

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,)
)
 Plaintiff,) Civil Action No. 74 Civ 5389
)
 v.)
) Filed: December 10, 1974
 DEBEERS INDUSTRIAL DIAMOND)
 DIVISION LIMITED;)
 ANCO DIAMOND ABRASIVES) (15 U.S.C. § 1)
 CORPORATION; and)
 DIAMOND ABRASIVES CORPORATION,)
)
 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 above-named defendants and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and these proceedings are instituted under Section 4 of the Sherman Act, as amended (15 U.S.C. § 4), in order to prevent and restrain the continuing violation by the defendants, as hereinafter alleged, of Section 1 of the Sherman Act, as amended (15 U.S.C. § 1).

2. Each of the defendants transacts business or is found within the Southern District of New York.

II

THE DEFENDANTS

3. The corporations named below are hereby made defendants herein. Each of these corporations is organized and exists under the laws of the state or country, and has

its principal place of business in the city, indicated below.

<u>Corporation</u>	<u>State or Country of Incorporation</u>	<u>Principal Place of Business</u>
DeBeers Industrial Diamond Division Limited	Republic of South Africa	Johannesburg, South Africa
Anco Diamond Abrasives Corporation	New York	New York, New York
Diamond Abrasives Corporation	New York	New York, New York

During the period of time covered by this complaint, Diamond Abrasives Corporation (hereinafter called DAC), and Anco Diamond Abrasives Corporation (hereinafter called Anco), have engaged in the retail marketing of diamond grit. During the period of time covered by this complaint, DeBeers Industrial Diamond Division Limited (hereinafter called DeBeers) has engaged in the production and both wholesale and retail marketing of diamond grit.

III

CO-CONSPIRATORS

4. Various other corporations, organizations, firms and individuals, not made defendants in this complaint, participated as co-conspirators in the violation alleged herein and made statements in furtherance thereof. Among these are Henry B. Dyer, E. T. S. Brown, Emile Fendler, Gerard van Maarseveen, D. Drukker & Zn NV, and Eskenazi SA, and certain other officers and directors of the corporations named defendants herein.

IV

TRADE AND COMMERCE

5. Diamond grit is synthetic and natural diamond crushing bort, grit and powder used primarily, though not

exclusively, as an abrasive in metal bonded grinding wheels for grinding of stone, glass and ceramics; in resin bonded wheels for the grinding of tungsten carbide and certain steels; in metal bonded saws for cutting of concrete and masonry; and in certain impregnated drills.

6. Diamond grit has experienced great adaptability and rapid growth in industry because of its unique mechanical properties, including its superb resistance to high temperatures, abrasion and acids, its extremely high thermal conductivity, and the fact that diamond is the hardest of all known substances. Because of these unique properties, diamond grit is considered indispensable to the communications, electrical, constructions, electronics, mining, metalworking, automotive, aircraft, and other industries which have production techniques involving ultrahard materials, close tolerances, fine finishes, interchangeability, speed and precision. In 1972, there were approximately 16.1 million carats of diamond grit consumed in the United States.

7. There are no facilities in the United States for the commercial mining of natural diamond grit. Therefore, virtually all of the natural diamond grit (excluding reclaimed) consumed in the United States is imported from abroad. By far the principal worldwide supplier of natural diamond grit is the defendant DeBeers. A substantial amount of synthetic diamond grit consumed in the United States is also imported from abroad.

8. Defendants Anco and DAC are designated by defendant DeBeers as the authorized distributors of diamond grit in the United States. As such, they import synthetic and natural diamond grit for resale principally to domestic manufacturers of bonded diamond grinding wheels, diamond saws, and diamond compound for use by industry in assorted

manufacturing processes. In 1973, Anco had diamond grit sales of some \$4 million, and DAC had diamond grit sales of some \$10 million.

9. Worldwide sales in 1973 by the six authorized distributors of defendant DeBeers, of diamond grit supplied by defendant DeBeers, approached 17 million carats valued at approximately \$47 million.

10. Defendants Anco and DAC import substantial amounts of diamond grit into the United States, transport it in interstate commerce, and resell it throughout the United States.

V

VIOLATION ALLEGED

11. Beginning in or about March of 1967, the exact date being unknown to the plaintiff, and continuing thereafter up to and including the date of the filing of this complaint, the defendants and co-conspirators have engaged in a combination and conspiracy in unreasonable restraint of the aforesaid foreign and interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1). The combination and conspiracy is continuing and will continue unless the relief hereinafter prayed for is granted.

12. The aforesaid combination and conspiracy consisted of a continuing agreement, understanding and concert of action among the defendants and co-conspirators, the substantial terms of which were:

- (a) to fix, stabilize and raise the retail prices of diamond grit;
- (b) to allocate territorial markets in the sale of diamond grit; and
- (c) to allocate customers in the sale of diamond grit.

13. For the purpose of formulating and effectuating the aforesaid combination and conspiracy, the defendants and co-conspirators have done those things which, as hereinbefore alleged, they combined and conspired to do.

VI

EFFECTS

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

- (a) domestic and international prices of diamond grit have been raised, fixed and maintained at artificial and noncompetitive levels;
- (b) purchasers of diamond grit have been deprived of free and open competition in the purchase of diamond grit; and
- (c) competition between the defendants and co-conspirators in the sale of diamond grit for the United States domestic and export market has been restrained and suppressed.

PRAYER

WHEREFORE, plaintiff prays:

1. That the Court adjudge and decree that the defendants have engaged in a combination and conspiracy in unreasonable restraint of the aforesaid interstate and foreign trade and commerce in violation of Section 1 of the Sherman Act.

2. That each of the defendants, its subsidiaries, successors, transferees, assigns, and respective officers, directors, partners, agents, and employees thereof, and all other persons acting or claiming to act on their behalf, be perpetually enjoined and restrained from, in any manner, directly or indirectly, continuing, maintaining or renewing the combination and conspiracy hereinbefore alleged, and

from engaging in any other combination, conspiracy, contract, agreement, understanding, or concert of action having a similar purpose or effect, and from adopting or following any practice, plan, program or device having a similar purpose or effect.

3. That the plaintiff have such other and further relief as the nature of the case may require and the Court may deem just and proper.

4. That the plaintiff recover the costs of this suit.

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