

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Work Wear Corp., U.S. District Court, N.D. Ohio, 1971 Trade Cases ¶73,681, (Sept. 27, 1971)

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United States v. Work Wear Corp.

1971 Trade Cases ¶73,681. U.S. District Court, N.D. Ohio, Eastern Division. Civil No. C 68-467. Entered September 27, 1971. Case No. 2004, Antitrust Division, Department of Justice.

Clayton Act

Acquisitions—Industrial Laundries and Work Clothes Manufacturers—Divestiture—Merger Ban—Consent Decree.—A manufacturer of rental-type work clothes was required by a consent decree to divest itself within three years of either certain specified work clothes manufacturing facilities or certain specified industrial laundries. If the company elected to divest itself of the work clothes manufacturing facilities, it was enjoined from acquiring any manufacturer, seller, or distributor of work clothing for a period of five years, and for an additional ten years thereafter without the consent of the government or approval of the court. In addition, the company was enjoined for five years from manufacturing work clothes for sale to, or distributing or selling work clothes to any domestic industrial laundry, and for an additional ten years thereafter without the consent of the government or approval of the court. If the company elected to divest itself of the industrial laundries, it was enjoined from acquiring any industrial laundry for a period of ten years.

For plaintiff: Richard W. McLaren, Asst. Atty. Gen., Baddia J. Rashid, Charles F. B. McAleer, Robert J. Ludwig, Carl L. Steinhouse, Robert M. Dixon, Charles E. Hamilton, III, Richard I. Fine, Robert A. McNew, and Jerome C. Finefrock.

For defendant: Hahn, Loeser, Freedheim, Dean & Wellman, by Albert I. Borowitz (Simpson Thacher & Bartlett, by Albert Bickford, and Pollak, Swartz, Bendes, Stark & Amron, by Mervin C. Pollak and John D. Swartz, of counsel).

Final Judgment

KRUPANSKY, D. J.: Plaintiff, United States of America, having filed its complaint herein on June 28, 1968, and defendant having appeared by its attorneys and having filed its answer to such complaint denying the substantive allegations thereof; and the plaintiff and the defendant, by their respective attorneys, having severally consented to the entry of this Final Judgment without this Final Judgment constituting any evidence against or any admission by any party hereto with respect to any such issue of fact or law;

Now, Therefore, before the taking of any testimony, without trial or adjudication of or finding on any issue of fact or law 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 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:

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(A)“Work Wear” means the defendant, Work Wear Corporation, an Ohio corporation, and its subsidiaries or divisions, or any of them;

(B)“Work clothes” means work shirts, work pants, work jackets,* coveralls, shop coats, and executive slacks which are designed to withstand numerous launderings and which are made for and are sold to industrial laundries. Such garments are designed primarily for wear by men. The term does not include (1) garments designed primarily for wear by women; (2) uniforms and other garments commonly recognized in the laundry trade as garments for the linen supply trade, which garments are designed primarily for use by personnel working in hospitals, laboratories, doctors' offices, hotels, motels, bakeries, restaurants, bars, barber shops, drugstores, beauty shops, food stores, and supermarkets; (3) those work style clothes made for the retail trade or uniforms made for such occupations as firemen, policemen, security forces, mail carriers or military personnel; (4) those garments sold directly to individuals or industrial or commercial concerns or governmental agencies; (5) those garments having special characteristics such as fire resistance, chemical resistance, or other safety type garments and so-called clean room garments; (6) so-called casual wear, western gear, sports wear garments, business suits or formal wear; and (7) dress shirts, dress pants, blazers, or other wearing apparel of the type normally worn by office workers or primarily sold to the retail trade;

(C)“Industrial laundry” means a domestic laundry and garment rental business, which, pursuant to rental agreements, furnishes owned clean work clothes to individual industrial and commercial accounts for their employees;

(D)“Affiliated industrial laundries” means the industrial laundries located in the United States owned, whether in whole or in part, by Work Wear on the date of this Final Judgment;

(E)“Manufacturing facility” means a domestic facility producing work clothes;

(F)“Affiliated manufacturing facilities” means the manufacturing facilities located in the United States and owned, whether in whole or in part, by Work Wear on the date of this Final Judgment; and

(G)“Person” means any individual, partnership, firm, corporation, association or any other business or legal entity.

