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FTC v. Sperry & Hutchinson Co.

405 U.S. 233 (1972)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



Supreme Court of the United States
Washington, D. C. 20543

February 28, 1972

CHAMBERS OF
THE CHIEF JUSTICE

No. 70 - 70 -- FTC v. Sperry & Hutchinson

Dear Byron:

Please join me.

Regards,

A handwritten signature in dark ink, appearing to be "WFB", written in a cursive, stylized manner.

Mr. Justice White

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

February 19, 1972

Dear Byron:

In No. 70-70 - FTC v. Sperry
& Hutchinson Co., please join me in your
opinion.

W.O. D.

Mr. Justice White

cc: The Conference

g M
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

February 8, 1972

RE: No. 70-70 - F.T.C. v. Sperry and
Hutchinson Co.

Dear Byron:

Please join me.

Sincerely,

Bill

Mr. Justice White

cc: The Conference

3
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

February 16, 1972

No. 70-70 -
FTC v. Sperry and Hutchinson

Dear Byron,

I am glad to join your opinion for the
Court in this case.

Sincerely yours,

P.S.
✓

Mr. Justice White

Copies to the Conference

37 /

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Stewart
✓ Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

1st DRAFT

From: White, J.

SUPREME COURT OF THE UNITED STATES

Circulated: 2-7-72

Recirculated: _____

No. 70-70

Federal Trade Commission,	} On Writ of Certiorari to	
Petitioner,		the United States Court
v.		of Appeals for the Fifth
The Sperry and Hutchinson		Circuit.
Company.		

[February —, 1972]

MR. JUSTICE WHITE delivered the opinion of the Court.

In June of 1968 the Federal Trade Commission held the largest and oldest company in the trading stamp industry.¹ Sperry and Hutchinson (S&H), guilty on three counts of violating § 5 of the Federal Trade Commission Act, 15 U. S. C. § 45 (a)(1). The Commission found that S&H improperly regulated the maximum rate at which trading stamps were dispensed by its retail licensees; that it combined with others to regulate the rate of stamp dispensation throughout the industry; and that it attempted (almost invariably successfully) to suppress the operation of trading stamp exchanges and other "free and open" redemption of stamps. The Commission entered cease and desist orders accordingly.

S&H appealed only the third of these orders. Before the Fifth Circuit Court of Appeals it conceded that it

¹ On the nature of the industry, see generally Comment, Trading Stamps, 37 N. Y. U. L. Rev. 1090 (1962). The Trade Commission proceedings in the instant case are discussed in Comment. The Attack on Trading Stamps—An Expanded Use of Section 5 of the Federal Trade Commission Act, 57 Georgetown Law Journal 1082 (1969).

8 / *Stylistic changes and
for 2 repositioned as for 6.
See pp. 2, 14, 15, 17*

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D.C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Stewart
☒ Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

From: White, J.

*Did I find this?
2/20/78*

SUPREME COURT OF THE UNITED STATES

No. 70-70

Recirculated: 2-28-75

Federal Trade Commission,
Petitioner,
v.
The Sperry and Hutchinson
Company.

On Writ of Certiorari to
the United States Court
of Appeals for the Fifth
Circuit.

[March 1, 1972]

MR. JUSTICE WHITE delivered the opinion of the Court.

In June of 1968 the Federal Trade Commission held that the largest and oldest company in the trading stamp industry,¹ Sperry and Hutchinson (S&H), was violating § 5 of the Federal Trade Commission Act, 15 U. S. C. § 45 (a)(1), in three respects. The Commission found that S&H improperly regulated the maximum rate at which trading stamps were dispensed by its retail licensees; that it combined with others to regulate the rate of stamp dispensation throughout the industry; and that it attempted (almost invariably successfully) to suppress the operation of trading stamp exchanges and other "free and open" redemption of stamps. The Commission entered cease and desist orders accordingly.

S&H appealed only the third of these orders. Before the Fifth Circuit Court of Appeals it conceded that it

¹ On the nature of the industry, see generally Comment, Trading Stamps, 37 N. Y. U. L. Rev. 1090 (1962). The Trade Commission proceedings in the instant case are discussed in Comment, The Attack on Trading Stamps—An Expanded Use of Section 5 of the Federal Trade Commission Act, 57 Georgetown Law Journal 1082 (1969).

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

February 8, 1972

Re: No. 70-70 - FTC v. Sperry and Hutchinson

Dear Byron:

Please join me.

Sincerely,


T.M.

Mr. Justice White

cc: The Conference

37
M
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

February 10, 1972

Re: No. 70-70 - FTC v. Sperry & Hutchinson Co.

Dear Byron:

Please join me.

Sincerely,

H.A.B.

Mr. Justice White

cc: The Conference