

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

United States of America,)	
(Department of Justice)	File No.
Plaintiff,)	
)	2:93-CV-77
v.)	
)	
Canstar Sports USA, Inc.,)	
Defendant.)	

OPINION AND ORDER

The Complaint in this case was filed on March 17, 1993 along with a proposed consent judgment and competitive impact statement. The Complaint alleges that the defendants, in association with various retail dealers not charged, engaged in a conspiracy to fix and maintain the retail price of hockey skates with V2 blades, manufactured by the defendant's parent corporation in Canada, at an amount set by the defendant. The United States alleged such a conspiracy was a violation of Section 1 of the Sherman Act as amended, 15 U.S.C. § 1. The parties consented to a Proposed Final Judgment (Paper 4) which essentially enjoins the defendant from attempting to establish any type of arrangement between it and retail dealers fixing the resale price of hockey skates sold or distributed by the defendant.

Entry of consent judgment is government civil antitrust cases in governed by the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16. ("APPA") Provision is made for public comments on proposed consent to be submitted within a 60 day period after the

proposed consent judgment is published in the Federal Register. Such comments are to be submitted to the United States Register. Such comments are to be submitted to the United States, which may respond to the comments. U.S.C. § 16(b) and (d). At the end of the 60 day period, such comments and any responses are to be filed with the district court where the complaint was filed and published in the Federal Register. 15 U.S.C. § 16 (d). For its part, the district court may enter the proposed consent judgment after it has determined that the entry of such judgment is in the public interest. 15 U.S.C. § 16(e) and (f).

The last day for written comments regarding the proposed consent judgment in this case was June 1, 1993. The United States had received one written comment by that date. In a document dated May 30, 1993 but filed with this Court on June 11, 1993, Sportswear Design, Inc. and its counsel, Jared Cohen submitted: (1) a motion to admit Mr. Cohen pro hac vice; (2) an application to submit a detailed objection to the proposed judgment; and (3) a request to amend the proposed judgment to protect retailers and regional customers. (Paper 7) Attached to this document were numerous other documents that Sportswear considered relevant to this court's determination of whether the proposed consent judgment is in the public interest. Sportswear requested an additional 14 days to submit its written objections and proposed amendments, as well as an opportunity to address the Court.

After reviewing the motion and the documents submitted with it, this Court is of the opinion that the submission of memorandum

and oral argument of the part of Sportswear is unnecessary. Procedurally, Sportswear has failed to comply with the Local Rule No. 1.A.II and B.I. providing for pro hac vice admissions. More importantly, the APPA required written comments to be directed to the United States, which is then to file both the comments and any response with the district court, as well as publish them in the Federal Register. There is no allegation that the United States failed to give proper notice of the Proposed Final Judgment as required by APPA; indeed Sportswear admits it received actual notice two weeks prior to the expiration of the comment period but because of motions in its own case failed to submit any comments.

Moreover, the documents submitted in support of Sportswear's motion reveal a dispute between Sportswear and Canstar which is not related to the activity addressed in the Proposed Final Judgment before this Court.¹

Accordingly, the motion, requests and application of Sportswear Sportwear and its (Page 7) are denied.

Dated at Burlington, in the District of Vermont, this _____ day of September, 1993.

Fred I. Parker
Chief Judge

¹ Sportswear has brought an antitrust suit against Canstar in Michigan. Sportswear Design, Inc. V. Canstar Sports U.S.A., Inc., 90 cv 73600 (E.D.Mich.1993), alleging that Canstar engaged in a scheme to fix minimum retail prices of its products since 1985. The instant proposed final Judgment relates only to the skates outfitted with a V2 blade and an alleged attempt to fix a minimum price for these skates during the limited period of February to November 1990, whereas Sportswear's antitrust action addresses all products sold or distributed by Canstar in Michigan and elsewhere since 1987.