

# Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Celanese Corporation of America., U.S. District Court, S.D. New York, 1954 Trade Cases ¶67,723, (Mar. 31, 1954)

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United States v. Celanese Corporation of America.

1954 Trade Cases ¶67,723. U.S. District Court, S.D. New York. Civil Action No. 54-123. Filed March 31, 1954. Case No. 998 in the Antitrust Division of the Department of Justice.

## Sherman Antitrust Act

**Consent Decree—Practices Enjoined—Sale of Machinery Required.**—A manufacturer of rayon consented to the entry of a decree requiring it to sell, at a fair price, any rayon warp knit fabric machines in its possession at the date of the decree which were acquired through merger with a competitor. The sale of other machinery in substitution for that acquired through the merger was provided for. Also, the decree restrained the defendant from reacquiring any rayon warp knit fabric machines required to be divested.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General, W. B. Kilgore, Jr., Richard B. O'Donnell, and Malcolm A. Hoffman.

For the defendant: Charles C. Parlin, of Shearman & Sterling & Wright; Samuel Rosenman, of Rosenman, Goldmark, Colin & Kaye.

**For a prior decision of the U. S. District Court, Southern District of New York, see [1950-1951 Trade Cases ¶ 62,660](#).**

## Final Judgment

F. X. MCGOHEY, District Judge [ *In full text*]: Plaintiff, the United States of America, having filed its complaint herein on December 5, 1949; plaintiff having amended its complaint by stipulation and order dated May 8, 1950; the Court having granted defendant's motion for partial summary judgment dismissing the claim in the complaint based upon [Section 7 of the Clayton Act](#), by order dated July 24, 1950; defendant having filed its answer on July 29, 1950 denying the substantive allegations of the amended complaint; and plaintiff and defendant by their respective attorneys having severally consented to the entry of this Final Judgment before the taking of any testimony, without trial or adjudication of any issue of fact or law herein, except the adjudication made in the above order of the Court, dated July 24, 1950, and without any admission by any party in respect to any such issue, and upon the aforesaid consent of the parties hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

[ *Jurisdiction*]

This Court has jurisdiction of the subject matter herein and of the parties hereto. The complaint states a cause of action 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 defendant Celanese Corporation of America;

(B) "Rayon warp knit fabrics" shall mean fabrics made from acetate or viscose rayon yarn by knitting such yarn on a warp knit machine in a flat piece with a distinctive lock stitch;

(C) "Person" shall mean any individual, partnership, corporation, association, firm, trustee or other business or legal entity.

### III

#### [ *Applicability* ]

The provisions of this Final Judgment shall apply to defendant and its successors, subsidiaries, assigns, directors, officers, employees and agents, and to all other persons acting under, through or for defendant.

### IV

#### [ *Sale of Machinery Required* ]

(A) Defendant is ordered and directed, within thirty days after the date of entry of this Final Judgment to offer for sale and to sell, at a fair price, any rayon warp knit fabric machines in its possession at the date of entry of this Final Judgment, which were acquired by it through merger with Tubize Rayon Corporation. The number and make of the rayon warp knit fabric machines acquired by defendant through merger with Tubize Rayon Corporation are set forth in Appendix (A) attached hereto. Nothing in the foregoing shall be deemed to prohibit the defendant from offering for sale and selling, in lieu of any one or more of the said machines described in Appendix (A), any one or more of other rayon warp knit fabric machines in its possession, provided that at the time of sale of all of the substituted machines the total capacity of such substituted machines shall be equal or superior to the total capacity of the machines acquired from Tubize Rayon Corporation which are not offered for sale. Machines sold by defendant at any time after December 5, 1949, shall be included in computing the total number of machines which defendant is required to offer for sale and to sell under this Subsection (A) of this Section IV.

(B) Defendant is enjoined and restrained from reacquiring any rayon warp knit fabric machines, divested pursuant to this Final Judgment, either prior to or subsequent to the date of entry of such Final Judgment.

(C) Defendant is ordered and directed to furnish to the plaintiff within 30 days after the date of this Final Judgment, a report showing that defendant has fully complied with the requirements of Subsection (A) of this Section IV.

### V

#### [ *Inspection and Compliance* ]

For the purpose of securing compliance with this Final Judgment duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants, be permitted (1) 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 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 and employees of defendant, who may have counsel present, regarding such matters. Upon the written request of the Attorney General or the Assistant Attorney

General in charge of the Antitrust Division, defendant shall submit such reports in writing with respect to matters contained in this Final Judgment as from time to time may be necessary for the purpose of enforcement of this Final Judgment. No information obtained by the means permitted in this Section V shall be divulged by any representative of the Department of Justice except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

### VI

[ *Jurisdiction Retained*]

Jurisdiction is retained 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, or for the modification or termination of any of the provisions hereof, and for the purpose of the enforcement of compliance therewith and the punishment of violations thereof.

**Appendix A**

**Warp Knit Machines Acquired by Celanese Through Merger with Tubize**

Schneider and Reuthner .....	21
Whitin Model A .....	33
Whitin Model B .....	38
Whitin Model B-2 .....	15
Robert Reiner .....	2
Saupe .....	1
Schneider and Reuthner * .....	1
Total .....	111