

[Trade Regulation Reporter - Trade Cases \(1932 - 1992\), United States v. Dixo Co., Inc., U.S. District Court, E.D. New York, 1978-2 Trade Cases ¶62,353, \(Sept. 8, 1978\)](#)

Federal Antitrust Cases

76 C 1885 (JBW)

Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶62,353

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United States v. Dixo Co., Inc.

1978-2 Trade Cases ¶62,353. U.S. District Court, E.D. New York, No. 76 C 1885 (JBW), Filed September 8, 1978.

Case No. 2542, Antitrust Division, Department of Justice.

Sherman Act

Headnote

Price Fixing: Allocation of Markets: Exchange of Information: Dry Cleaning Fluid Industry: Litigated Judgment.—

A wholesaler of perchloroethylene, a common dry cleaning fluid, was barred by a final judgment from fixing prices and allocating markets in connection with the sale of the non-flammable liquid. The defendant was also enjoined from exchanging price information with any other distributor of perchloroethylene.

For plaintiff: Bernard Wehrmann, by Melvin Lublinski, Dept. of Justice, New York, N. Y. **For defendant:** Stephen B. Sobel, Rochelle Park, N. J.

Final Judgment

Weinstein, D. J.: Plaintiff, having filed its complaint herein on October 14, 1976, and after a full trial on all issues and the Court having rendered its findings of fact and conclusions of law herein on July 20, 1978;

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

I

[Jurisdiction]

This court has jurisdiction of the subject matter of this action and of the parties hereto.

Defendant engaged in a combination and conspiracy to raise and fix perchloroethylene prices in Metropolitan New York from November 1973 at least until August 1974 in violation of [Section 1 of the Sherman Act](#), as amended (15 U. S. C. §1).

II

[Definitions]

As used in this Final Judgment:

- A. "Person" shall mean any individual, corporation, partnership, firm, association or other business or legal entity.
- B. "Perchloroethylene" shall mean a clear, nonflammable liquid composed of ethylene dichloride and chlorine.

III

[Applicability]

The provisions of this Final Judgment shall apply to Defendant, to its subsidiaries, affiliates, successors and assigns, and to each of their respective officers, directors, agents and employees, 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

[Price Fixing; Allocation of Markets]

Defendant is enjoined and restrained directly or indirectly from entering into, adhering to, maintaining or engaging in any agreement, understanding, arrangement, plan or program with any other person to:

- A. Fix, raise, maintain, stabilize or adhere to prices or other terms or conditions for the sale of perchloroethylene to any third person; or
- B. Allocate, limit, apportion or divide territories, markets or customers for the sale of perchloroethylene.

V

[Exchange of Information]

Defendant is enjoined and restrained from:

- A. Communicating to or exchanging with any other distributor of perchloroethylene, any information concerning any actual or proposed price, price change or discount at which perchloroethylene is to be or has been sold by Defendant prior to the communication of such information to the public or to customers generally;
- B. Requesting from any other distributor of perchloroethylene any information of a type which Defendant could not communicate to such other distributor of perchloroethylene without violating paragraph (A) of this Section V.

VI

[Notice]

Defendant is ordered and directed to:

- A. Serve within sixty (60) days after the date of entry of this Final Judgment a conformed copy of this Final Judgment upon each of its officers and directors, and each of its employees who have any responsibility for the sale of perchloroethylene by such defendant;
- B. Serve a conformed copy of this Final Judgment upon each successor officer and director, and each successor employee having any responsibility for the sale of perchloroethylene by such defendant; and
- C. Within ninety (90) days after the date of entry of this Final Judgment, to file with this Court and to mail to the plaintiff, an affidavit setting forth the fact and manner of compliance with paragraph (A) of this Section VI.

VII

[Inspections]

- A. For the purpose of determining or securing compliance with this Final Judgment, any duly authorized representative 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 Defendant made to its principal office, be permitted, subject to any legally recognized privilege:

- (1) Access during the office hours of Defendant, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Defendant, who may have counsel present, relating to any 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, directors, agents, partners or employees of Defendant any of whom may have counsel present, regarding any such matters.

B. Defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing 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 the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law. If at the time information or documents are furnished by Defendant to Plaintiff, Defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by Plaintiff to Defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which Defendant is not a party.

VIII

[Retention of Jurisdiction]

Jurisdiction of this action 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 or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

IX

[Term of Judgment]

This Final Judgment shall remain in effect until November 30, 1984.