

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

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UNITED STATES OF AMERICA, :
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 Plaintiff, :
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 v. : Civil Action No. 75-135-SD
 :
 STAUFFER CHEMICAL COMPANY; and :
 MARINE COLLOIDS, INC., : Filed: October 2, 1975
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 Defendants. :
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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 to obtain equitable relief against the above-named defendants, and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and this action is instituted 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 violation by the defendants, as hereinafter alleged, of Section 7 of said Act, as amended (15 U.S.C. § 18).

2. Defendants Stauffer Chemical Company and Marine Colloids, Inc. are found and transact business within the District of Maine.

II

DEFENDANTS

3. Stauffer Chemical Company (hereinafter referred to as "Stauffer") is named a defendant herein. Stauffer is a corporation organized and existing under the laws of the

State of Delaware with its principal place of business in Westport, Connecticut, and a plant in South Portland, Maine. In 1974, Stauffer had net sales of \$859 million and total assets of \$749 million. Stauffer is engaged in the world-wide manufacture and sale of chemicals. Among its products is a growing food ingredients line.

4. Marine Colloids, Inc. (hereinafter referred to as "Marine Colloids") is named a defendant herein. Marine Colloids is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Rockland, Maine. In 1974, Marine Colloids had net sales of \$17.9 million and total assets of \$14.6 million.

5. Stauffer and Marine Colloids are engaged in the manufacture and sale of the gum carrageenan.

III

TRADE AND COMMERCE

6. Gums are complex carbohydrates, produced by plants or microorganisms, which when dispersed in water result in viscous mixtures or solutions.

7. Carrageenan is a unique gum used in food and industrial products to stabilize, gel or suspend. It is extracted from particular types of seaweed by either a drum-drying or an alcohol-precipitation method.

8. Carrageenan possesses certain chemical properties which make it distinct from all other gums. Carrageenan plays a unique role and is without substitutes in the following products: (a) liquid infant formula, (b) evaporated milk, (c) chocolate milk, (d) ice cream and other dairy products, and (e) solid stick room freshener. A substantial percentage of the carrageenan sold by Marine Colloids in 1974 was used in products in which carrageenan performs a unique function.

9. In marketing carrageenan, the manufacturer provides technical advice on the use of carrageenan in the customer's particular product. The provision of technical advice is an important means of effective competition in the marketing of carrageenan. The technology of using carrageenan is distinct from the technology of using any other gum.

10. The carrageenan market is highly concentrated. Total sales in the United States of carrageenan in 1974 were approximately \$13 million. Stauffer and Marine Colloids are the only domestic producers of carrageenan, and accounted for about 88 percent of the total 1974 sales of carrageenan in the United States. In 1974, Marine Colloids had sales of approximately \$9.5 million accounting for about 74 percent of the total United States sales of carrageenan. In 1974, Stauffer had sales of approximately \$1.7 million accounting for almost 14 percent of total United States sales. The remaining percentage of the market is divided among a number of importers.

11. Stauffer's sole carrageenan plant, located in South Portland, Maine, has a present production capacity of about one million pounds a year. Plans for its expansion are in progress. Marine Colloids' sole carrageenan plant, located in Rockland, Maine, has a present annual capacity of about 7.5 million pounds of carrageenan.

12. Stauffer has the intent and ability to increase its production and sales of carrageenan by internal growth, including the construction of a new plant.

13. Substantial quantities of carrageenan produced by the defendants in Maine are sold and distributed in a continuous and uninterrupted flow of interstate commerce

to customers located outside of Maine. Substantial quantities of ingredients and raw materials used by the defendants in the production of carrageenan sold by the defendants are produced outside the State of Maine and are shipped in a continuous and uninterrupted flow of interstate commerce to the plants of the defendants in the State of Maine from outside the State of Maine.

IV

VIOLATION ALLEGED

14. On or about February 10, 1975, Stauffer Chemical Company and Marine Colloids, Inc. entered into an Agreement of Merger and Supplemental Agreement providing for the merger of Marine Colloids into Stauffer.

15. The effect of the proposed merger of Marine Colloids and Stauffer may be substantially to lessen competition or tend to create a monopoly in the aforesaid interstate trade and commerce in carrageenan, in violation of Section 7 of the Clayton Act, in the following ways, among others:

- (a) actual and potential competition between Stauffer and Marine Colloids in the production and sale of carrageenan will be eliminated;
- (b) concentration in the carrageenan market will be substantially increased;
- (c) barriers to entry into the production and sale of carrageenan may be substantially increased; and
- (d) competition generally in the manufacture and sale of carrageenan will be substantially lessened.

PRAYER

WHEREFORE, plaintiff prays:

1. That the proposed merger of Marine Colloids into Stauffer be adjudged and decreed to be in violation of Section 7 of the Clayton Act.

2. That pending final adjudication of the merits of this complaint, a preliminary injunction be issued against the defendants and all persons acting on their behalf, preventing and restraining them from any action in furtherance of the merger agreement between Stauffer and Marine Colloids or any similar agreement or agreements.

3. That the merger agreement between Stauffer and Marine Colloids be declared null and void, and be ordered rescinded.

4. That Stauffer and Marine Colloids be perpetually enjoined from carrying out the merger agreement referred to in paragraph 14 herein or any similar plan or agreement the effect of which would be to consolidate or combine the businesses of Stauffer and Marine Colloids.

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 suit.

Dated:

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