

ing dictation and transcription devices, principally under the trademark "Stenorette," to cease fixing its retail dealers' resale prices, imposing customer and territorial restrictions, and imposing on its dealers exclusive dealing requirements and other anticompetitive restraints.

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COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act (U.S.C., Title 15, Sec. 41 *et seq.*), and by virtue of the authority vested in it by such Act, the Federal Trade Commission having reason to believe that the DeJur-Amsco Corporation, a corporation more particularly described and referred to hereinafter as respondent, has violated the provisions of Section 5 of said Act and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby names the previously mentioned corporation as respondent herein, and issues its complaint against the named party stating its charges as follows:

PAR. 1. Respondent, DeJur-Amsco Corporation, is a corporation duly organized and existing under and by virtue of the laws of the State of New York with its main office and place of business located at Northern Boulevard and 45th Street, Long Island City, Borough of Queens, New York.

PAR. 2. Among other things, respondent is engaged in the sale and distribution of certain office equipment consisting of magnetic tape recording dictation and transcription devices. Respondent sells such dictation and transcription devices, including parts and accessories used in connection therewith, principally under the trademark "Stenorette."

Stenorette dictation equipment is manufactured for and imported by the respondent from the Grundig Company located in the Federal Republic of Germany. Respondent is now and for many years has been the exclusive distributor in the United States and its possessions of Grundig dictation equipment sold under the "Stenorette" name.

Where the term "Stenorette dictation equipment" is used in this complaint, it is defined to mean the dictating and transcribing machine equipment, accessories, parts and supplies thereof distributed by respondent in the United States and its possessions.

PAR. 3. Respondent sells its Stenorette dictation equipment through its Business Equipment Division to over 500 independent franchised dealers throughout the United States. Respondent's Business Equipment Division in fiscal 1967 realized multimillion dollar gross sales.

PAR. 4. To service its independent franchised dealers located throughout the United States, respondent maintains a comprehensive and integrated distribution system including sales and distribution offices in New York City, Chicago, Illinois, and Los Angeles, California. In the course and conduct of its business in Stenorette dictation equipment as above described, respondent ships such equipment or

causes such equipment, including parts and accessories therefor, to be shipped from States in which it does business to purchasers located in other States of the United States and the District of Columbia. There is now and has been at all times mentioned in this complaint, a pattern and course of interstate commerce in Stenorette dictation equipment, by respondent within the intent and meaning of the Federal Trade Commission Act.

PAR. 5. Except to the extent that competition has been hindered, frustrated, lessened, and eliminated as set forth in this complaint, respondent has been and is now in substantial competition with other corporations, individuals and partnerships engaged in the sale and distribution of dictation equipment similar to that described in Paragraph Two hereinabove.

PAR. 6. In the course and conduct of its business in Stenorette dictation equipment as above described, and beginning at least as early as January 1962, respondent has engaged and is now engaging in certain acts and practices whose purpose and effect have been to exclude, eliminate, suppress, restrain and restrict competition by, between and among its independent franchised dealers in the United States in the marketing, sale and distribution of Stenorette dictation equipment.

Among the acts and practices engaged in by respondent, but not limited thereto, has been the imposition by respondent upon its dealers of the following written restrictions and restraints:

a. The requirement that its dealers not sell, service, purchase, stock, deliver or deal in any dictating and/or transcribing equipment other than Stenorette dictation equipment;

b. The requirement that, except with respondent's prior written consent, its dealers shall only solicit sales, sell or deliver Stenorette dictation equipment (1) in the dealers' normal course and area of trade; (2) to consumers for use; (3) for shipment, delivery and use within the boundaries of the United States or its possessions;

c. The requirement that its dealers shall not solicit sales or make sales or deliveries of any Stenorette dictation equipment which might be prejudicial to or interfere with any other authorized dealer or sales representative of respondent and that, in the event there be any dispute between any dealer and any other authorized dealer or sales representative as to what constitutes such prejudicial activities or interference, such dispute shall be determined by respondent and its determination shall be final and conclusive;

d. The requirement that Stenorette dictation equipment products shall be acquired only from the respondent, and that without the

respondent's prior written consent its dealers may not purchase, receive, sell, deliver, or otherwise deal in Stenorette dictation equipment with, from or to any other authorized dealers or sales representative of respondent or anyone else dealing or trading in Stenorette dictation equipment;

e. The requirement that any of respondent's franchised dealers selling any Stenorette dictation equipment for use outside of the dealer's own territory, pay to the franchised dealer in the territory in which such equipment is to be used, a sum equal to the list price for the particular piece of equipment less 17 percent plus Federal excise tax;

f. The requirement that its dealers supply respondent with all requested information of sales, sales solicitation and any other activities of the dealers respecting Stenorette dictation equipment;

g. The requirement that in the selling and servicing of Stenorette dictation equipment and other conduct of the franchised dealers' business, the dealers agree to observe and conform in all respects with the policies and procedures of respondent.

