

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	)	
	)	Civil No. 89-4522
Plaintiff,	)	
	)	SUIT FOR PRELIMINARY
v.	)	AND PERMANENT INJUNCTION
	)	AGAINST ACQUISITION
PACIFIC DUNLOP HOLDINGS INC.;	)	
BECTON, DICKINSON AND COMPANY;	)	15 U.S.C. § 18
and EDMONT, INC.,	)	ANTITRUST
	)	FILED: June 16, 1989
Defendants.	)	

COMPLAINT

The United States of America, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action to obtain equitable and other relief against the defendants named herein 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, to prevent and restrain the violation by defendants, as hereinafter alleged, of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

2. Pacific Dunlop Holdings Inc., Becton, Dickinson and Company, and Edmont, Inc. transact business and are found within the Eastern District of Pennsylvania.

## II

### DEFINITIONS

3. "Industrial gloves" are gloves used by industry to protect hands from cuts and abrasions and environmental, chemical, and biological agents and/or to protect products from hand-borne contamination.

4. "Dipped supported gloves" are industrial gloves made of cloth or other lining material coated with latex (natural rubber) or a synthetic material such as nitrile, neoprene, or polyvinyl chloride.

5. "Dipped unsupported gloves" are industrial gloves that are made from latex or a synthetic material that may be flock-lined but do not employ any other lining.

6. "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, which takes into account the relative size and distribution of the firms in a market, ranges from virtually zero to 10,000. The index approaches zero when a market is occupied by a large number of firms of relatively equal size. The index increases as the number of firms in the market decreases and as the disparity in size between the leading firms and the remaining firms increases.

### III

#### DEFENDANTS

7. Pacific Dunlop Holdings Inc. ("PDH") is made a defendant herein. PDH is a Delaware corporation which maintains its principal offices in Chicago, Illinois. PDH is the sole owner of Ansell Granet Inc. and Ansell Inc. Through Ansell Granet Inc. and Ansell Inc., PDH manufactures and sells various types of industrial gloves in the United States and other parts of the world. In 1988, PDH's total industrial glove sales in the United States were about \$26 million.

8. Becton, Dickinson and Company ("BD") is made a defendant herein. BD is a New Jersey corporation which maintains its principal offices in Franklin Lakes, New Jersey. BD is the sole owner of Edmont, Inc.

9. Edmont, Inc. ("Edmont") is made a defendant herein. Edmont, a Nevada corporation with principal offices in Coshocton, Ohio, manufactures and sells various types of industrial gloves in the United States and other parts of the world. Its total United States sales of industrial gloves in 1988 were approximately \$65 million.

### IV

#### TRADE AND COMMERCE

10. Both PDH and Edmont are major United States suppliers of industrial gloves. Both companies produce for sale in the

United States dipped unsupported nitrile gloves and dipped supported gloves coated with nitrile, latex, neoprene, and polyvinyl chloride ("PVC").

11. The several types of dipped supported and unsupported industrial gloves each have differing degrees of suitability for the many uses for industrial gloves. As between dipped supported and dipped unsupported industrial gloves, the former offer superior protection from cuts and abrasion, while the latter have superior tactile and dexterity properties. Within the supported and unsupported categories, each type of coating material offers protection against certain chemicals or other toxic or corrosive substances superior to other types. Further, dipped supported industrial gloves may or may not be liquid proof and chemical resistant ("liquid proof"), depending on whether they are designed to allow for hand ventilation. All dipped unsupported industrial gloves, on the other hand, are liquid proof.

12. A small but significant and nontransitory increase in the price of any of the following types of industrial gloves is not likely to cause a significant number of customers to substitute any other type of industrial glove, or any other product: dipped unsupported nitrile gloves, liquid proof dipped supported latex gloves, liquid proof dipped supported nitrile gloves, liquid proof dipped supported neoprene gloves, and liquid proof dipped supported PVC gloves. For each of the

above types of industrial gloves, firms that produce and sell that type in the United States compete with each other for sales throughout the United States.

13. The production and sale of dipped unsupported nitrile gloves, of liquid proof dipped supported latex gloves, of liquid proof dipped supported nitrile gloves, of liquid proof dipped supported neoprene gloves, and of liquid proof dipped supported PVC gloves, each constitutes a line of commerce and relevant product market, and the United States is a section of the country and a relevant geographic market, within the meaning of Section 7 of the Clayton Act.

