

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

LEGGETT & PLATT, INCORPORATED,

Defendant.

Civil Action No. 7976

Filed: May 18, 1971

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 defendant named herein 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, c. 323, 38 Stat. 736 (15 U.S.C. § 25), as amended, 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 said Act.

2. The defendant is found and transacts business within the Western Division of the Southern District of Ohio.

II

DEFINITIONS

3. As used herein:

- (a) "East of the Rocky Mountains" means the geographic area of the United States which is located east of the Rocky Mountains.
- (b) "Innerspring" means a non-upholstered wire unit which consists, essentially, of a number of connected high carbon steel coil springs tied together with and in a border of high carbon steel wire.
- (c) "Box spring" means a non-upholstered wire unit which consists, essentially, of a number of connected high carbon steel coil springs tied together with and in a border of low carbon steel wire. Box springs may be either mounted in a wood frame or unmounted.

III

THE DEFENDANT

4. Leggett & Platt, Incorporated (hereinafter referred to as "L&P"), is made the defendant herein. L&P is a corporation organized and existing under the laws of the State of Missouri and maintains its principal offices in Carthage, Missouri. L&P is engaged primarily in the manufacture and sale of innersprings and box springs east of the Rocky Mountains. In 1968, L&P had innerspring sales of \$6.8 million and box spring sales of \$5.3 million east of the Rocky Mountains. In 1969, L&P had innerspring sales of \$9.1 million and box spring sales of \$7.7 million east of the Rocky Mountains.

IV

TRADE AND COMMERCE

5. Innersprings and box springs are primarily sold by producers thereof to bedding manufacturers who employ these products in separate and distinct end uses. Innersprings are upholstered by bedding manufacturers into finished units, generally called mattresses, which are resold for use either alone or as the upper portion of a bedding ensemble, which consists of a mattress and finished box spring. Box springs are upholstered and, if necessary, mounted in wooden frames by bedding manufacturers who resell the finished box spring units for use as the lower or supporting portion of a bedding ensemble when additional sleeping support is desired by the ultimate purchaser.

6. Innersprings are manufactured in a variety of sizes and types, all of which compete with one another for the same end use on the basis of price, quality, and purchaser's preference. The equipment, general technology, and manufacturing process employed in the production of innersprings are distinct and substantially different from the equipment, general technology, and manufacturing process employed in the production of other products which incorporate coil springs, including box springs.

7. Box springs also are manufactured in a variety of sizes and types, all of which compete with one another for the same end use on the basis of price, quality, and purchaser's preference. The equipment, general technology, and manufacturing process employed in the production of box springs are distinct and substantially different from the equipment, general technology, and manufacturing process

employed in the production of other products which incorporate coil springs, including innersprings.

8. The geographic area within which manufacturers of innersprings and box springs can effectively sell these products is limited, primarily because of the high costs of transporting innersprings and box springs, by the number and location of their manufacturing and warehousing facilities, including the proximity of these facilities to potential customers. While many of the manufacturers of these products are limited in this respect to smaller geographic areas of competition, several manufacturers, including L&P, have a sufficient number and geographic distribution of facilities to enable them to economically sell innersprings and box springs throughout the area east of the Rocky Mountains. Rarely, however, because of transportation difficulties and expense, do innerspring and box spring manufacturers with facilities located east of the Rocky Mountains ship their products across those mountains for sale. Similarly, innerspring and box spring manufacturers with facilities located west of the Rocky Mountains do not ship their products east of those mountains.

9. In 1968, there were approximately \$40.7 million in innerspring sales and approximately \$24.6 million in box spring sales made east of the Rocky Mountains by innerspring and box spring manufacturers with facilities located in that area. Both these industries are concentrated. In this area in 1968, the four leading innerspring manufacturers accounted for about 49 percent of the total innerspring sales and the four leading box

spring manufacturers accounted for about 41.5 percent of the total box spring sales.

10. By 1968, due in part to an acquisition program, L&P was the second largest innerspring manufacturer and the largest box spring manufacturer operating east of the Rocky Mountains. In that year, its share of the innerspring market east of the Rocky Mountains had reached 15.40 percent and its share of the box spring market in the same area had reached 17.22 percent.

11. In 1968, Motor City Spring Company (hereinafter referred to as "Motor City"), had innerspring sales of \$558,000 and box spring sales of \$1,112,000. Of the total innerspring and box spring sales east of the Rocky Mountains in that year, Motor City ranked eighteenth, with 1.37 percent, and tenth, with 4.25 percent, respectively. The predominant share of Motor City's sales of these products were made in the two-state area of Michigan and Ohio from Motor City's single facility located in Detroit, Michigan.

12. In 1968, The J. R. Greeno Company (hereinafter referred to as "Greeno"), had innerspring sales of \$2,122,000 and box spring sales of \$1,697,000. Of the total innerspring and box spring sales east of the Rocky Mountains in that year, Greeno ranked seventh, with 5.22 percent, and third, with 6.90 percent, respectively. All of Greeno's sales of these products were made in the State of Ohio from its single facility located in Cincinnati, Ohio.

13. Following its acquisitions of Motor City and Greeno, L&P's share of the innerspring market east of the Rocky Mountains was increased to 21.99 percent and

its share of the box spring market east of the Rocky Mountains was increased to 28.64 percent. As a result, in the area east of the Rocky Mountains, L&P obtained the leading position in the manufacture and sale of innersprings and strengthened its already leading position in the manufacture and sale of box springs. These two acquisitions also increased the share of the four largest innerspring manufacturers in this area to 55.70 percent and increased the share of the four largest box spring manufacturers in this area to 52.17 percent.