PAR. 7. In the course and conduct of its business as above described, and beginning at least as early as January 1962, respondent has also engaged and is now engaging in certain acts and practices whose purpose and effect have been to establish, fix, control and maintain the retail prices at which respondent's independent franchised dealers advertise, offer for sale and sell Stenorette dictation equipment.

Among these acts and practices, but not limited thereto, have been the following:

a. The requirement that its dealers adhere to and be bound by non-existent fair trade agreements and adhere to minimum resale prices established by the respondent, such established minimum resale prices not being part of, nor made in accordance with any established fair trade program;

b. The requirement that its dealers supply all requested information of sales, sales solicitation and promotional, advertising and any other activities of its dealers respecting Stenorette dictation equipment;

c. The requirement that any of respondent's franchised dealers selling any Stenorette dictation equipment for use outside of the dealer's own territory, pay to the franchised dealer in the territory in which such equipment is to be used, a sum equal to the list price for the particular piece of equipment less 17 percent plus Federal excise tax;

d. The use of cooperative advertising contracts or agreements with its dealers which require these dealers to advertise Stenorette dictation equipment at respondent's list or established retail prices;

e. The withholding of earned cooperative advertising credits from dealers who advertise Stenorette dictation equipment at retail prices less than respondent's list or established prices for such equipment;

f. Supplying or selling price lists, and advertising brochures and material to its dealers in which respondent's list or established retail prices for Stenorette dictation equipment are set forth;

g. Encouraging and requiring its dealers to distribute price lists and advertising material containing respondent's list or established retail prices to customers and prospective customers;

h. Furnishing newspaper, radio, and television advertising mats to its dealers in which respondent's list or established retail prices for Stenorette dictation equipment are set forth;

i. Encouraging and requiring its dealers to use such advertising mats containing respondent's list or established retail prices for Stenorette dictation equipment in conjunction with respondent's national advertising campaigns which feature respondent's list or established retail prices;

j. The employment of a public relations firm to screen advertisements placed by its dealers in local media.

PAR. 8. In the course and conduct of its business as above described, and beginning at least as early as January 1962, respondent has engaged and is now engaged in certain acts and practices whose purpose and effect have been to foster, promote, maintain and support its policies of restricting dealer competition and maintaining retail prices as alleged in Paragraph Six and Paragraph Seven hereinabove.

Among these acts and practices of respondent, but not limited thereto, have been the following:

a. Convening meetings of its dealers for the purpose of discussing uniform retail prices, uniform trade-in allowances, and customer restrictions;

b. Encouraging and soliciting its dealers to cooperate in identifying dealers who violate respondent's policies by selling Stenorette dictation equipment outside of their allotted territories;

c. Using its sales representatives to periodically check the sales and business records of its dealers to ascertain whether or not these dealers are violating respondent's policies by selling Stenorette dictation equipment below respondent's established retail prices;

d. Employing its sales representatives to review respondent's resale price maintenance and territorial allocation policies with its franchised dealers;

e. Requiring explanations from dealers suspected of violating re-

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spondent's policies by selling Stenorette dictation equipment below respondent's established retail prices;

f. Using threats and warnings that it would disenfranchise dealers suspected of violating respondent's policies by selling Stenorette dictation equipment outside of their allotted territories or below respondent's established prices;

g. Disenfranchising dealers found to be in violation of respondent's policies by selling Stenorette dictation equipment outside of their allotted territories or below respondent's established retail prices.

PAR. 9. In the course and conduct of its business as above described and beginning as least as early as January 1962, respondent has prevented, restricted and discouraged its independent franchised dealers from making sales to, or engaging in sales activities with, federal and certain local governmental agencies and institutions in connection with the marketing, sale and distribution of Stenorette dictation equipment and has instead reserved such governmental and institutional type customers unto itself for the purpose of allocating, assigning and distributing their business in Stenorette dictation equipment to dealers of respondent's own choice.

PAR. 10. The effect of the acts and practices engaged in by respondent as alleged in Paragraphs Six, Seven, Eight, and Nine of this complaint are, have been, and may be to substantially lessen, restrain, prevent and exclude free and open competition by, between, and among respondent's independent franchised dealers in the marketing, sale and distribution of Stenorette dictation equipment in the United States and its possessions in the following manner:

a. By establishing and maintaining artificial and unrealistic marketing zones and areas for the retail sale of Stenorette dictation equipment;

b. By requiring dealers to recognize and refrain from selling or distributing Stenorette dictation equipment in designated geographic areas;

c. By allocating and assigning retail customers and accounts and preventing the sale of Stenorette dictation equipment to designated customers and accounts;

d. By fixing arbitrary and non-competitive retail prices for Stenorette dictation equipment;

e. By preventing the sale of Stenorette dictation equipment to retail customers except at prices established and determined by respondent.

