

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION .

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Civil Action No.: C-70.160
)
VIKING CARPETS, INC.,)
) Filed: February 19, 1970
 Defendant.)

COMPLAINT

United States of America, plaintiff, by its attorneys, acting under direction of the Attorney General of the United States, brings this action against the defendant, 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, c. 647, 26 Stat. 209 (15 U.S.C. § 4), as amended, commonly known as the Sherman Act, in order to prevent and restrain the continuing violation by the defendant as hereinafter alleged of Section 1 of said Act (15 U.S.C. § 1).

2. The defendant Viking Carpets, Inc. transacts business and is found in the Northern District of Ohio, Eastern Division.

II

THE DEFENDANT

3. Viking Carpets, Inc. (hereinafter referred to as "Viking") is made a defendant herein. Viking is a corporation organized and existing under the laws of the State of New York with its executive offices located in New York City. Viking is a wholly-owned subsidiary of Commercial Carpet Corporation, which is also organized under the laws of the State of New York. Viking is engaged in the business of marketing the carpets manufactured by several corporations which are also wholly-owned subsidiaries of Commercial Carpet Corporation.

III

CO-CONSPIRATORS

4. Numerous persons and business entities, including the distributors of Viking Carpets, not made defendants herein, have participated as co-conspirators with Viking in the offense charged herein, and have performed acts and made statements in furtherance of said offense.

IV

DEFINITIONS

5. As used herein, the term "Viking carpet" means any of the floor covering materials sold by the defendant Viking.

V

NATURE OF TRADE AND COMMERCE

6. The carpets sold by Viking are manufactured in mills located in the States of South Carolina and Georgia. The

consumers of these carpets are homeowners throughout the United States. There is a continuous flow in interstate commerce of carpets, shipped from these mills in the States of South Carolina and Georgia to distributors located in States other than South Carolina and Georgia.

7. A typical Viking carpet is a triple ply nylon carpet, with a .125-inch thick pile, used in residential kitchens and bathrooms. It was especially designed to withstand hard wear and repeated shampooing, and is installed by being cemented into place.

8. Viking markets its carpets through about thirty-eight distributors located throughout the United States, who resell them to retail floor covering dealers for ultimate sale to the consumers.

9. During the year 1968 Viking sales of carpet and related materials for its application amounted to over \$21 million.

VI

OFFENSE CHARGED

10. Beginning in or about 1963, the exact date being unknown, and continuing thereafter to the date of the filing of this complaint, the defendant has engaged in an unlawful combination and conspiracy in unreasonable restraint of the above described interstate trade and commerce 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.

Said offense will continue unless the relief hereinafter prayed for is granted.

11. The aforesaid combination and conspiracy has consisted of agreements and a concert of action between the defendant and its distributors, the substantial terms of which have been and are that:

- (a) Each distributor will not sell Viking carpets outside the geographic area which has been assigned to the distributor by defendant;
- (b) Defendant will require retail floor covering dealers or other persons to make their purchases of Viking carpets exclusively from the distributor to whom they are assigned;
- (c) Each of the distributors will refuse to sell Viking carpets to floor covering dealers or other persons assigned to another distributor;
- (d) Defendant and its distributors will fix, stabilize and maintain the wholesale price of Viking carpets, and will not sell Viking carpets to persons who resell such carpets for less than the prices established by Viking.

12. Pursuant to and in effectuation of the aforesaid combination and conspiracy, defendant Viking and its distributors have done those things which they combined and conspired to do.

VII

EFFECTS

13. The aforesaid offense has had, among others, the following effects:

- (a) Competition among the Viking distributors in the sale of Viking carpets has been eliminated;
- (b) Floor covering dealers and other persons have been deprived of the right to purchase Viking carpets from the distributor of their choice and at competitive prices;
- (c) Consumers of Viking carpets have been deprived of the opportunity of obtaining such products in an unrestricted market and at competitive prices.

PRAYER

WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that the defendant has combined and conspired to unreasonably restrain the aforesaid interstate trade and commerce in violation of Section 1 of the Sherman Act.

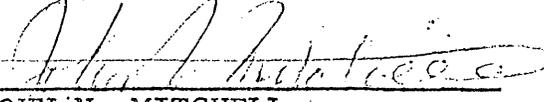
2. That the defendant, its successors, assignees, and transferees, and its officers, directors, agents, representatives and all persons acting or claiming to act on its behalf, be perpetually enjoined from:

- (a) Directly or indirectly entering into, continuing, maintaining, enforcing, or renewing the aforesaid combination and conspiracy and from engaging in any practices or agreements having a like or similar purpose or effect;

- (b) Imposing or attempting to impose any limitation or restriction upon the persons to whom, or the territories within which, distributors of Viking carpets may resell such carpets; and
- (c) Refusing to sell or threatening to refuse to sell to any person because of the territories in which or the persons to whom he has been selling Viking carpets, or the prices at which said person resells Viking carpets.

3. That the plaintiff have such other and further relief as the nature of the case may require and as the Court may deem proper.

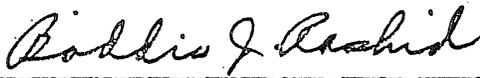
4. That the plaintiff recover the costs of this suit.



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