

The supreme court of the united states - business decisions

[Law](#)



The analysis forces courts to consider the pro-competitive effects of the restraint as well as its anticompetitive effects. Certain categories of restraints are illegal per se: that is, they are conclusively presumed to be unreasonable and therefore illegal. For those types of restraints, the court does not have to go any further in its analysis than to recognize the type of restraint, and the plaintiff does not have to show anything other than that the restraint occurred. Three elements must be alleged to sustain a cause of action under section 1 of the Sherman Act, 15 U. S. C. 1 (1982): a contract, combination or conspiracy; a restraint of trade; and an effect on interstate commerce. *Weiss v. York Hospital*, 745 F. 2d 786, 812 (3d Cir. 1984), cert. denied, 470 U. S. 1060, 105 S. Ct. 1777, 84 L. Ed. 2d 836 (1985).

Restraints of trade can be classified as horizontal or vertical. A horizontal agreement is one involving direct competitors at the same level in a particular industry, and a vertical agreement involves participants who are not direct competitors because they are at different levels. Thus, a horizontal agreement can be among manufacturers or retailers or wholesalers, but it does not involve participants from across the different groups. A vertical agreement involves participants from one or more of the groups—for example, a manufacturer, a wholesaler, and a retailer. These distinctions become difficult to make in certain fact situations, but they can be significant in determining whether to apply a per se rule of illegality or the Rule of Reason. For example, horizontal market allocations are per se illegal, but vertical market allocations are subject to the rule-of-reason test. The Sherman Anti-Trust Act of 1890 specifically granted the U. S. circuit courts

authority " to prevent and restrain" any combination or conspiracy intended to restrain trade among the states. The Act also instructed U. S. attorneys to institute proceedings in equity to restrain any violations of the act. In order to establish a relevant geographic market, the plaintiff must demonstrate " not just where consumers currently purchase the product, but where consumers could turn for alternative products or sources of the product if a competitor raises prices" Surgical Care Ctr. of Hammond v. Hospital Serv. Dist. No. 1 of Tangipahoa Parish, 309 F. 3d 836 (5th Cor. 2002).

Here, Goliath's answer, that it was not a party to the cartel agreement and that the agreement does not affect the US market for sapphires is correct because there is no interstate trade. Thus pursuant to the Sherman Act, there is no jurisdiction, for the same reasons set forth above, Junior is also not subject to jurisdiction.