PAR. 11. The foregoing acts and practices as alleged, are prejudi-

cial and injurious to the public; have a tendency to hinder and prevent competition and have actually hindered and restrained competition; and constitute unfair acts or practices and unfair methods of competition in commerce within the meaning and intent of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Restraint of Trade proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the respondent with violation of Section 5 of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in said complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent DeJur-Amsco Corporation is a corporation organized and doing business under the laws of the State of New York with its main office and place of business located at Northern Boulevard and 45th Street, Long Island City, Borough of Queens, New York.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent and the proceeding is in the public interest.

ORDER

I. *It is ordered*, That respondent DeJur-Amsco Corporation, a corporation, its subsidiaries, successors, assigns, officers, directors, agents, representatives, and employees, individually or in concert, directly or through any corporate or other device, in connection with the distribution, offering for sale, or sale of respondent's products ("respondent's products" shall be understood to mean the office dictating and transcribing machine equipment and accessories, parts and supplies therefor which respondent has sold or may hereafter sell), in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Engaging in any one or more of the following acts or practices:

(1) Limiting, allocating, or restricting the geographic area in which any of its dealers may solicit sales for, sell, advertise or deliver respondent's products.

(2) Preventing, restricting, regulating, or hindering in any manner, any of its dealers from selling or delivering respondent's products to, or soliciting sales or procuring orders for such products from, any customer or class of customers or any prospective customer or class of customers including but not limited to federal, state, and local government agencies, the military, educational institutions, corporations, partnerships, private individuals or other of respondent's customers.

(3) Preventing, restricting or hindering any of its dealers from buying, or acquiring, respondent's products from any other dealer, whether or not such other dealer is a dealer of respondent, or from any source whatsoever.

(4) Preventing, restricting or hindering any of its dealers from selling, advertising, servicing, purchasing stocking, delivering, or dealing in the office dictating and transcribing machine equipment, accessories, parts and supplies therefor of any manufacturer, other than the manufacturer of respondent's products, or any supplier or dealer therein.

(5) Fixing, establishing, controlling or maintaining the prices at which its dealers may sell, advertise or promote respondent's products or the trade-in allowances which its dealers may give for any used dictation equipment of the respondent.

B. Including in its own advertising, or in any advertising or promotional aids and material supplied or sold to its dealers.

any price or prices at which its products may or must be resold by its dealers, or publishing disseminating or circulating to any dealer, any price list, price book or other document indicating any price or prices at which its products may or must be resold by its dealers, unless it is clearly and conspicuously stated that such resale prices are the respondent's "suggested prices only."

C. Entering into, continuing or enforcing, or attempting to enforce any contract, agreement, understanding, or arrangement or any provisions therein, which is prohibited in Paragraph A above.

D. Convening meetings of, or meeting with, its dealers for the purpose of obtaining their compliance with the acts and practices prohibited in Paragraph A above.

E. Harassing, intimidating, coercing, threatening or otherwise exerting pressure on its dealers, either directly or indirectly, to comply with any of the acts or practices prohibited in Paragraph A above.

F. Terminating, discriminating or taking reprisals against any of its dealers because such dealer has failed to comply with any of the acts or practices prohibited in Paragraph A, above.

Provided, however, That nothing contained in this order shall prevent respondent from establishing primary geographic areas of responsibility for each of its dealers; expecting its dealers to be diligent in their efforts to promote the sale of respondent's products within their respective areas of primary responsibility, and terminating a dealer whom it reasonably and in good faith feels has failed to adequately represent respondent in the sale of its products.

II. *It is further ordered,* That respondent DeJur-Amsco Corporation shall reinstate any former dealer terminated since January 1, 1966, for failure to comply with one or more of the acts and practices prohibited in Paragraph A, above, if any such dealer desires reinstatement.

III. *It is further ordered,* That respondent shall:

A. Forthwith serve a copy of this order by mail on each of its dealers.

B. Within thirty (30) days after service upon it of this order: serve a copy of this order by registered mail on each dealer terminated since January 1, 1966, together with a letter advising that such dealer, if within the provisions of Part II of this order, may apply within thirty (30) days from receipt thereof for reinstatement as one of respondent's dealers.

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C. Within one hundred and twenty (120) days after service upon it of this order submit to the Commission: (1) a list of all dealers terminated since January 1, 1966; (2) a list of all dealers who have been reinstated pursuant to Paragraph B, above; and (3) a list of all dealers who have not been reinstated and the reason or reasons therefor.

IV. *It is further ordered*, That respondent notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further 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 they have complied with this order.

IN THE MATTER OF

HOUSEHOLD SEWING MACHINE CO., INC., ET AL.

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