

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

STEVES AND SONS, INC.,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:16-CV-00545-REP
)	
JELD-WEN, INC.,)	
)	
Defendant.)	
_____)	

**JELD-WEN, INC.’S MOTION FOR JUDGMENT AS A MATTER OF LAW AGAINST
STEVES & SONS, INC.**

Pursuant to Federal Rule of Civil Procedure 50, Defendant JELD-WEN, Inc. (“JELD-WEN”), hereby moves for Judgment as a Matter of Law against Plaintiff Steves and Sons, Inc. (“Steves”) on the following issues. As set forth more fully in the accompanying memorandum of law, the grounds for this motion are as follows:

1. JELD-WEN is entitled to judgment on Steves’ antitrust claim under Section 4 of the Clayton Act because the evidence that Steves presented to the jury does not establish that the merger caused Steves’ claimed injury, nor that it measured antitrust damages.

2. JELD-WEN is entitled to judgment on Steves’ claim for future lost profits damages under Section 4 of the Clayton Act because the measure of damages that it presented to the jury is not a proper measure of antitrust damages.

3. If the court permits Steves to submit its claim for future lost profits to the jury, Steves has an adequate remedy at law and thus JELD-WEN is entitled to judgment on its claim for the equitable relief of divestiture.

4. JELD-WEN is entitled to judgment as a matter of law on Steves' Section 4 antitrust claim because Steves cannot prove the required element of antitrust injury.

5. Steves cannot establish its Section 7 claims as a matter of law. First, Steves has not presented evidence to support its market definition. Steves' evidence confirms that its experts' analysis of the relevant market participants is flawed and that its product market definition is flawed. Second, Steves has not presented any evidence that anticompetitive effects of the acquisition outweigh its efficiencies.

6. No reasonable jury could find that JELD-WEN breached Section 8 of the contract or any express or implied warranty by selling allegedly defective doorskins to Steves. First, Steves has presented no evidence of JELD-WEN's specifications. Second, Steves has presented no reliable evidence that the doorskins for which it is claiming damages were actually defective. Third, Steves presented no evidence that it provided notice of the defects for which it is claiming damages to JELD-WEN. Steves also did not establish that it is entitled to reimbursement for the full cost of doors manufactured with allegedly defective doorskins.

Accordingly JELD-WEN respectfully requests that the Court grant JELD-WEN's Motion for Judgment as a Matter of Law on the above described issues.

Dated: February 8, 2018

Respectfully submitted,

JELD-WEN, Inc.

By counsel

/s/Ryan T. Andrews

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CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of February 2018, I will electronically file a copy of the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the registered participants as identified on the NEF to receive electronic service, including:

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