III

[*Applicability*]

The provisions of this Final Judgment shall apply to the defendant, its officers, directors, agents and employees, and to its successors and assigns, and to all other persons in active concert or participation with defendant who receive actual notice of this Final Judgment by personal service or otherwise. The provisions of this Final Judgment shall not apply or relate to activities or operations outside the continental limits of the United States except insofar as those activities or operations relate to the distribution or sale of work clothes to domestic industrial laundries.

IV

[*Alternative Divestiture Option*]

(A)Within three (3) years from the date of entry of this Final Judgment, defendant shall divest, at defendant's option, either (1) each of the affiliated manufacturing facilities listed in Exhibit A hereto annexed as a going and viable business or (2) each of the affiliated industrial laundries listed in Exhibit B hereto annexed as a going and viable business.

Divestiture of the affiliated manufacturing facilities or affiliated industrial laundries required by this subsection may be made separately, in combinations each consisting of less than the whole, or as a whole.

(B)Unless otherwise agreed by and between the parties hereto:

(1) Sixty (60) days prior to the closing of any sale hereunder, defendant shall furnish in writing to plaintiff complete details of the proposed transaction. Within thirty (30) days of the receipt of these details, the plaintiff may request supplementary information concerning the transaction, which shall also be furnished in writing.

(2) If plaintiff objects either to the purchaser or the terms and conditions of the proposed sale, it shall notify defendant in writing within thirty (30) days of receipt of the supplementary information submitted pursuant to plaintiff's last request for such information made pursuant to Section IV (B)(1) of this Final Judgment or within thirty (30) days after the receipt of a statement from defendant, if applicable, that it does not have the requested supplementary information. If no request for supplementary information is made, said notice of objection shall be given within thirty (30) days of receipt of the originally submitted details concerning the transaction. In the event of such notice, the sale shall not be closed unless approved by the Court or unless plaintiff's objection is withdrawn.

(C) Following the entry of this Final Judgment, defendant shall submit written reports every six (6) months to the Assistant Attorney General in charge of the Antitrust Division describing the efforts made by it to divest the affiliated manufacturing facilities or affiliated industrial laundries required to be divested pursuant to Section IV(A) of this Final Judgment.

(D) The divestiture ordered and directed by this Final Judgment, when made, shall be made in good faith, and shall be absolute and unqualified and none of the divested affiliated manufacturing facilities or affiliated industrial laundries shall be reacquired by defendant; provided, however, that defendant may acquire and enforce any bona fide lien, mortgage, deed of trust, or other form of security on all or any of the affiliated manufacturing facilities or affiliated industrial laundries divested, which may be given for the purpose of securing to defendant payment of any unpaid portion of the purchase price thereof or performance of the, sale transaction, and may also enforce any other terms and conditions of the sale transaction as therein provided or as provided by law. If defendant regains ownership or control of any such assets by enforcement or settlement of a bona fide lien, mortgage, deed of trust, or other form of security before selling or otherwise disposing of same, defendant shall, subject to the provisions of this Final Judgment, dispose of any such assets thus regained within eighteen (18) months from the time of reacquisition as a going and viable business.

V

[*Injunctive Relief*]

In the event defendant elects, under the option granted in Section IV(A) of this Final Judgment, to divest the affiliated manufacturing facilities, then the injunction in Section V(A) will apply. In the event defendant elects under the option granted in Section IV(A) of this Final Judgment, to divest the affiliated industrial laundries, then the injunction in Section V(B) will apply.

(A) Manufacturing Facilities

(1) Defendant 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, any assets (except products purchased in the normal course of business), business, goodwill, or capital stock of any person operating a manufacturing facility; defendant is enjoined and restrained for an additional period of ten (10) years thereafter from acquiring, directly or indirectly, without the consent of the Assistant Attorney General in charge of the Antitrust Division, or failing such consent, the approval of the Court upon defendant giving plaintiff thirty (30) days notice, any assets (except products purchased in the normal course of business), business, goodwill, or capital stock of any person operating a manufacturing facility.

