

Decision

IN THE MATTER OF

BOHN ALUMINUM & BRASS CORPORATION ET AL.

Docket 5720. Complaint, Dec. 20, 1949—Decision, May 22, 1955

Order dismissing, because of discontinuance of business by respondents in the automotive parts replacement service field, complaint charging discrimination in price in violation of sec. 2(a) of the Clayton Act as amended.

Mr. Eldon P. Schrup, Mr. James E. Corkey and Mr. Francis C. Mayer for the Commission.

Butzel, Eaman, Long, Gust & Kennedy, of Detroit, Mich., for respondents.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

This proceeding is before the Hearing Examiner upon motion of respondents to dismiss this proceeding, affidavit in support thereof, and answer to respondents' motion filed by counsel in support of the complaint.

The complaint in this proceeding was issued December 20, 1949. Thereafter, under date of February 9, 1951, counsel for respondents and counsel supporting the complaint entered into a stipulation as to the facts. This stipulation stated in part that during the period from 1943 through 1949 respondent Clawson & Bals, Inc., was a wholly owned subsidiary of respondent Bohn Aluminum & Brass Corporation and, under date of December 31, 1949, said Clawson & Bals, Inc., was liquidated and since that time the business formerly conducted by it has been carried as a division of Bohn Aluminum & Brass Corporation. It was stated in said stipulation that the respondents had discontinued the practices charged by the complaint to be in violation of subsection (a) of Section 2 of the Clayton Act, and further provided that the stipulation be incorporated into the record in this proceeding and the matter adjourned until thirty days after final disposition of the matter now pending before the Federal Trade Commission against Federal-Mogul Corporation, Docket No. 5769.

In his affidavit in support of the motion to dismiss, Clyde M. Adams, Vice President of Bohn Aluminum & Brass Corporation stated that in the year 1953 Bohn Aluminum & Brass Corporation liquidated and otherwise disposed of its automotive replacement parts division and since that time had not been and is not now interested in the operation of the automotive parts replacement business in the automotive

after-market field, nor has it any present intention of re-entering such business.

In their answer to respondents' motion and affidavit, counsel in support of the complaint stated that they have no objection to the motion to dismiss this proceeding, and as part of said answer attached thereto photostatic copies of certain correspondence and documents showing a sale by Bohn Aluminum & Brass Corporation of its inventory of automotive parts to the Thompson Products, Inc., on or about August 7, 1953, and notice to customers that it had discontinued doing business in the replacement service field.

The Hearing Examiner, having considered said motion and affidavit in support thereof, and answer thereto filed by counsel in support of the complaint and documents attached to said answer, and the record herein, and being now duly advised in the premises, is of the opinion that further proceedings in this matter would not be in the public interest.

It is therefore ordered, That the complaint herein be, and the same is hereby, dismissed.

DECISION OF THE COMMISSION

Pursuant to Rule XXII of the Commission's Rules of Practice, the initial decision of the hearing examiner shall on May 22, 1955, become the decision of the Commission.

Complaint

IN THE MATTER OF
THE MAICO COMPANY, INC.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
SEC. 3 OF THE CLAYTON ACT*Docket 5822. Complaint, Oct. 24, 1950—Decision, May 22, 1955*

Consent order requiring a manufacturer of hearing aid instruments and parts and accessories in Minneapolis, Minn., to cease violating sec. 3 of the Clayton Act by entering into such exclusive contracts with distributors as require them to agree to carry its products only, to clear their stocks of competitive products, and not to order any more of such products for resale.

Before *Mr. Webster Ballinger* and *Mr. Frank Hier*, hearing examiners.

Mr. William C. Kern and *Mr. Andrew C. Goodhope* for the Commission.

Dorsey, Colman, Barker, Scott & Barber, of Minneapolis, Minn., for respondent.

COMPLAINT

Pursuant to the provisions of an Act of Congress approved October 15, 1914, entitled "An Act to Supplement Existing Laws Against Unlawful Restraints and Monopolies, and for other purposes," commonly known as the Clayton Act, the Federal Trade Commission having reason to believe that the Maico Company, Inc., a corporation, hereinafter designated and referred to as respondent, has violated the provisions of Section 3 of said Act, the Commission hereby issues its complaint stating its charges in such respects as follows:

PARAGRAPH 1. Respondent, The Maico Company, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Minnesota, and having its principal office and place of business at 21 North Third Street, Minneapolis, Minnesota.

PAR. 2. Respondent is now, and for many years last past has been, engaged in the manufacture, distribution and sale of hearing aid instruments and parts and accessories; the principal line of products manufactured, distributed and sold by respondent is now, and has been, a line of hearing aid instruments which are advertised and sold under the trade name "Maico." Such products are sold by respondent for resale and use within the United States and the District of Columbia. Respondent's hearing aid instruments are nationally advertised, enjoy wide sales throughout the various States of the United States,