

UNITED STATES v. AMERICAN THREAD CO.

IN THE DISTRICT COURT OF THE UNITED STATES FOR
DISTRICT OF NEW JERSEY.

In Equity No. 312.

THE UNITED STATES OF AMERICA, PETITIONER,

VS.

THE AMERICAN THREAD COMPANY, THE THREAD AGENCY,
THE SPOOL COTTON COMPANY, J. & P. COATS, LIMITED,
THE CLARK THREAD COMPANY, THE CLARK MILE-END
SPOOL COTTON COMPANY, GEORGE A. CLARK & BROTHER,
J. & P. COATS (RHODE ISLAND) INCORPORATED, JAMES
CHADWICK & BROTHERS, LIMITED, ENGLISH SEWING
COTTON COMPANY, LIMITED, JONAS BROOK & BROTHERS,
LIMITED, FRANK E. KALEY, ROBERT C. KERR, E. MARTIN
PHILIPPI, JOSEPH G. WYLIE, JOSEPH PALMER, FRANK
H. ROBY, SIR THOMAS GLEN-COATS, BARONET, JOHN
WILLIAM CLARK, WALTER P. NEEL, ROBERT B. SYMING-
TON, JAMES VALENTINE, JOSEPH BOWKER, JAMES O. M.
CLARK AND G. BION ALLEN, DEFENDANTS.

FINAL DECREE.

This cause having come on to be heard on this second day of June, in the year nineteen hundred and fourteen, before the Honorable John Rellstab, District Judge; and the petitioner having appeared by J. Warren Davis, United States Attorney in and for the District of New Jersey, and the several defendants having been duly served or having accepted service of process and appeared and filed answers to the petition, which answers are on file in the office of the clerk of this court; and the defendants The American Thread Company, The Thread Agency, English Sewing Cotton Company, Limited, Frank E. Kaley, Robert C. Kerr, E. Martin Philippi and Joseph G. Wylie having now appeared in open court by James M. Beck as their counsel; and the defendants The Spool Cotton Company, J. & P. Coats, Limited, The Clark Thread Company, The Clark Mile-End Spool Cotton Company, George A. Clark & Brother, J. & P. Coats (Rhode Island) Incorporated, James Chadwick & Brother, Limited, Jonas

Brook & Brothers, Limited, Sir Thomas Glen-Coats, Baronet, James O. M. Clark, John William Clark, Walter P. Neel, Robert B. Symington, James Valentine and G. Bion Allen having now appeared in open court by Richard V. Lindabury and William D. Guthrie as their counsel; and it appearing to the court that it has jurisdiction of the subject matter alleged in the petition; and the petitioner through its counsel having moved the court for an injunction against the defendants as hereinafter decreed; and the court having heard and duly considered the pleadings and the statements of counsel for the respective parties; and it appearing to the satisfaction of the court that the petitioner is entitled to the relief hereinafter granted and adjudged; and the several defendants, through their counsel, now and here consenting to the entry of this final decree;

IT IS, THEREFORE, on motion of the petitioner, ORDERED, ADJUDGED, and DECREED as follows:

FIRST. That the defendants The American Thread Company, The Thread Agency and English Sewing Cotton Company, Limited, and their agents, the defendants Frank E. Kaley, Robert C. Kerr, E. Martin Philippi and Joseph G. Wylie, as a group on the one hand, and the defendants The Spool Cotton Company, J. & P. Coats, Limited, The Clark Thread Company, the Clark Mile-End Spool Cotton Company, George A. Clark & Brother, J. & P. Coats (Rhode Island) Incorporated, James Chadwick & Brother, Limited, and Jonas Brook & Brothers, Limited, and their agents, John William Clark, Walter P. Neel, Robert B. Symington, James Valentine and G. Bion Allen, as a group on the other hand, have entered into a combination to restrain the interstate and foreign trade and commerce of the United States in domestic and manufacturers' sewing thread, in violation of the Act of Congress of July 2, 1890, entitled, "An Act to protect trade and commerce against unlawful restraints and monopolies," by suppressing competition between themselves as separate groups and between each of said groups and other manufacturers and sellers of sewing thread.

