

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,
Plaintiff,
v.
SAFETY FIRST PRODUCTS CORPORATION,
Defendant.

Civil No. 72-CIV-223
Filed: May 23, 1972

COMPLAINT

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

I

JURISDICTION AND VENUE

1. This complaint is filed under Section 4 of the Act of Congress of July 2, 1890 (15 U.S.C. § 4), as amended, commonly known as the Sherman Act, in order to prevent and restrain violations by the defendant, as hereinafter alleged, of Sections 1 and 3 of the Sherman Act, as amended (15 U.S.C. §§ 1 and 3).

2. The defendant Safety First Products Corporation transacts business and is found within the Southern District of New York.

II

DEFENDANT

3. Safety First Products Corporation (hereinafter referred to as "Safety First") is hereby made the defendant.

Said defendant is a corporation organized and existing under the laws of Delaware, with its principal office in Elmsford, New York. Safety First is a wholly owned subsidiary of INA Corporation, Philadelphia, Pennsylvania.

III

DEFINITION

4. When used in this complaint, "Safety First equipment" means any or all fire protection equipment produced or sold by Safety First.

IV

CO-CONSPIRATORS

5. Various persons, firms and corporations not made defendants herein, including but not limited to distributors of Safety First equipment, have participated as co-conspirators with the defendant in the violations alleged herein.

V

NATURE OF TRADE AND COMMERCE

6. Safety First produces and sells a variety of dry powder fire extinguishers, including a line of extinguishers designed for use in an automatic fire protection system covering fixed locations associated with cooking hazards, such as in hoods and ducts over stoves and grills in restaurants. These automatic fire protection systems also have numerous industrial uses in fixed locations such as boiler rooms, grease closets and engine compartments. Dry powder and Freon chemical portable fire extinguishers are also manufactured and sold by the company. It sells Safety

First equipment directly to consumers and to over 260 distributors located throughout the United States, the District of Columbia and Canada.

7. There is a continuous flow in interstate and foreign trade and commerce of Safety First equipment from its plant located in New York State to consumers and distributors located throughout the United States, the District of Columbia and Canada. Net sales of Safety First equipment amounted to over \$3.8 million in 1970.

VI

VIOLATIONS ALLEGED

8. Since at least as early as 1967, and continuing thereafter to the date of the filing of this complaint, Safety First and co-conspirators have been engaged in a combination and conspiracy in unreasonable restraint of the above-described interstate and foreign trade and commerce in Safety First equipment, in violation of Sections 1 and 3 of the Sherman Act. Such violations are continuing and will continue unless the relief hereinafter prayed for is granted.

9. The aforesaid combination and conspiracy has consisted of continuing agreements and concert of action among Safety First and co-conspirators to allocate customers and territories for the sale of Safety First equipment.

10. Pursuant to the aforesaid combination and conspiracy, Safety First and co-conspirators have agreed that:

- (a) Each co-conspirator distributor is allocated a certain market territory, and confines its

sales of Safety First equipment to purchasers within that territory;

- (b) Customers and classes of customers are allocated by Safety First to co-conspirator distributors in the sale and distribution of Safety First equipment;
- (c) Co-conspirator distributors are restrained from selling Safety First equipment to certain large national accounts;
- (d) Co-conspirator distributors submit complimentary bids when requested to bid on accounts outside their assigned territory.

11. For the purpose of effectuating and carrying out the aforesaid unlawful combination and conspiracy, the defendant and co-conspirators have done the things which, as hereinbefore alleged, they conspired and agreed to do, and, more particularly, have cooperated in the policing and enforcing of the said conspiracy.

VII

EFFECTS

12. The aforesaid combination and conspiracy has had, among others, the following effects:

- (a) Competition in the sale and distribution of Safety First equipment has been eliminated;
- (b) Co-conspirator distributors have refrained from or have been prevented from selling Safety First equipment in territories or to customers of their own choice;

- (c) Purchasers of Safety First equipment have been deprived of the opportunity of purchasing such equipment from suppliers of their own choice in a free competitive market.

PRAYER

WHEREFORE, the plaintiff prays:

1. That the aforesaid combination and conspiracy be adjudged and decreed to be unlawful and in violation of Sections 1 and 3 of the Sherman Act.

2. That the defendant and each of its officers, directors, employees, agents, representatives, successors and assigns and all other persons acting under, through or for such defendant, be perpetually enjoined and restrained from, in any manner, directly or indirectly, continuing, maintaining or renewing the aforesaid combination and conspiracy and from engaging in practices having the purpose or effect of continuing, renewing or reviving the violations hereinbefore described.

3. That the defendant and each of its officers, directors, employees, agents, representatives, successors and assigns, and all persons and corporations acting or claiming to act on its behalf, be perpetually enjoined from imposing or attempting to impose any limitation or restriction respecting the territories and customers to whom any distributor may sell Safety First equipment.

4. That the plaintiff have such other relief as the nature of the case may require and as the Court may deem just and proper in the premises.

5. That the plaintiff recover the costs of this
: action.

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