

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

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UNITED STATES OF AMERICA, :
 :
 Plaintiff, : Civil No. CIV-N-82-305
 v. : Equitable Relief Sought
 NEWELL COMPANIES, INC., : Filed: 6/14/82
 Defendant. :
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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 civil action to obtain equitable relief against the defendant 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 Clayton Act, as amended (15 U.S.C. § 25), in order to prevent and restrain the continuing violation by the defendant, as hereinafter alleged, of Section 7 of the Clayton Act as amended (15 U.S.C. § 18).
2. Newell Companies, Inc. ("Newell") transacts business and is found within the District of Connecticut.

II

DEFINITION

3. "HHI" means the Herfindahl-Hirschman Index, a measure of market concentration calculated by squaring the market share of each firm competing in the market, and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2600 ($30^2 + 30^2 + 20^2 + 20^2 = 2600$). The HHI

takes into account the relative size and distribution of the firms in a market. It approaches zero when a market is occupied by a large number of firms of relatively equal size and reaches its maximum of 10,000 when a market is controlled by a single firm. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

III

THE DEFENDANT

4. Newell is made a defendant herein. Newell is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Freeport, Illinois. Newell manufactures a variety of products for the home, including drapery hardware. Newell's 1980 total sales were approximately \$138,500,000.

5. In April 1981, Newell acquired the following assets and capital stock from The Stanley Works, a Connecticut corporation with headquarters at New Britain, Connecticut: (1) substantially all of the assets of The Stanley Works Drapery Hardware Division including its inventory, accounts receivable, machinery, patents, trademarks, designs, know-how, customer lists and manufacturing facility located in Wallingford, Connecticut; (2) the capital stock of Stanley Drapery Hardware of Puerto Rico, Inc., a wholly-owned subsidiary of The Stanley Works; and (3) substantially all of the assets relating to the drapery hardware business of The Stanley Works, Ltd., located in Canada, another subsidiary of The Stanley Works, including the drapery hardware inventory, equipment, patents, trademarks, designs, know-how, customer lists, and other business related items. Hereinafter, the above-mentioned assets and capital stock will be referred to collectively as "Stanley." Stanley was engaged in the manufacture and sale of drapery hardware until the date of this acquisition.

IV

TRADE AND COMMERCE

6. Drapery hardware may be defined as a distinct cluster of products that are used to hang draperies or curtains and for which there are no substitutes in the marketplace. These products include adjustable traverse, cafe, curtain, and sash rods, each of which is manufactured in a variety of sizes and styles, and various functional and decorative accessories such as hooks, rings, supports, brackets and tie backs.

7. Drapery hardware manufacturers sell their products to (1) retailers, such as mass merchandisers, department stores, home supply centers, specialty curtain and drapery shops, and hardware stores, which resell these products to the ultimate consumer; (2) drapery workrooms, which supply draperies, drapery hardware, carpeting, and other interior decorating products to commercial accounts, such as hotels, hospitals and office buildings; and (3) jobbers, which resell drapery hardware to interior decorators, drapery workrooms, and small retailers.

8. The market for the manufacture and sale of drapery hardware is highly concentrated. In 1980, total sales in the United States of drapery hardware by manufacturers were approximately \$218 million. The pre-acquisition HHI for the industry was 2368, and the acquisition increased the level of concentration to 2600. In 1980, before the acquisition, the top four manufacturers of drapery hardware accounted for approximately 80% of the market, and the top six drapery hardware manufacturers accounted for approximately 96% of the market.

9. In 1980, Newell was the nation's second largest manufacturer of drapery hardware with domestic sales of approximately \$32,188,000, which accounted for approximately 14.8% of total industry sales. In 1980, Stanley was the

nation's sixth largest manufacturer of drapery hardware with domestic sales of approximately \$17,051,000, which accounted for approximately 7.8% of total industry sales.

10. Substantial quantities of drapery hardware are regularly sold and shipped in interstate commerce by the manufacturers and sellers thereof, including Newell. Newell is also engaged in interstate commerce through the sale and distribution throughout the United States of substantial quantities of various other products. Prior to its acquisition by Newell, Stanley regularly sold and shipped in interstate commerce substantial quantities of drapery hardware.

V

VIOLATION ALLEGED

11. On or about April 24, 1981, Newell acquired Stanley for approximately \$13,630,000. The effect of this acquisition may be substantially to lessen competition in the aforesaid interstate trade and commerce in violation of Section 7 of the Clayton Act in the following ways, among others:

- (a) competition between Newell and Stanley in the manufacture and sale of drapery hardware has been eliminated;
- (b) concentration in the manufacture and sale of drapery hardware has been increased; and
- (c) competition generally in the manufacture and sale of drapery hardware may be lessened.

PRAYER

WHEREFORE, the plaintiff prays:

1. That the acquisition of Stanley by Newell be adjudged and decreed in violation of Section 7 of the Clayton Act.

2. That pending a final adjudication of the merits of this Complaint, a hold separate order be issued against the defendant, preventing and restraining the consolidation or combination of the operations of Newell and Stanley.

3. That under such terms and conditions as will promptly restore Stanley as a separate and viable competitive entity in the United States, Newell be required to divest itself of Stanley.

4. That the plaintiff be granted such other and further relief as the Court may deem just and proper.

5. That the plaintiff recover the costs of this action.



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