(2) Defendant is enjoined and restrained for a period of five (5) years from the date of entry of this Final Judgment from manufacturing work clothes for sale, to, or distributing or selling work clothes to any domestic industrial laundry, either for its own account or by reason of a contractual relationship with another company; defendant is enjoined and restrained for an additional period of ten (10) years thereafter from manufacturing work clothes for sale to, or distributing or selling work clothes to any domestic industrial laundry, either for its own account or by reason of a contractual relationship with another company, without the consent of the Assistant

Attorney General in charge of the Antitrust Division, or failing such consent, the approval of the Court upon defendant giving plaintiff thirty (30) days notice; provided that nothing contained herein shall prevent defendant from disposing of excess, damaged, or discontinued inventory by sale or otherwise.

(3) The provisions of subsection (2) of this section shall not apply (a) to manufacture, distribution or sale of any products by any affiliated manufacturing facility listed in Exhibit A hereto annexed; or (b) for a period of three (3) years from the date of entry of this Final Judgment to manufacture, distribution or sale of any products manufactured at the headquarters building of defendant located at 1768 East 25th Street, Cleveland, Ohio; or (c) to the defendant's activities or operations outside of the United States except insofar as those activities or operations relate to the distribution or sale of work clothes to domestic industrial laundries.

(B) Industrial Laundries

Defendant is enjoined and restrained for a period of ten (10) years from the date of entry of this Final Judgment from acquiring directly or indirectly, any assets (except products sold in the normal course of business), business, goodwill, or capital stock of any person operating an industrial laundry.

(C) Pending the defendant's notification to the Government and the Court of its election as provided in Section IV(A) of this Final Judgment, the defendant is enjoined and restrained from acquiring directly or indirectly the assets (except products purchased or sold in the normal course of business), business, goodwill, or capital stock of any person operating a manufacturing facility or an industrial laundry.

VI

[Inspection and Compliance]

(A) For the purpose of determining or securing compliance with this Final Judgment, and 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 defendant made to its principal office, be permitted (1) reasonable access, during the office hours of defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendant relating to any of the matters contained in this Final Judgment, and (2) subject to the reasonable convenience of defendant and without restraint or interference from defendant to interview officers or employees of defendant, who may have counsel present regarding any such matter.

(B) Defendant, upon such written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, 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 requested.

No information obtained by the means provided 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 plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of determining or 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 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.

Exhibit A

Affiliated Manufacturing Facilities To Be Divested by Work Wear Pursuant to Section IV(A) of Final Judgment
Alexandria Industrial Garment Mfg. Co.,

Inc. Alexandria, Tennessee
Granby Manufacturing Company Granby, Missouri
Industrial Garment Mfg. Co., Inc. Palestine, Texas
Industrial Garment Mfg. of Tennessee, Inc.
Erwin, Tennessee
Laurel Industrial Garment Manufacturing
Co. Laurel, Mississippi
Louisiana Industrial Garment Mfg. Corp. Gonzales, Louisiana
Mid-South Manufacturing Company, Inc. Richton, Mississippi
Miller Manufacturing Company, Inc. Joplin, Missouri

Exhibit B

Affiliated Industrial Laundries to be Divested by Work Wear Pursuant to Section IV(A)(2) of Final Judgment

Arrow Uniform Service Philadelphia, Pennsylvania
Blue Grass Uniform Supply Company Owensboro, Kentucky
Dixie Uniform & Linen Supply Tampa, Florida
Dixie Uniform. Supply
Jacksonville, Florida
Industrial Uniform & Towel Service, Inc.
Tyler, Texas
Mechanics Laundry Company Detroit, Michigan
Mechanics Laundry Supply, Inc. Indianapolis, Indiana
Progressive Uniform Service, Inc. Detroit, Michigan
Red Star Industrial Service Fresno, California
Rental Uniform Service New Orleans, Louisiana
Star Uniform Rental Brooklyn, New York