

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner as to Count I of the complaint shall, on the 10th day of September 1959, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

IN THE MATTER OF
PHOTOSTAT CORPORATION

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket 7349. Complaint, Jan. 6, 1959—Decision, Sept. 10, 1959

Consent order requiring the nation's largest seller of photographic copying machines and supplies therefor, with total sales between 1953 and 1956 greater than those of all its competitors combined, to cease using illegal inducements and unreasonable tying arrangements to sell its supplies, including practices of (1) rendering prompt and efficient repairs and servicing without charge for service labor to owners of its machines who purchased all or a substantial part of their supplies from it, while rendering less efficient service to those who did not do so and charging the latter for service labor; (2) utilizing its dominant position to induce owners and operators of its machines to purchase supplies from it and to refuse to purchase them from its competitors; (3) restricting the sale of its repair parts, accessories, and equipment to competitors and thereby causing costly delays in repairing and servicing machines of owners purchasing competitors' supplies; and (4) selling repair parts, etc., to its competitors only on the condition that they furnish the design number, model number, and serial number of machines on which the repair parts were to be used and thereafter contacting owners of such machines and attempting to cause them to discontinue purchasing supplies from its competitors.

Mr. William J. Boyd, Jr., and Mr. Arthur J. Hessburg for the Commission.

Herrick, Smith, Donald, Farley & Ketchum, of Boston, Mass., by *Mr. Malcolm D. Perkins*; and *Tillinghast, Collins & Tanner*, of Providence, R.I., by *Mr. Thomas R. Wickersham*, for respondent.

INITIAL DECISION BY EARL J. KOLB, HEARING EXAMINER

The complaint in this proceeding issued January 6, 1959, charges respondent Photostat Corporation, a corporation, located at 1001

Jefferson Road, P.O. Box 1970, Rochester, New York, with violation of Section 5 of the Federal Trade Commission Act in connection with the sale and distribution of photographic copying machines and accessories, parts and equipment and photocopy paper and chemicals for said machines.

After the issuance of the complaint, respondent entered into an agreement containing consent order to cease and desist with counsel in support of the complaint, disposing of all the issues in this proceeding, which agreement was duly approved by the Director and the Assistant Director of the Bureau of Litigation.

It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint.

By the terms of said agreement, the respondent admitted all the jurisdictional facts alleged in the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with the allegations.

By said agreement, the respondent expressly waived any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement.

Respondent further agreed that the order to cease and desist, issued in accordance with said agreement, shall have the same force and effect as if made after a full hearing.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that said order may be altered, modified or set aside in the manner prescribed by the statute for orders of the Commission.

The hearing examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provides for an appropriate disposition of this proceeding, the same is hereby accepted and is ordered filed upon becoming a part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and, in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent named herein, that this proceeding is in the interest of the public, and issues the following order:

Decision

56 F.T.C.

ORDER

It is ordered, That respondent Photostat Corporation, a corporation, and its officers, directors, agents, representatives, and employees, directly or through any corporate or other device, in, or in connection with, the offering for sale, sale and distribution of photocopy supplies, including specifically photocopy paper and chemicals, for use in photographic copying machines, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Rendering or making available, or offering to render, or make available, service on its photographic copying machines without charge for service labor on the, express or implied, condition, agreement, or understanding that the recipient thereof will purchase photocopy supplies for said machines from respondent.

(2) Differentiating between owners or operators of its photographic copying machines of any particular type or kind by rendering service on said machines without charge, or by charging at lower rates, for service labor to those owners or operators of said machines who purchase all or a substantial part of their photocopy supplies from respondent, and by making a charge at higher rates to other owners and operators of said machines for service labor where such other owners and operators do not purchase all or a substantial part of their photocopy supplies from respondent.

(3) Inducing the sale of, or selling, photocopy supplies for its photographic copying machines on the, express or implied, condition, agreement or understanding that the purchaser thereof will receive service on his photographic copying machine without charge for service labor, except that nothing in this paragraph shall prohibit respondent from granting service without charge for service labor to owners and operators of its photographic copying machines.

(4) Refusing to sell, or restricting and limiting the sale of repair parts, accessories or equipment for its photographic copying machines to competitors, as a means of inducing owners and operators of its machines to purchase photocopy supplies for said machines from respondent.

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