14. In 1988, total United States sales of dipped unsupported nitrile gloves were approximately \$28.7 million. Edmont and PDH, through its subsidiary Ansell Inc., are respectively the first and fifth largest competitors in the United States market for dipped unsupported nitrile gloves; based on 1988 United States sales data, Edmont and PDH market shares are, respectively, about 43 percent and 4.4 percent. The market is highly concentrated and would become substantially more concentrated as a result of the proposed acquisition of Edmont by PDH described in paragraph 20 herein ("the proposed acquisition"). Based on market shares derived from sales of the firms in the market, the proposed acquisition would increase the HHI by about 380 points to over 3200.

15. Total United States sales in 1988 of all dipped supported latex, nitrile, neoprene, and PVC gloves were approximately \$80 million. Edmont and PDH, through its subsidiary Ansell Granet Inc., are the second and third leading United States sellers of dipped supported latex gloves, with shares of 1988 sales of that type of glove of about 30 percent and 5 percent respectively; the first and third leading United States sellers of dipped supported nitrile gloves, with shares of about 54 percent and 6 percent; the first and fourth leading United States sellers of dipped supported neoprene gloves, with shares of about 44 percent and 7.7 percent; and among the top five leading United States sellers of dipped supported PVC gloves, with shares of about 35 percent and 5.6 percent.

16. A number of producers of dipped supported latex, nitrile, neoprene and PVC gloves make more than one type of such gloves, and most producers can make more than one type using the same production equipment. All producers of these types of dipped supported gloves can make both liquid proof and non-liquid proof gloves on the same equipment. For purposes of analysis of the effect of the acquisition on competition in each of the dipped supported glove markets it is appropriate to aggregate the capacity resulting from all such equipment that can be used by producers to make more than one type of glove.

17. Each of the above identified United States markets for dipped supported gloves is highly concentrated and would become substantially more concentrated as a result of the proposed acquisition of Edmont by PDH. Based on 1988 United States sales of all dipped supported gloves, the acquisition would increase the HHI by at least 300 points to over 2800 in each of the markets.

18. Successful entry into any of the above described United States markets for dipped supported and unsupported industrial gloves is difficult and time-consuming because of the cost and time required to perfect the production technologies, to construct necessary production facilities, and to develop the substantial distributor relationships necessary to compete effectively in the United States.

19. Competitors in each of the above described United States markets for dipped supported and unsupported industrial gloves regularly sell substantial quantities of the relevant products in interstate commerce. The production of each relevant product for sale in the United States is within the flow of and substantially affects interstate commerce.

## V

### VIOLATION ALLEGED

20. Under the terms of a February 13, 1989 Purchase and Sale Agreement ("Agreement") between PDH and Edmont, PDH proposes to acquire, for a purchase price of \$195 million and the assumption of certain liabilities, all of Edmont's industrial glove operations in the United States.

21. The effect of the proposed acquisition may be substantially to lessen competition in interstate trade and commerce in violation of Section 7 of the Clayton Act in the following ways, among others:

- (a) actual and potential competition between Edmont and PDH will be eliminated in the United States markets for dipped unsupported nitrile gloves, liquid proof dipped supported latex gloves, liquid proof dipped supported nitrile gloves, liquid proof dipped supported neoprene gloves, and liquid proof dipped supported PVC gloves; and
- (b) competition generally may be substantially lessened in the United States markets for dipped unsupported nitrile gloves, liquid proof dipped supported latex gloves, liquid proof dipped supported nitrile gloves, liquid proof dipped supported neoprene gloves, and liquid proof dipped supported PVC gloves.

PRAYER

WHEREFORE, plaintiff prays:


- 1. That the proposed acquisition of Edmont by PDH be adjudged to be in violation of Section 7 of the Clayton Act;
- 2. That such injunctive relief and relief by way of preservation of assets and divestiture be ordered as is necessary and appropriate to prevent the effects of the unlawful activities alleged in this complaint;




3. That the plaintiff have such other and further relief as the Court may deem just and proper; and

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


Dated:

  
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