SECOND. That the defendants and each of them and every and each of the directors, officers, managers and agents of the corporate defendants be and they are hereby severally enjoined from making, entering into, carrying out, or in any way performing or cooperating in the performance of any combination, agreement, or understanding, oral or written, between the defendants The American Thread Company, The Thread Agency, and English Sewing Cotton Company, Limited, or any of them, and their or any of their directors, officers, managers, agents, or employees, as a group on the one hand, and the defendants The Spool Cotton Company, J. & P. Coats, Limited, The Clark Thread Company, The Clark Mile-End Spool Cotton Company, George A. Clark & Brother, J. & P. Coats (Rhode Island) Incorporated, James Chadwick & Brother, Limited, and Jonas Brook & Brothers, Limited, or any of them, and their or any of their directors, officers, managers, agents, or employees, as a group on the other hand, or between either of the above-described groups, or any of the members thereof, and any other corporation, copartnership, or person, to limit or regulate competition between the two above-described groups, or between any of the members of either group and the other group or any of the members thereof, or between either group or any member thereof and any other corporation, copartnership or person, in the interstate or foreign sewing thread trade of the United States.

THIRD. That the defendants The American Thread Company, The Thread Agency and English Sewing Cotton Company, Limited, and their directors, officers, managers and agents, including the individual defendants Frank E. Kaley, Robert C. Kerr, E. Martin Philippi and Joseph G. Wylie, while such individuals are associated in business with or employed by said corporations or any of them, be and they are hereby jointly and severally enjoined, restrained and forbidden from acquiring or holding, directly or indirectly, any pecuniary or property interest whatsoever in the capital stock or other securities of The Spool Cotton Company, J. & P. Coats, Limited, The Clark Thread Company, The Clark Mile-End Spool

Cotton Company, George A. Clark & Brother, J. & P. Coats (Rhode Island) Incorporated, James Chadwick & Brother, Limited, and Jonas Brook & Brothers, Limited, or any of them.

FOURTH. That the defendants J. & P. Coats, Limited, The Spool Cotton Company, The Clark Thread Company, The Clark Mile-End Spool Cotton Company, George A. Clark & Brother, J. & P. Coats (Rhode Island) Incorporated, James Chadwick & Brother, Limited, Jonas Brook & Brothers, Limited, and their directors, officers, managers and agents, including the individual defendants Sir Thomas Glen-Coats, Baronet, James O. M. Clark, John William Clark, Walter P. Neel, Robert B. Symington, James Valentine and G. Bion Allen, while such individuals are associated in business with or employed by said corporations or any of them, be and they are hereby jointly and severally enjoined, restrained and forbidden from acquiring or, after January 1, 1915, from holding, directly or indirectly, any pecuniary or property interest whatsoever in the capital stock or other securities of The American Thread Company, The Thread Agency and English Sewing Cotton Company, Limited, or any of them.

And further that the defendant J. & P. Coats, Limited, be and hereby is required, before January 1, 1915, to dispose of any interest that it may now hold in any of the capital stocks or other securities of The American Thread Company and English Sewing Cotton Company, Limited, to persons not its stockholders, officers, directors, or agents, nor otherwise under its control, and that in the meantime it shall not directly or indirectly exercise any voting power in respect of any such capital stocks or other securities.

FIFTH. That if ever and so long as one or more of the defendants The American Thread Company, The Thread Agency and English Sewing Cotton Company, Limited, considered as a group on the one hand, shall have the same controlling stockholders, or any of the same officers or directors, as one or more of the defendants The Spool

Cotton Company, J. & P. Coats, Limited, The Clark Thread Company, The Clark Mile-End Spool Company, George A. Clark & Brother, J. & P. Coats (Rhode Island) Incorporated, James Chadwick & Brother, Limited, and Jonas Brook & Brothers, Limited, considered as a group on the other hand, or shall be a party to any agreement, contract, or combination with one or more of the defendants in the other group for fixing prices, restricting output, or dividing territory, either without or within the United States, then both groups shall be and hereby are enjoined from engaging in the interstate or foreign sewing thread trade within the jurisdiction of the United States.

SIXTH. That the defendant corporations, together with their directors, officers, managers, agents, and employees, including the individual defendants while they are associated in business with or employed by said corporations or any of them, and all persons authorized to act and acting for or in behalf of said corporations, or any of them, be and they hereby are jointly and severally enjoined as follows, viz:

(a) From soliciting, making, ratifying, or confirming, by agreement or understanding of any kind or nature with any other corporation, copartnership, or person, any lists of wholesale or retail dealers or jobbers in the United States with whom trade in sewing thread shall not be carried on.

(b) From fixing, establishing, ratifying, or confirming, by agreement or understanding of any kind or nature with any competitor in business, whether an individual or a corporation, trade discounts, trade rebates, terms or conditions of sale or credit in connection with or relating to the sale or shipment of sewing threads in the United States.

(c) From purchasing or acquiring the factories, plants, or brands of any competitor in the markets of the United States, or from acquiring any interest in the business of any such competitor either through stock ownership or otherwise.

