

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 ) Civil Action No. 74 CIV 5176  
v. )  
 )  
ADDISON-WESLEY PUBLISHING ) Filed: November 25, 1974  
COMPANY; )  
BANTAM BOOKS, INC.; )  
COLUMBIA BROADCASTING SYSTEM, )  
INC.; )  
DELL PUBLISHING CO., INC.; )  
DOUBLEDAY & COMPANY, INC.; )  
GROSSET & DUNLAP, INC.; )  
HARCOURT BRACE JOVANOVIH, INC.; )  
HARPER & ROW, PUBLISHERS, INC.; )  
HOUGHTON MIFFLIN COMPANY )  
INTEXT, INC.; )  
LITTON EDUCATIONAL PUBLISHING, )  
INC.; )  
MacMILLAN, INC.; )  
McGRAW-HILL, INC.; )  
OXFORD UNIVERSITY PRESS, INC.; )  
PENGUIN BOOKS, INC.; )  
PRENTICE-HALL, INC.; )  
RANDOM HOUSE, INC.; )  
SIMON & SCHUSTER, INC.; )  
THE TIMES MIRROR COMPANY; )  
THE VIKING PRESS, INC.; and )  
JOHN WILEY & SONS, INC., )  
 )  
Defendants. )

COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this action against the defendants named herein and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and this action is instituted 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 the continuing violation by the defendants, as hereinafter alleged, of Section 1 of the Sherman Act (15 U.S.C. § 1).

2. Each of the defendants transacts business in the Southern District of New York.

II

THE DEFENDANTS

3. The corporations named below are hereby made defendants herein. Each of said corporations is incorporated and exists under the laws of the state and has its principal place of business in the city indicated. During the period of time covered by this complaint, each defendant engaged in the publication and distribution of books throughout the United States.

<u>Name of Corporation</u>	<u>State of Incorporation</u>	<u>Principal Place of Business</u>
Addison-Wesley Publishing Company	Massachusetts	Reading, Massachusetts
Bantam Books, Inc.	Delaware	New York, New York
Columbia Broadcasting System, Inc.	New York	New York, New York
Dell Publishing Co., Inc.	New York	New York, New York
Doubleday & Company, Inc.	New York	Garden City, New York
Grosset & Dunlap, Inc.	New York	New York, New York
Harcourt Brace Jovanovich, Inc.	New York	New York, New York
Harper & Row, Publishers, Inc.	Delaware	New York, New York
Houghton Mifflin Company	Massachusetts	Boston, Massachusetts
Intext, Inc.	Pennsylvania	Scranton, Pennsylvania
Litton Educational Publishing, Inc.	New York	New York, New York
MacMillan, Inc.	Delaware	New York, New York
McGraw-Hill, Inc.	New York	New York, New York
Oxford University Press, Inc.	New York	New York, New York

<u>Name of Corporation</u>	<u>State of Incorporation</u>	<u>Principal Place of Business</u>
Penguin Books, Inc.	Maryland	Baltimore, Maryland
Prentice-Hall, Inc.	Delaware	Englewood Cliffs, New Jersey
Random House, Inc.	New York	New York, New York
Simon & Schuster, Inc.	New York	New York, New York
The Times Mirror Company	California	Los Angeles, California
The Viking Press, Inc.	New York	New York, New York
John Wiley & Sons, Inc.	New York	New York, New York

### III

#### CO-CONSPIRATORS

4. Various other firms, corporations, and associations not made defendants herein, including the Publishers Association and publishing houses which are members of the Publishers Association, participated as co-conspirators in the violation hereinafter alleged and performed acts and made statements in furtherance thereof.

### IV

#### DEFINITIONS

5. As used herein, the term:

- (a) "books" means copyrighted, adult hardbound and paperback books, professional books, elementary, high school and college textbooks, children's books, religious books and mass market paperback books;
- (b) "British Traditional Market" means that group of countries which includes virtually all present and former members of the British Commonwealth. The British Traditional Market, as defined herein, includes approximately 70 English speaking countries; and

(c) "Publishers Association" means a membership association of publishing houses maintaining offices in the United Kingdom, which has its seat in London, England.

V

TRADE AND COMMERCE

6. Total sales of books in the United States amount to over \$2 billion each year, excluding sales by book clubs, mail order publications, subscription reference books, and other such publishers. Of this amount, some \$140 million of books are imported into and sold within the United States annually. United States exports of books are estimated to be over \$250 million annually.

7. The United Kingdom is the largest foreign market for books originally published in the United States. United Kingdom exports of books are in excess of \$165 million each year, and United Kingdom imports of books are in excess of \$65 million.

8. Most newly published books are copyrighted. An author, upon securing a copyright, customarily licenses or assigns the copyright to a so-called prime publisher, together with all rights to excerpt, translate, perform and sublicense. Pursuant to international copyright convention a copyright granted in one country is recognized in all other countries which are signatories to such conventions. Most countries of the world, including all countries in the British Traditional Market, are signatories to such conventions.

9. The defendant companies are major publishing houses in the United States. They obtain copyright licenses from American authors and either distribute or arrange for the distribution of their books throughout the United States

and foreign countries. In some instances, the defendant companies export books directly to foreign countries. In other instances, they provide for the foreign distribution of books by entering into licensing agreements with publishing houses in one or more foreign countries.

