

# Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Viking Carpets, Inc., U.S. District Court, N.D. Ohio, 1970 Trade Cases ¶73,096, (Mar. 23, 1970)

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United States v. Viking Carpets, Inc.

1970 Trade Cases ¶73,096. U.S. District Court, N.D. Ohio, Eastern Division. Civil No. C 70, 160. Entered March 23, 1970. Case No. 2084 in the Antitrust Division of the Department of Justice.

## Sherman Act

**Price Fixing—Customers and Territories—Carpeting—Consent Decree.**—The marketing subsidiary of a carpet manufacturer was prohibited by a consent decree from fixing its distributors' prices or restricting the customers to whom and territories in which they may sell. Disciplinary activity and, for three years, suggesting resale prices are prohibited.

For the plaintiff: Richard W. McLaren, Asst. Atty. Gen. Antitrust Div., Baddia J. Rashid, William D. Kilgore, Jr., Carl L. Steinhouse and Norah C. Taranto, Attys. Dept. of Justice.

For the defendant: Malcolm A. Hoffman, New York, N. Y.

## Final Judgment

KALBFLEISCH, D. J.: Plaintiff, United States of America, having filed its complaint on February 19, 1970, and defendant having appeared herein and plaintiff and defendant by their respective attorneys having consented to the making and entry of this Final Judgment without trial or adjudication of any fact or law herein, and without admission by either party in respect to any issue:

Now, Therefore, before any testimony has been taken herein, and upon consent of the parties hereto, it is hereby;

Ordered, Adjudged and Decreed as follows:

### I

#### [ *Jurisdiction* ]

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 defendant under Section 1 of the Act of Congress of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies", commonly known as the Sherman Act, as amended.

### II

#### [ *Definitions* ]

As used in this Final Judgment:

- (A) "Defendant" shall mean the defendant Viking Carpets, Inc., a corporation organized and existing under the laws of the State of New York;
- (B) "Viking carpets" shall mean any of the floor covering materials sold by defendant;
- (C) "Person" shall mean any individual, corporation, partnership, firm or association or other business or legal entity;
- (D) "Distributor" shall mean any person engaged in the purchase for resale of Viking carpets from defendants; and

(E) "Dealer" shall mean any person engaged in the purchase of Viking carpets for resale primarily to consumers.

### III

#### [ *Applicability* ]

The provisions of this Final Judgment shall apply to the defendant, its successors, subsidiaries, assigns, officers, directors, agents and its employees, and to all other persons in active concert or participation with it who receive actual notice of this Final Judgment by personal service or otherwise. For the purposes of this Final Judgment, defendant Viking Carpets, Inc., its officers, directors, servants and employees when acting as such, shall be deemed to be one person.

### IV

#### [ *Price Fixing Activities* ]

Defendant is enjoined and restrained from:

(A) Entering into, adhering to, maintaining or enforcing, or claiming any rights under any combination, contract, agreement, understanding, plan or program with any distributor or dealer to fix, establish, limit or restrict:

(1) The prices at which Viking carpets may be sold by any distributor or dealer;

(2) The persons or classes of persons to whom, or the territories in which Viking carpets may be sold or distributed by any distributor or dealer;

(B) Requiring any distributor or dealer to adhere to any fixed, suggested or specified prices at which Viking carpets may be sold to third persons;

(C) Taking or threatening to take any disciplinary action against any distributor or dealer because of the prices at which, the persons or classes of persons to whom, or the territories in which such distributor or dealer has sold or distributed or intends to sell or distribute Viking carpets;

(D) For a period of three years from the date of entry of this Final Judgment, suggesting to its distributors resale prices at which Viking carpets shall be sold to other persons.

### V

#### [ *Notification* ]

Defendant is ordered and directed:

(A) Within ninety (90) days after the date of entry of this Final Judgment to take all necessary action to effect the cancellation of each provision of every contract or agreement between and among the defendant and its distributors and its dealers which is contrary to or inconsistent with any provision of this Final Judgment;

(B) Within sixty (60) days after the entry of this Final Judgment, to serve a copy of it upon each of its distributors;

(C) For a period of five (5) years from the date of this Final Judgment to notify plaintiff within thirty (30) days after any cancellations of distributorships together with the reasons therefor;

(D) Notify in writing (1) each of its present distributors within sixty (60) days from the date of the entry of this Final Judgment, and (2) for a period of three (3) years from the date of entry of this Final Judgment, notify each of its newly appointed distributors on or before the date of such appointment, that each distributor may sell the defendant's carpets at such prices as and to whomever and wherever he chooses;

(E) Defendant is ordered and directed to file with this Court and serve upon the plaintiff, within one hundred and fifty (150) days from the date of entry of this Final Judgment, an affidavit as to the fact and manner of its compliance with Sections (A), (B) and (D) of this Section V.

### VI

[ *Inspection and Compliance*]

(A) For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose, 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 defendant made to defendant's principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of defendant to books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendant as relates to any matters contained in this Final Judgment;

(2) Subject to the reasonable convenience of defendant and without restraint or interference from it, to interview officers or employees of defendant, who may have counsel present, regarding any such matter.

(B) Defendant, on the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing, under oath if requested, with respect to any matters contained in this Final Judgment as may from time to time be requested for the purpose of determining or securing compliance with this Final Judgment.

(C) No such information obtained by the means provided for in this Section VI 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 United States of America except in the course of legal 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.

VII

[ *Jurisdiction Retained*]

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