the above-described trade and commerce in

artificial Christmas trees in violation of Section 7 of the Clayton Act in the following ways, among others:

- (a) Actual competition between ATI and Masterpiece in the manufacture and sale of artificial Christmas trees has been eliminated;
- (b) Competition generally in the manufacture, import, and sale of artificial Christmas trees has been substantially lessened;
- (c) ATI's position in the manufacture, import, and sale of artificial Christmas trees has been entrenched to the detriment of competition; and
- (d) Concentration in the manufacture, import, and sale of artificial Christmas trees has been increased.

PRAYER

WHEREFORE, plaintiff prays:

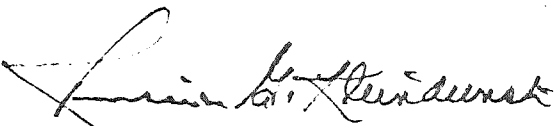
1. That the aforesaid acquisition by ATI be adjudged and decreed to be unlawful in violation of Section 7 of the Clayton Act.
2. That ATI be required to divest itself of all the stock and other interests acquired from Masterpiece, including the "Mountain King" patent.
3. That the Court, pending final adjudication of this litigation, issue a preliminary injunction enjoining ATI and all persons acting on its behalf from taking any action that would impair its ability to comply with any Court order which may be issued requiring ATI to divest

itself of the stock and other interests acquired from Masterpiece.

4. That ATI be prohibited from acquiring any other manufacturer of artificial Christmas trees for a period of 10 years.

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

6. That the plaintiff recover the costs of this action.



RICHARD G. KLEINDIENST
Attorney General

JOHN A. WEEDON



THOMAS E. KAUPER
Assistant Attorney General

LEON W. WEIDMAN

BADDIA J. RASHID

EDWARD S. PANEK

JOHN J. HUGHES

ROGER L. CURRIER

Attorneys, Department of
Justice

Attorneys, Department of
Justice

United States Attorney

Antitrust Division
Department of Justice
501 U. S. Customs House
Philadelphia, Pennsylvania
19106