

APPENDIX A:

UNITED STATES v. ACE DRILL BUSHING CO., INC.,
ET AL.

CIVIL NO. 66-483-TC

JUDGMENT ENTERED: JAN. 17, 1967

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Ace Drill Bushing Company, Inc.; Accurate Bushing Company; Acme Industrial Company; American Drill Bushing Company; Briney Bushing Inc.; Colonial Bushing Inc.; Ex-Cell-O Corporation; Hugo Stinnes Corporation; Universal Engineering Company; and Welch Tool Sales Inc., U.S. District Court, C.D. California, 1967 Trade Cases ¶71,977, (Jan. 17, 1967)

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United States v. Ace Drill Bushing Company, Inc.; Accurate Bushing Company; Acme Industrial Company; American Drill Bushing Company; Briney Bushing Inc.; Colonial Bushing Inc.; Ex-Cell-O Corporation; Hugo Stinnes Corporation; Universal Engineering Company; and Welch Tool Sales Inc.

1967 Trade Cases ¶71,977. U.S. District Court, C.D. California. Civil No. 66-483-TC. Entered January 17, 1967. Case No. 1891 in the Antitrust Division of the Department of Justice.

Sherman Act

Price Fixing—Sale of Drill Jig Bushings—Consent Decree.—Manufacturers of drill jig bushings have been prohibited by a consent judgment from illegally fixing prices for the sale or modification of drill jig bushings, and required to issue new discount schedules.

For the plaintiff: Donald F. Turner, Assistant Attorney General, Gordon B. Spivack, William D. Kilgore, Jr., Charles F. B. McAleer, and Stanley E. Disney, Attorneys, Department of Justice.

For the defendants: Victor R. Hansen and Warren K. Peterson of Hansen & Dolle for Ace Drill Bushing Co., Inc. Royal M. Sorensen of Burke, Williams & Sorensen for Accurate Bushing Co. and Ex-Cell-O Corp. Nossaman, Waters, Scott, Kruger & Riordan of Bell, Boyd, Lloyd, Haddad & Burns by William L. Scott for Acme Industrial Co. Lawrence T. Lydick and John H. Brinsley of Adams, Duque & Hazeltine for American Drill Bushing Co., Hugo Stinnes Corp. and Welch Tool Sales, Inc. William E. Wiley, Jr. of Fitzpatrick & Wiley for Briney Bushing, Inc. Phillip F. Belleville of Latham & Watkins for Colonial Bushings, Inc. Don F. Tyler of Walker, Wright, Tyler & Ward for Universal Engineering Company.

Final Judgment

CLARKE, District Judge: The plaintiff, United States of America, having filed its complaint herein on March 17, 1966, and the parties consenting hereto by their respective attorneys having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law and without this Final Judgment constituting evidence or an admission by any party with respect to any such issue:

Now, Therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law, and upon the consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of the parties consenting hereto. The complaint states claims for relief against the consenting defendants 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.

II

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(A) "Person" shall mean any individual, partnership, corporation, association or other business or legal entity.

(B) "Drill jig bushing" shall mean a small cylinder of hardened steel with a hole along its axis which is used to guide and support the bit of a metal drill to insure that the hole drilled is at the spot desired and conforms to the required tolerances.

III

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant and to each of its subsidiaries, successors and assigns and to each of its respective directors, officers and employees, and to all persons in active concert or participation with such defendant who receive actual notice of this Final Judgment by personal service or otherwise; provided, however, that this Final Judgment shall not apply to transactions solely between such defendant and its directors, officers, employees, parent company, affiliates and subsidiaries, or any of them, when acting in such capacity or to the activities or operations of such defendant outside of the United States not in unreasonable restraint of the domestic or foreign commerce of the United States.

IV

Defendants are jointly and severally enjoined and restrained from entering into, maintaining or furthering, directly or indirectly, any agreement, combination or joint plan or program with any other manufacturer or seller of drill jig bushings to:

(A) Fix, establish or determine prices in the sale of drill jig bushings to any third person;

(B) Fix, establish or determine prices for modification of drill jig bushings for any third person; and

(C) Fix, establish or determine the cost basis or method for arriving thereat for fixing, establishing or determining the sales price of drill jig bushings or for the modification thereof for any third person.

V

Each of the defendants is enjoined and restrained from communicating to any other manufacturer or seller of drill jig bushings information relating to prices of sale at or upon which such drill jig bushings or modifications thereof are being sold or will be sold to any third person other than such information which has been generally made available to the trade; provided, that nothing in this paragraph shall be deemed to prohibit any bona fide purchase or sale negotiation or transaction between a defendant and any other manufacturer or seller of drill jig bushings.

VI

Each of the defendants is ordered and directed to:

(A) Independently compile new schedules for quantity discounts, for distributor discounts and for set up charges upon the basis of its own desired profits and other market considerations;

(B) Withdraw on or before March 1, 1967 its then existing schedules for quantity discounts, for distributor discounts and for set up charges and to deposit in the mail at 12:00 noon on February 24, 1967 new schedules compiled pursuant to Subsection (A) of this Section VI. Copies of the new and superseded schedules shall at the same time be mailed to the Assistant Attorney General in charge of the Antitrust Division. Each defendant shall file with the Clerk of the Court an affidavit of a responsible official setting forth the fact and manner of compliance with this Section VI.

For the purpose of determination by this Court of compliance with this Section VI by any defendant in the event that plaintiff institutes any civil proceeding with respect to such compliance, the defendant shall initially introduce evidence to show the manner of its compliance with this Section VI.

VII

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For the purpose of securing or determining compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privileges:

- (A) Reasonable access, during office hours of such defendant, which may have counsel present, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant relating to the subject matters of this Final Judgment; and
- (B) Subject to the reasonable convenience of such defendant, and without restraint or interference from it, to interview officers or employees of such defendant, who may have counsel present, regarding any such matters.

Upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, a defendant shall submit such reports in writing with respect to the matters contained in this Final Judgment as may from time to time be requested.

No information obtained by the means permitted 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 the plaintiff, except in the course of legal proceedings in which the United States is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

VIII

Jurisdiction is retained by this Court 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 this Final Judgment, for the modification of any of the provisions contained therein, for the enforcement of compliance therewith and for the punishment of violations thereof.