(d) From exacting or accepting from any vendee or purchaser of any sewing thread sold by any of said defendants in the United States any agreement restraining such vendee or purchaser from selling thread below any fixed or minimum price; and from refusing to trade with, discriminating against, or threatening to refuse to trade with or to discriminate against any person because of the prices at which he sells sewing thread unless such person is offering for sale or selling sewing threads at less than their cost to such person.

(e) From giving or offering to give to any wholesale or retail, jobbers, or consumers of sewing thread in the United States any bonus, rebate or other inducement depending upon the aggregate of future purchases to be made by such dealers, jobbers or consumers within any period.

(f) From cooperating with or assisting any dealers in the United States to combine or pool their orders or purchases of sewing thread in order to obtain the benefit of any discount or other concession allowed on the quantity purchased or agreed to be purchased.

(g) From using in the United States what are known in the trade and referred to in the petition herein as "fighting brands," hereby defined to be brands which are devised or revived and used for the purpose of being offered principally to customers of competitors at cut prices, that is to say, at prices lower, or on terms more favorable, than the price or terms asked by the seller for substantially the same thread under different brands or trade names.

(h) From employing in the United States what are referred to in the petition herein as "flying squadrons," hereby defined to be special forces of salesmen who do not, as their principal business, handle the brands commonly offered for sale by the manufacturer or selling agency, or solicit orders from the trade generally, but handle principally "fighting brands," or solicit principally from customers of competitors with a view of securing their trade.

(i) From soliciting or exacting from wholesale or retail dealers or jobbers or from customers of competitors in the United States any agreement not to handle or to cease handling the brands of competitors; or from refusing to deal with, or discriminating against, or threatening to refuse to deal with or to discriminate against those who handle the goods of competitors; or from canvassing the retail trade of any dealer or jobber and thereupon offering the orders thus obtained to such dealer or jobber upon condition that he shall cease to buy thread from a competitor of the defendants or of any of them.

(j) From attacking the credit or business reputation of or the quality of thread dealt in by any competitor in the United States, by means of any report known to be false or which there is no reasonable ground to believe.

(k) From warning, harassing, or intimidating, by threatening to prosecute for trade-mark infringement or by other acts, letters or advertisements, any other person or corporation in relation to the sale, shipment, or trade in sewing threads in the United States, except such action as may rightfully be taken, or such letters or advertisements as may rightfully be written or published by any person or corporation in protecting his or its property, trade-marks, rights, or business.

(l) From offering or giving secret rebates or other secret inducements to any customer of a competitor in the United States.

(m) From selling or offering to sell in the United States sewing thread of any kind below the cost of production, or at prices which, after allowing for cost of transportation and differences in prices or terms on account of differences in grade, quality, or quantity sold, are lower than the prices charged in other parts of the United States, with the intent of thereby obtaining a monopoly, or destroying or injuring the trade or business of another in sewing thread, or of preventing another from engaging in such trade or business; but nothing in this paragraph contained shall prevent the defendant corporations from offering for sale or selling sewing

thread in any part of the United States at prices or on terms as low as any of their bona fide competitors are then and there offering, nor from offering or making different prices, terms, or conditions to different classes of customers.

(*n*) From offering in the United States a bonus or gift in the form of free goods of any kind as an inducement to any class of customers to purchase defendants' threads, except that the defendants or any of them may in good faith give or offer to give or distribute samples in reasonable quantities in order to induce their threads and establish new trade, and except that they may offer and give free samples to actual purchasers for bona fide distribution among consumers, provided, however, that such samples to purchasers shall not exceed 5 per cent of their purchase at any one time.

SEVENTH. Nothing contained in this decree shall be construed as preventing the petitioner in any other proceeding from questioning the legality under the afore-said act of July 2, 1890, or any other provision of law, of any of the matters, things, or transactions mentioned in the petition and not hereby specifically adjudged unlawful and enjoined.

EIGHTH. That jurisdiction of this cause be and is hereby retained for the purpose of enforcing this decree, and for the purpose of enabling the parties to apply to the court for modification hereof if it be hereafter shown to the satisfaction of the court that by reason of changed conditions or changes in the statute law of the United States the provisions hereof have become inappropriate or inadequate to maintain competitive conditions in interstate or foreign sewing thread trade in the United States, or have become unduly oppressive to the defendants and are no longer necessary to secure or maintain competitive conditions in such interstate and foreign trade.

NINTH. That the defendants pay the costs of this suit to be taxed.

JOHN RELLSTAB,
Judge.