

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Branch River Wool Combing Company, Inc.; The French Worsted Company., U.S. District Court, D. Rhode Island, 1964 Trade Cases ¶71,045, (Apr. 13, 1964)

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United States v. Branch River Wool Combing Company, Inc.; The French Worsted Company.

1964 Trade Cases ¶71,045. U.S. District Court, D. Rhode Island. Civil Action No. 3123. Entered April 13, 1964. Case No. 1745 in the Antitrust Division of the Department of Justice.

Clayton Act

Acquiring Competitors—Acquisition of Assets—Divestiture—Consent Judgment.—A producer of wool top was required under the terms of a consent judgment to sell the assets of a comber of wool top which it had acquired and prohibited for five years from acquiring from any person engaged in the production of wool top any machinery or other asset used in the production of wool top.

For the plaintiff: William H. Orrick, Jr., William D. Kilgore, Jr., Harry G. Sklarsky, John J. Galgay, John D. Swartz, Raymond W. Philipps, Bertram M. Kantor, and William J. Elkins, Attorneys, Department of Justice.

For the defendant: Jacob Imberman for Branch River Wool Combing Company, Inc.

Final Judgment

DAY, District Judge [*In full text*]: Plaintiff, United States of America, having filed its complaint herein on May 13, 1963, and the plaintiff and the defendants, by their respective attorneys, having severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final judgment constituting evidence or any admission by any party signatory hereto with respect to any such issue;

Now, therefore, before the taking of any testimony, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties consenting hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

[*Clayton Act*]

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states claims upon which relief may be granted against the defendants under Section 7 of the Act of Congress of October 15, 1914, (15 U. S. C. § 18), commonly known as the Clayton Act, as amended.

II

[*Definitions*]

As used in this Final Judgment:

(A) "Person" means any individual, partnership, firm, corporation, association, trustee or other business or legal entity;

(B) "Eligible purchaser" means any United States dealer in machinery used for the production of wool top and any person engaged or proposing to engage in the United States in the production of wool top except that none of the following concerns or their parents, subsidiaries, successors, agents, officers or directors shall be eligible purchasers: Prouvost Lefebvre of Rhode Island, Inc., Prouvost Lefebvre & Co., Inc., Amedee Prouvost, Inc., The Top Company, Marriner & Company, Inc., Nichols & Company, Inc., Wellman Combing Company, Southwell

Combing Company, Nichols Fibre Company, High Street Wool Corporation, Boutin Wool Company, Davis Wool Company, Fred Whitaker Company;

(C) "Machinery used in the production of wool top" means machinery necessary for the production of wool top, including, but not limited to, combs, cards, gill boxes, scouring machines, back washers, dryers, coilers and feeders;

(D) "Wool top" means raw wool which has been scoured, carded and combed and is ready for spinning into worsted yarn.

III

[*Applicability*]

The provisions of this Final Judgment applicable to either defendant shall apply to such defendant and its subsidiaries, successors and assigns and to each of their respective directors, officers, agents, servants and employees, and to all other persons in active concert or participation with such defendant who receive actual notice of this Final Judgment by personal service or otherwise. None of the provisions of this Final Judgment applicable to Branch River shall apply to any eligible purchaser who acquires the machinery disposed of pursuant to Section IV of this Final Judgment.

IV

[*Divestiture Required*]

Defendant Branch River is ordered and directed within twelve (12) months from the date of entry of this Final Judgment to sell to an eligible person on reasonable terms and conditions all the machinery and other assets acquired by Branch River from French Worsted by the agreement dated March 24, 1959. Should such machinery and other assets not be disposed of within the said twelve-month period, defendant Branch River is ordered and directed within three (3) months thereafter to sell to an eligible person all such machinery and assets at the highest cash price offered. Sale of such machinery and other assets shall be on a basis as will permit said machinery to be operated as a going enterprise engaged in the manufacture of wool top. Until such machinery and other assets are disposed of, French Worsted shall have the right to use and operate said machinery and assets upon terms and conditions as set forth in the Sale, Lease and Sub-lease Agreement between Branch River and French Worsted. French Worsted shall have the right to purchase said machinery and assets from Branch River if the offer of French Worsted is the highest offer received by Branch River.

V

[*Acquisitions Prohibited*]

(A) Defendant Branch River is enjoined and restrained from directly or indirectly acquiring jointly with any other person engaged in the manufacture of wool top any machinery used in the production of wool top or any other assets, business, good will, stock of, or other financial interest in any person engaged in the manufacture or sale in the United States of wool top.

(B) Defendant Branch River is enjoined and restrained for a period of five (5) years from the date of entry of this Final Judgment from acquiring directly or indirectly from any person engaged in the production of wool top in the United States any machinery used in the production of wool top or any other assets, business, good will, stock of, or other financial interest in any person engaged in the production or sale in the United States of wool top.

(C) Subsequent to the five (5) years specified in subsection (B) above, for an additional period of five (5) years, defendant Branch River is enjoined and restrained from acquiring directly or indirectly from any person engaged in the production of wool top in the United States any machinery used in the production of wool top, other assets, business, good will, stock of, or other financial interest in any person engaged in the production or sale in the United States of wool top except upon approval of this Court after notice to the plaintiff and upon establishing

to the satisfaction of this Court that such acquisition will not substantially lessen competition or tend to create a monopoly in the production or sale of wool top.

Provided, however, that this Section V shall not be deemed to prohibit defendant Branch River from acquiring from any source any machinery or parts thereof used in the production of wool top needed by it as a replacement for machinery or parts in any of its plants.

VI

[*Other Prohibitions*]

Defendant Branch River is enjoined and restrained from:

- (A) Taking any action to prevent French Worsted from carrying on the business of wool combing, wool scouring or wool re-combing for any person;
- (B) Prohibiting French Worsted from purchasing machinery used in the production of wool top; provided, however, that Branch River shall be under no obligation to purchase from French Worsted and French Worsted shall be under no obligation to sell to Branch River any such machinery acquired by French Worsted;
- (C) Entering into any agreement which would prohibit or restrain in any manner any person (1) from engaging in the business of producing wool top, scouring wool and recombining wool, and (2) from purchasing machinery used in the production of wool top.

VII

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment and for no other purpose, subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General, or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted (1) reasonable access, during the office hours of said defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendant relating to any of the matters contained in this Final Judgment, and (2) subject to the reasonable convenience of said defendant and without restraint or interference from the defendant, to interview officers or employees of the defendant, who may have counsel present, regarding any such matters.

For the purpose of securing compliance with this Final Judgment, each defendant, upon the written request of the Attorney General, or of the Assistant Attorney General in charge of the Antitrust Division, and upon notice made to its principal office, shall submit such reports in writing to the Department of Justice with respect to matters contained in this Final Judgment as may from time to time be necessary to the enforcement of this Final Judgment. No information obtained by the means provided in this Section VII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the plaintiff except in the course of court proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

VIII

[*Jurisdiction Retained*]

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification or termination of any of the provisions hereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.