

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Civil Action No. Civ-73-883-D
)
 AMATEUR SOFTBALL ASSOCIATION)
 OF AMERICA;)
 ATHLONE INDUSTRIES, INC; and) Filed: December 28, 1973
 H. HARWOOD & 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 civil action to obtain equitable relief against the defendants and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and these proceedings are instituted under Section 4 of the Act of Congress of July 2, 1890 (15 U.S.C. § 4), as amended, in order to prevent and restrain continuing violation by defendants of Section 1 of the Sherman Act (15 U.S.C. § 1).
2. The defendant Amateur Softball Association of America has its headquarters, transacts business and is found in the Western District of Oklahoma.
3. The defendants Athlone Industries, Inc. and H. Harwood & Sons, Inc. transact business within the Western District of Oklahoma.

II

CO-CONSPIRATORS

4. Various persons not named as defendants herein, including members of the Amateur Softball Association of America, and others, have participated as co-conspirators in the violation hereinafter alleged, and have performed acts and made statements in furtherance thereof.

III

DEFENDANTS

5. The Amateur Softball Association of America (hereinafter referred to as "ASA") is made a defendant herein. The ASA is one of the largest and fastest growing amateur sports associations in America today. The ASA is incorporated as a non-profit corporation in the State of Illinois and is domiciled to do business in the State of Oklahoma, where it maintains its headquarters and general offices in Oklahoma City.

6. Athlone Industries, Inc. (hereinafter referred to as "Athlone") is made a defendant herein. Athlone is a corporation organized and existing under the laws of the State of Delaware and has its principal place of business in Parsippany, New Jersey. Through its Dudley Sports Company Division (hereinafter referred to as "Dudley"), Athlone manufactures and sells softballs, baseballs, aluminum bats, pitching machines and automatic tennis machines.

7. H. Harwood & Sons, Inc. (hereinafter referred to as "Harwood") is named a defendant herein. Harwood is a corporation organized and existing under the laws of the State of Massachusetts and has its principal place of

business in Natick, Massachusetts. Harwood manufactures softballs, baseballs, and portable bat racks.

IV

DEFINITION

8. As used herein, "top grade softball" means a regular, smooth-seam concealed stitch or flat surfaced ball, not less than 11-7/8 inches nor more than 12-1/8 inches in circumference, and weighing not less than 6-1/4 ounces nor more than 7 ounces; the center of the ball may be made of either # 1 quality long fibre kapok or a mixture of cork and rubber, hand or machine wound with a fine quality twisted yarn and covered with latex or rubber cement; and the cover of the ball is made of the finest quality # 1 chrome tanned horse or cow hide, cemented to the ball by application of cement to the under side of the cover and sewed with waxed thread of cotton or linen.

V

TRADE AND COMMERCE

9. The ASA's members are individuals, teams, leagues, and independent local associations promoting amateur softball. ASA's softball activities, programs, and game rules are administered by approximately 100 state and metropolitan commissioners and approximately 2,500 district and deputy commissioners across the nation. In 1971, the ASA had registered approximately 35,000 adult softball teams and approximately 16,600 youth softball teams. In 1971, ASA's gross income exceeded \$400,000.

10. All official ASA softball games are governed by the rules and regulations contained in the Official Guide published annually by the ASA. Section 2 of Rule 2 of the 1972 Official Guide describes the official softballs to be

used in all official ASA softball games. Top grade softballs satisfy the ASA specifications.

11. Top grade softballs are the highest quality softballs available. This grade of softball is generally sold for more than \$16.00 per dozen and is generally distributed through specialized stores or athletic goods firms that cater to organized teams, adult organizations or colleges and universities; and is principally the only grade of softball that is used in official league and tournament play.

12. There are about eight manufacturers of top grade softballs. These manufacturers have plants located throughout the United States and ship their top grade softballs in interstate commerce to distribution outlets located throughout the country. Top grade softballs are ultimately used in softball games played throughout the United States. In recent years, total industry sales of top grade softballs have been steadily increasing. In 1971, total industry sales of top grade softballs exceeded \$5 million; this represented more than 57 percent of the sales of all grades of softballs sold that year.

VI

VIOLATION ALLEGED

13. Beginning in 1969, and continuing thereafter up to and including the date of the filing of this complaint, the defendants and co-conspirators have, in violation of Section 1 of the Sherman Act, combined and conspired to unreasonably restrain the aforesaid interstate trade and commerce in top grade softballs. This combination and conspiracy will continue unless the relief hereinafter prayed for is granted.

14. The aforesaid combination and conspiracy has consisted of a continuing agreement and concert of action among the defendants and co-conspirators, the substantial terms of which have been and are;

- (a) to limit the number of top grade softball manufacturers licensed to use the ASA trademark to include only Harwood and Dudley;
- (b) to designate only Harwood and Dudley softballs as the approved balls for tournament play; and
- (c) to encourage, reprimand, and coerce ASA member teams and commissioners to use and/or promote only Harwood and Dudley balls for both regular season and tournament play.

15. For the purpose of effectuating the aforesaid combination and conspiracy, the defendants and co-conspirators have done those things which, as hereinbefore alleged, they combined and conspired to do.

VII

EFFECTS

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

- (a) purchasers of top grade softballs have been foreclosed from purchasing softballs from a large segment of the top grade softball market;
- (b) purchasers of top grade softballs have been forced to pay non-competitive prices;

- (c) competition generally in the sale of top grade softballs in the United States has been restrained; and
- (d) manufacturers have been foreclosed from a substantial segment of the top grade softball market.

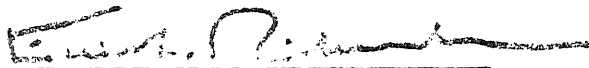
PRAYER

WHEREFORE, the plaintiff prays:


1. That the Court adjudge and decree that the defendants have combined and conspired to unreasonably restrain interstate trade and commerce in top grade softballs in violation of Section 1 of the Sherman Act.
2. That the existing license agreements between the ASA and Harwood and Dudley be declared null and void.
3. That each of the defendants, its officers, directors, agents, employees and members, and all persons acting or claiming to act on its behalf, be enjoined from continuing, maintaining or renewing, directly or indirectly, the combination or conspiracy hereinbefore alleged, or from engaging in any other practice, plan, program, or device having a similar effect.
4. That, in a manner approved by plaintiff, the ASA be required to inform its member teams, commissioners, and all other interested persons that any brand of softball which complies with the requirements of Section 2 of Rule 2 of the ASA's 1972 Official Guide is an approved and official softball for both regular season and tournament play.
5. 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.

6. That the plaintiff recover the costs of this

suit.


ELLIOT L. RICHARDSON
Attorney General

WILLIAM A. LeFAIVER


THOMAS E. KAUPER
Assistant Attorney General

WILLIAM L. FRY


BADDIA J. RASHID

WILLIAM T. PLESEC

Attorneys, Department of
Justice

Attorneys, Department of Justice
Antitrust Division
727 New Federal Building
Cleveland, Ohio 44199
Telephone: (216) 522-4083

United States Attorney