

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Essex Wire Corp., U.S. District Court, N.D. Indiana, 1967 Trade Cases ¶72,263, (Dec. 1, 1967)

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United States v. Essex Wire Corp.

1967 Trade Cases ¶72,263. U.S. District Court, N.D. Indiana, Fort Wayne Division. Civil Action No. 1927. Entered December 1, 1967. Case No. 1967 in the Antitrust Division of the Department of Justice.

Sherman and Clayton Acts

Tying Arrangements—Magnet Wire—Consent Judgment.—A wire distributor was prohibited by a final consent judgment from tying the sale of magnet wire to any other product, from allocating magnet wire on the basis of other purchases, from refusing to sell because purchasers will buy no other products, from selling magnet wire in combination with other products at prices less than the sum of each product purchased separately, and from inducing sales representatives to require the purchase of other products as a condition for the sale of magnet wire.

For the plaintiff: Donald F. Turner, Asst. Atty. General; Baddia J. Rashid, William D. Kilgore, Jr., William E. Sarbaugh, John Edward Burke, William T. Huyck and David J. Berman, Attorneys, Dept. of Justice.

For the defendant: Hammond E. Chaffetz and Fred H. Bartlit, Jr., Chicago, Ill.; Otto E. Grant, Jr., Fort Wayne, Indiana.

Final Judgment

ESCHBACH, D. J.: Plaintiff, United States of America, having filed its complaint herein on October 31, 1967 and defendant, Essex Wire Corporation, having filed its answer thereto denying the substantive allegations thereof and the parties hereto, by their respective attorneys, having consented to the making and entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without admission by any party in respect to any such issue;

Now, Therefore, before the taking of any testimony and upon said consent of the parties hereto, it is hereby Ordered, Adjudged and Decreed as follows:

I

[Jurisdiction]

This Court has jurisdiction of the subject matter hereof and the parties hereto. The complaint states claims against defendant upon which relief may be granted under Section 1 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Act, as amended, and under Section 3 of the Act of Congress of October 15, 1914, commonly known as the Clayton Act, as amended.

II

[Definitions]

As used herein:

- (A) "Person" means any individual, corporation, partnership, firm, association, or other legal entity;
- (B) "Magnet wire" means any continuous strand of metal conductor to be used in creating a magnetic field;
- (C) "Any other product" means any product other than magnet wire sold by defendant, including, but not limited to, insulation materials.

III

[*Applicability*]

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, directors, agents, and employees and to each of its subsidiaries, successors, and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

[*Customer Notification*]

Defendant is ordered and directed, within 30 days after the date of this Final Judgment, to advise in writing all of the customers of its Insulation and Wires Incorporated division as listed in the IWI Customer Sales Analysis for June 1966 that this Final Judgment prohibits defendant from selling or offering to sell magnet wire on the condition or understanding that purchasers buy any other product from defendant, and that this Final Judgment prohibits defendant from allocating magnet wire among its customers on the basis of their purchases of any other product.

V

[*Tying Prohibited*]

Defendant is enjoined and restrained from, directly or indirectly, in any manner:

- (A) Selling or offering to sell magnet wire on the condition or understanding that any purchaser buy any other product from defendant; or conditioning or tying, or attempting to condition or tie, the sale of magnet wire upon the sale of any other product;
- (B) Allocating the amount of magnet wire available to any customer on the basis of its purchases of any other product;
- (C) Refusing to sell, or discriminating in the availability, prices, terms, or conditions of sale of magnet wire, based in whole or in part on the fact the purchaser has or has not bought, is or is not buying, or will or will not agree to buy any other product from defendant;
- (D) Selling or offering to sell magnet wire in combination with any other product at a price which is less than the sum of the prices of said products when purchased separately;
- (E) Requiring, urging, or inducing any distributor or sales representative to require as a condition for the sale of magnet wire that the purchaser thereof purchase any other product.

VI

[*Prohibited Agreements*]

Defendant is enjoined and restrained from, selling, offering to sell, or conditioning the sale of, magnet wire upon, accompanied by, or pursuant to any term, condition, agreement, understanding, plan or program, the purpose or effect of which is contrary to, or inconsistent with, any of the provisions of this Final Judgment.

VII

[*Compliance & Inspection*]

For the purpose of securing compliance with this Final Judgment, and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant, made through its principal office, be permitted (1) access during reasonable office hours to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the

control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of defendant, and without restraint or interference from it to interview officers or employees of the defendant, who may have counsel present, regarding any such matters; and upon such request, defendant shall submit such reports in writing, under oath if so requested, to the Department of Justice with respect to any of the matters contained in this Final Judgment as may from time to time be requested. No information obtained by the means provided in this Section VII shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

VIII

[*Jurisdiction Retained*]

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.