

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, ) Civil Action No. H 75-263  
 )  
 v. )  
 ) Antitrust-Equitable  
 AMAX, INC.; and ) Relief Requested  
 COPPER RANGE COMPANY, )  
 ) Filed: August 25, 1975  
 Defendants. )

COMPLAINT

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action to obtain equitable relief against the defendants named herein and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and this proceeding is instituted against the defendants named herein under Section 15 of the Act of Congress of October 15, 1914, as amended (15 U.S.C. § 25), commonly known as the Clayton Act, in order to prevent and restrain violation by the defendants of Section 7 of that Act, as amended (15 U.S.C. § 18).

2. Defendant Amax, Inc. transacts business and is found within the District of Connecticut.

II

DEFENDANTS

3. Amax, Inc. (hereinafter "Amax") is named a defendant herein. Amax is a corporation organized and existing under the laws of the State of New York, with its principal place of business in Greenwich, Connecticut. In 1974, it had total sales of about \$1.2 billion.

4. Copper Range Company (hereinafter "Copper Range") is named a defendant herein. Copper Range is a corporation organized and existing under the laws of the State of Michigan, with its principal place of business in White Pine, Michigan. In 1974, it had total sales of about \$169 million. Defendant Amax presently controls approximately 468,000 shares or approximately 20 percent of Copper Range's outstanding common stock.

5. Amax and Copper Range are engaged in the mining, smelting and refining of copper.

### III

#### TRADE AND COMMERCE

6. Copper is found in a wide variety of industrial, commercial and consumer products. Copper is a superior conductor of electricity, and is used in the production and transmission of electricity and in virtually every product or machine which uses electricity. Because copper is non-corrosive, it is also widely used in construction and roofing products, plumbing supplies and builders hardware. Copper alloys, such as brass and bronze, also have many applications in industrial and consumer products.

7. Copper ore, which customarily contains less than two percent copper, is mined at several locations throughout the United States. The pure copper in copper ore is commonly referred to as contained copper. Most of the copper mined in the United States is produced in five western states: Arizona, Montana, Nevada, New Mexico and Utah. Copper is also mined in Michigan, Missouri and Tennessee. Most domestic copper mines are open pit mines, but some, notably Copper Range's mine at White Pine, Michigan, are underground mines.

8. Refined copper is generally the product of a three step process. The first step, referred to as "milling", involves the process of crushing and grinding copper ore to separate minerals from each other and from associated waste material. The product of the milling process is known as copper "concentrates", and usually contains about 23 percent copper. The second step, referred to as "smelting", involves the heat treatment of copper concentrates to produce "blister" which contains about 98 percent copper. The third step, the "refining" process, produces a product which is nearly 100 percent pure copper. This, the final product, is referred to as "refined copper."

9. Two copper refining methods are in use today: electrolytic refining and fire refining. Refined copper is produced in standardized shapes and shipped to fabricators, which convert these refinery shapes into semi-finished or intermediate products, such as sheet, rod, bar, wire and tubing, and extruded and rolled shapes that constitute the raw materials for the manufacture of finished copper products.

10. Refined copper is also produced from copper scrap. Scrap is produced in the fabricating and manufacturing processes, and also is generated through collection of used material by scrap dealers. Copper refined from scrap is indistinguishable from refined copper produced from blister.

11. Amax operates a copper mine located at Twin Buttes, Arizona, in a joint venture with The Anaconda Company. Total production of this mine in 1974 was 45,000 tons of contained copper. The mine is expected to reach annual production of 120,000 tons in 1976. Amax also operates a smelter and

refinery at Carteret, New Jersey. The annual capacity of the smelter is 60,000 tons of blister copper. The annual capacity of the refinery is 260,000 tons. Amax is also in the process of expanding its Port Nickel refinery at Braithwaite, Louisiana. This refinery, while primarily a nickel refinery, will produce about 23,000 tons of copper a year when completed. In 1973 Amax produced approximately 222,000 tons of refined copper.

12. Amax controls significant domestic copper ore reserves, including ore deposits in Arizona, Wyoming, Puerto Rico, Michigan and Minnesota. Although Amax controlled almost no domestic copper reserves in 1960, its reserves now total more than 9 million tons of contained copper, or about 10 percent of total United States copper reserves.