14. Many bedding manufacturers who purchase innersprings and box springs operate multi-plant manufacturing facilities throughout the area east of the Rocky Mountains. For efficiency and convenience these bedding manufacturers generally prefer to purchase innersprings and box springs from one manufacturing source which can supply all of their plant facilities in this area. For this reason it is to the competitive advantage of an innerspring and box spring manufacturer, in its efforts to sell to multi-plant bedding manufacturers, to have manufacturing and warehousing facilities in sufficient number to serve these national accounts efficiently and economically.

15. L&P, prior to its acquisitions of Motor City and Greeno, did not have production facilities in either Ohio or Michigan. It did, however, have production facilities for the manufacture of innersprings and box springs in ten other localities throughout the area east of the Rockies and, in addition, had warehousing facilities in four other localities in this area. L&P has long recognized the competitive advantage of widespread

geographic coverage in the innerspring and box spring industry, and has continually sought to expand or establish its geographic coverage in various localities throughout the area east of the Rocky Mountains.

16. In 1967, innerspring sales of approximately \$2,850,000 and box spring sales of approximately \$2,850,000 were made in the State of Michigan. During that year, Motor City's Michigan innerspring sales of approximately \$366,587 and box spring sales of approximately \$527,527 represented over 12.8 percent and 18.5 percent, respectively, of the total of such sales in that state. In the State of Michigan in 1967, L&P had innerspring sales of about \$84,023 and box spring sales of about \$37,750, accounting for over 2.9 percent and 1.3 percent, respectively, of the total of such sales. In Ohio, during 1967, innerspring sales were about \$7,600,000 and box spring sales were about \$7,620,000. During that year, Motor City had innerspring sales of about \$265,119 and box spring sales of about \$381,513 in Ohio, accounting for over 3.4 percent and 5.0 percent, respectively, of the total of such sales in that state. At the same time, L&P had innerspring sales of about \$152,025 and box spring sales of about \$68,301 in Ohio, accounting for about 2.0 percent of the total innerspring sales and about .9 percent of the total box spring sales in that state.

17. In 1968, innerspring sales of approximately \$7,650,000 and box spring sales of approximately \$7,660,000 were made in the State of Ohio. During that year, Greeno's Ohio innerspring sales of approximately \$2,122,000 and box spring sales of approximately \$1,697,000 represented about 27.8 percent and 22.2 percent, respectively, of the total

of such sales in that state. In the State of Ohio in 1968 L&P had innerspring sales of about \$716,563 and box spring sales of about \$577,272, accounting for over 9.3 percent and 7.5 percent, respectively, of the total of such sales.

18. Innerspring and box spring manufacturers east of the Rocky Mountains, including L&P, purchase substantial quantities of raw materials and other merchandise from states other than those in which their facilities are located. Such merchandise is shipped in interstate commerce into the states where these facilities are located. L&P is engaged in interstate commerce in its sales of innersprings and box springs.

V

OFFENSE CHARGED

19. L&P acquired all of the stock of Motor City on March 31, 1968 and all of the assets of Greeno on January 2, 1969. These acquisitions may substantially lessen competition or tend to create a monopoly in the above described trade and commerce in violation of Section 7 of the Clayton Act in the following ways, among others:

- (a) actual and potential competition between and among L&P, Motor City and Greeno in the manufacture and sale of innersprings and box springs in the area east of the Rocky Mountains and in various sections in that area has been eliminated;
- (b) L&P's competitive advantage in the manufacture and sale of innersprings and box springs in the area east of the Rocky

Mountains and in various sections in that area may be enhanced to the detriment of competition;

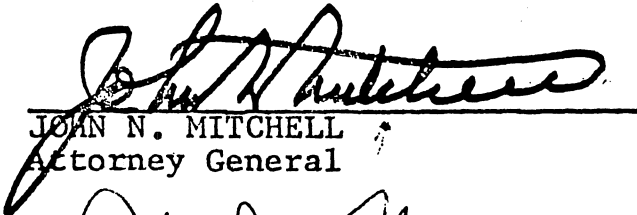
- (c) competition generally in the manufacture and sale of innersprings and box springs in the area east of the Rocky Mountains and in various sections in that area has been substantially lessened; and
- (d) concentration in the manufacture and sale of innersprings and box springs in the area east of the Rocky Mountains and in various sections in that area has been increased and may be further increased.

PRAYER

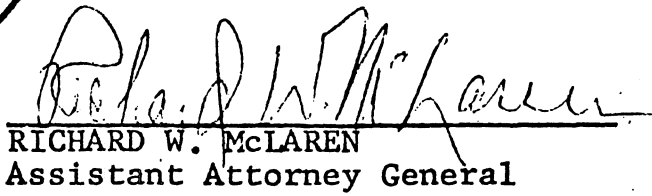
WHEREFORE, plaintiff prays:

1. That the aforesaid acquisitions by L&P be adjudged and decreed to be unlawful, in violation of Section 7 of the Clayton Act.
2. That L&P be required to divest itself of all of the assets and interests acquired from Motor City.
3. That L&P be required to divest itself of all of the assets and interests acquired from Greeno.
4. That plaintiff have such other and further relief as the Court may deem just and proper.

5. That plaintiff recover the costs of this action.


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