10. Whenever a copyrighted book published in the United States by a defendant company is to be published also in the United Kingdom, the defendant company grants a license or sublicense under that copyright to a publishing house in the United Kingdom usually vesting in the United Kingdom publishing house the exclusive right to publish and distribute the book in the British Traditional Market. In return, the United Kingdom publisher agrees not to publish, distribute or sell the copyrighted book in the United States and certain other countries.

11. The co-conspirator Publishers Association is comprised of virtually all major United Kingdom publishing houses. These publishing houses perform generally the same functions for United Kingdom authors that United States publishing houses perform for United States authors. United Kingdom publishing houses, upon obtaining a copyright license from a United Kingdom author, either distribute or arrange for the distribution of the author's work throughout the British Traditional Market and throughout other foreign countries. United Kingdom publishers may choose to export books directly to foreign countries, or they may choose to arrange for the foreign distribution of books by entering into licensing agreements with publishing houses in one or more foreign countries.

12. Whenever a copyrighted book published in the United Kingdom by a co-conspirator United Kingdom publishing house is to be published also in the United States, the co-conspirator

company grants a license or a sublicense under that copyright to a publishing house in the United States usually vesting in the United States publishing house the exclusive right to publish and distribute the book in the United States and certain other countries. In return, the United States publishing house agrees not to publish, distribute or sell the book in the British Traditional Market.

13. During the period of time covered by this complaint, defendant and co-conspirator companies have negotiated publishing and copyright contracts with authors and publishing houses located in various states of the United States and in foreign countries. In addition, substantial quantities of books published by the defendant and co-conspirator companies have been shipped regularly in interstate and foreign commerce and have been sold in states and nations other than the state or nation in which the books were published.

#### VI

#### VIOLATION ALLEGED

14. Beginning in or about the year 1947, the exact date being unknown to the plaintiff, and continuing thereafter until the time of the filing of this complaint, the defendants and co-conspirators have been engaged in a combination and conspiracy in unreasonable restraint of the aforesaid interstate and foreign commerce of the United States, in violation of Section 1 of the Sherman Act, as amended (15 U.S.C. § 1). The violation is continuing and will continue unless the relief hereinafter prayed for is granted.

15. The unlawful combination and conspiracy has consisted of a continuing agreement, understanding, and concert of action among the defendants and co-conspirators to divide the world market for book sales into exclusive

territories and to allocate the exclusive territories among themselves.

16. In furtherance of the aforesaid combination and conspiracy, the defendants and co-conspirators did those things which, as hereinbefore alleged, they combined and conspired to do, including, among others, the following:

- (a) entered into agreements to allocate and perpetuate exclusive marketing territories in all parts of the world except that agreed to be "open territory";
- (b) formulated, enforced or participated in agreements entered into by members of the Publishers Association pursuant to which such members refrain from negotiating any copyright license or sublicense agreement with a United States or other foreign publishing house or author, unless the British publishing house is granted the exclusive rights for all countries within the British Traditional Market subject to certain defined exceptions permissible only with consent of the Publishers Association; and
- (c) monitored, reported and attempted to suppress actual, alleged and attempted breaches of the aforesaid agreements.

## VII

### EFFECTS

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

- (a) competition in the sale of English language copyrighted books among United States and United Kingdom publishing houses has been suppressed;
- (b) purchasers of such books have been deprived of free and open competition in the purchase of books; and

(c) the exportation of books from the United States and the importation of books into the United States have been restrained.

PRAYER

WHEREFORE, plaintiff prays:

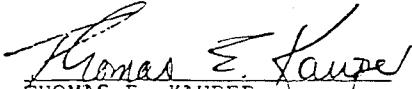
(a) That the Court adjudge and decree that the defendants have engaged in a combination and conspiracy in unreasonable restraint of the aforesaid interstate and foreign trade and commerce, in violation of Section 1 of the Sherman Act.

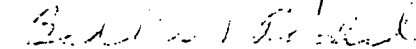
(b) That each of the defendants, its successors, assignees, directors, officers, agents, employees, representatives, all other persons or corporations acting or claiming to act for or in its behalf, and all persons or corporations in active participation or concert with the defendants, be perpetually enjoined and restrained from continuing, maintaining or renewing, directly or indirectly, the combination and conspiracy hereinbefore alleged, and from engaging in any other combination or conspiracy having a similar purpose or effect, and from adopting or following any practice, plan, program or device having a similar purpose.

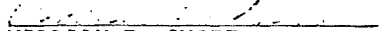
(c) That the plaintiff have such other and further relief as the nature of the case may require and the Court may deem just and proper.



(d) That the plaintiff recover the costs of this suit.

  
THOMAS E. KAUPER  
Assistant Attorney General

  
BADDIA J. RASHID

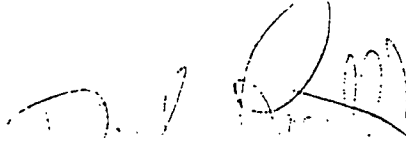
  
WILLIAM E. SWOPE

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JOEL DAVIDOW

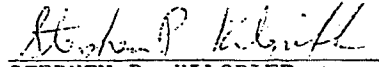
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