13. Copper Range operates a copper mine, smelter and refinery at White Pine, Michigan. Almost all of the refined copper produced at the Copper Range refinery is derived from the White Pine Mine. The annual capacity of the refinery is about 90,000 tons. Total 1973 production of refined copper by Copper Range was 78,000 tons. Copper Range controls substantial copper ore reserves at the White Pine Mine and nearby areas in northern Michigan. These reserves total about 5 million tons of contained copper or about 6.5 percent of total United States copper reserves.

14. Both the mining and refining of copper in the United States are highly concentrated. In 1973, the four largest firms controlled 67 percent of total United States copper ore production, 72 percent of total United States copper refining capacity, and over 73 percent of total

United States copper refining production. Amax is the fifth largest producer of refined copper in the United States. In 1973, it controlled 9.1 percent of total United States refining capacity and accounted for 9.8 percent of total United States copper refining production. Copper Range is the seventh largest producer, controlling 3.2 percent of refining capacity and accounting for 3.4 percent of production in 1973. The combined total of the two firms is 12.3 percent of total United States copper refining capacity and 13.2 percent of total United States copper refining production in 1973. In terms of domestic copper ore production, Copper Range ranked seventh in 1973 with 4.5 percent, and Amax ranked ninth with 1.4 percent. When the Twin Buttes Mine, in which Amax holds a 50 percent interest, reaches full capacity, Amax's share of domestic ore production would be equivalent to 3.5 percent of total 1973 production.

15. Amax operates copper mining facilities in Arizona and smelting and refining facilities in New Jersey, and regularly sells and ships copper concentrates, blister and refined copper throughout the United States. Copper Range operates copper mining, smelting and refining facilities in Michigan, and regularly sells and ships refined copper throughout the United States. Amax and Copper Range have been and are engaged in interstate commerce.

#### IV

##### VIOLATION ALLEGED

16. During the period from 1950 to date, Amax has acquired approximately 468,000 shares of Copper Range common stock, or about 20 percent of the total issued and outstanding shares. On July 29, 1975, Amax and Copper

Range entered into an agreement whereby Copper Range would be merged into Amax. The merger is expected to be consummated on or about August 27, 1975.

17. The effect of the aforesaid acquisition of Copper Range stock by Amax and the merger agreement may be substantially to lessen competition or tend to create a monopoly in the aforesaid interstate trade and commerce in violation of Section 7 of the Clayton Act in the following ways, among others:

- (a) actual and potential competition between Amax and Copper Range in the refining of copper will be eliminated;
- (b) actual and potential competition between Amax and Copper Range in the mining of copper will be eliminated;
- (c) concentration in the mining and refining of copper will be increased; and
- (d) competition generally in the mining and refining of copper may be substantially lessened.

PRAYER

WHEREFORE, plaintiff prays:

1. That pursuant to Section 15 of the Clayton Act the Court order summons to be issued to Copper Range commanding it to appear and answer the allegations contained in this complaint and to abide by and perform such orders and decrees as this Court may make in the premises.

2. That the aforesaid acquisition of stock and agreement to merge be adjudged a violation of Section 7 of the Clayton Act.

3. That Amax be ordered and directed to divest itself of all of the stock of Copper Range presently in its possession or control.


4. That a preliminary injunction be issued against the defendants and all persons acting in their behalf, preventing and restraining them from carrying out the merger agreement referred to in paragraph 16 herein, or any similar plan or agreement the effect of which would be to further consolidate or combine the businesses of Amax and Copper Range pending final adjudication of the merits of this complaint.

5. That Amax and Copper Range be perpetually enjoined from carrying out the merger agreement referred to in paragraph 16 herein or any similar plan or agreement the effect of which would be to further consolidate or combine the businesses of Amax and Copper Range.

6. That Amax be enjoined, under such circumstances as the Court may direct, for a period of years from acquiring the stock or assets of any concern engaged in the mining or refining of copper.

7. That plaintiff have such other and further relief as the Court may deem just and proper.

8. That plaintiff recover the costs of this suit.

  
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