

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Revlon, Inc., U.S. District Court, S.D. New York, 1975-2 Trade Cases ¶60,583, (May 19, 1975)

Federal Antitrust Cases

Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶60,583

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United States v. Revlon, Inc.

1975-2 Trade Cases ¶60,583. U.S. District Court, S.D. New York. No. 62 Civ. 2219 (IBW). Filed May 19, 1975, modified September 5, 1975. Case No. 1672, Antitrust Division, Department of Justice. 527 F2d 1162

Headnote

Sherman Act

Customer and Territorial Restrictions—Cosmetics—Location Clauses—Litigated Final Judgment.—A cosmetics manufacturer was barred by a final judgment from agreeing with any persons to fix, limit, restrict or determine the territories in which, or the customers to whom, its products could be sold. A phrase banning the designation of locations, included in the original judgment, was eliminated.

Final judgment following decision at [1975-1 Trade Cases ¶ 60,202](#).

For plaintiff: Norman H. Seidler and Bernard Wehrmann, New York, N. Y., Attys., Dept. of Justice.

For defendant: Jay L. Himes, of Paul, Weiss, Rifkind, Wharton & Garrison, New York, N. Y.

Final Judgment

WYATT, D. J.: The Plaintiff, United States of America, having filed its complaint herein on June 22, 1962, defendant having filed its answer to such complaint on July 16, 1962, and the Court, after trial of the issues, having entered its opinion consisting of findings of fact and conclusions of law on March 7, 1975, it is hereby Ordered, Adjudged, and Decreed that:

I

[*Jurisdiction*]

The; Court has jurisdiction of the subject matter of this action and the parties hereto. Defendant has restrained commerce among the several states in the distribution and sale of defendant's cosmetics as set forth in the Court's opinion dated March 7, 1975, in violation of Section 1 of the Act of Congress of July 2, 1890, as amended, entitled "An Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies," (15 U. S. C. § 1), commonly known as the Sherman Act.

II

[*Definitions*]

As used in this Final Judgment:

(A) "Person" shall mean any individual, partnership, firm, corporation, association or other business or legal entity;

(B) "Defendant's Cosmetics" shall mean any and all products sold by the defendant to be applied to the human body or parts thereof for the purpose of cleansing, beautifying or altering the appearance thereof, whether intended for use by either men or women;

(C) "United States" shall mean the United States of America, including its territories, possessions and dependencies and any other places under the jurisdiction of the United States.

III

[*Applicability*]

The provisions of this Final Judgment shall apply to the defendant, its officers, directors, agents, employees, subsidiaries, successors and assigns, and to all persons in active concert or participation with the defendant who receive actual notice of this Final Judgment by personal service or otherwise. For the purpose of this Final Judgment, the defendant and its officers, directors, employees and subsidiaries when acting in such capacity, shall be deemed to be one person. Except for sales to the plaintiff or any agency or instrumentality thereof, this Final Judgment shall not apply to activities outside the United States which do not affect the foreign or domestic commerce of the United States.

IV

[*Territories/Customers*]

The defendant is enjoined and restrained, directly or indirectly, from entering into, adhering to, maintaining or claiming any rights under any conspiracy, agreement, understanding, plan, program or concert of action, with any person to fix, limit, restrict or determine the territory or territories in which, or the customers or class of customers to whom, defendant's cosmetics may be resold.

V

[*Notice*]

Within sixty (60) days after the date of the entry of this Final Judgment, defendant shall mail to each of defendant's cosmetic customers a true copy of this Final Judgment and shall file with this Court and serve upon the plaintiff within one hundred twenty (120) days after the date of the entry of this Final Judgment a report of compliance with this Section V.

VI

[*Inspections*]

For the purpose of determining or securing compliance with this Final Judgment and for no other purpose, and subject to any legally recognized privilege:

(A) Any authorized representative 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 or of an authorized representative of either of them, and on reasonable notice to the defendant, made to its principal office, be permitted:

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

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

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, or of an authorized representative of either of them, made to defendant's principal office, such

defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may, from time to time, be requested.

No information obtained by the means provided in this Paragraph 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) is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

VII

[*Retention of Jurisdiction*]

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