

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

NORMAN M. MORRIS CORPORATION,
NORMAN M. MORRIS ASSOCIATES, INC.,
OMEGA LOUIS BRANDT ET FRERE S.A.,
CHS TISSOT ET FILS S.A., AND SOCIETE
SUISSE POUR L'INDUSTRIE HORLOGERE
MANAGEMENT SERVICES S.A.

Defendants.

Civil Action No.
76 Civ. 495 (RO)

Filed: January 30, 1976

Entered: April 15, 1976

FINAL JUDGMENT

Plaintiff, United States of America having filed its Complaint herein on January 30, 1976, and defendants having submitted themselves to the jurisdiction of this Court, and plaintiff and defendants, by their respective attorneys having consented to the entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting evidence or 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 herein and upon 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 defendants with respect to this action, this Final Judgment and all proceedings hereunder, and of the plaintiff. The Complaint states a claim upon which relief may be granted against the 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 (15 U.S.C. § 1).

II

As used in this Final Judgment:

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

(B) "Watch" shall mean any timing mechanism designed to be worn or carried on an individual, including the movement with or without a case, and any case, part or component of or for such mechanism, manufactured or distributed by any defendant or defendants; and when related to any trademark associated with such a mechanism, any bracelet, strap, band, chain buckle, box, case or accessory manufactured or distributed by any defendant or defendants; and

(C) "United States" shall mean the United States of America, its territories, possessions, and other places under the jurisdiction of the United States.

III

The provisions of this Final Judgment shall apply to each defendant and to each of its officers, directors, agents-at-law, employees, affiliates, subsidiaries, successors and assigns,

and to all other Persons in active concert or participation with any of them who shall receive actual notice of this Final Judgment by personal service or otherwise. For the purpose of this Final Judgment each defendant, together with its wholly-owned subsidiaries, a parent wholly-owning it or a 100 percent affiliate, along with each of its officers, directors and employees, when acting in such capacity solely for such defendant, shall be deemed to be one Person.

Except for sales to the plaintiff or any agency or instrumentality thereof, Sections IV(A), (B), (C), and (D), V (A), (B), (C), and (F) and VI of this Final Judgment shall not apply to activities of any defendant outside the United States which do not affect the foreign or domestic commerce of the United States, provided such defendant, in connection with sales or distribution of Watches outside United States domestic or foreign commerce, must notify in writing all its non-United States customers that resales may be made into the United States.

IV

Each defendant is enjoined and restrained from in any manner with any other Person, including any other defendant, directly or indirectly, entering into, maintaining, enforcing or claiming any right under any combination, agreement, plan, program or concert of action to:

(A) Fix, limit, allocate, divide, restrict or determine the location or locations at or from which; or the territory or territories, or market or markets, in, for or to which; or the Person or Persons to whom, any Watch or Watches may be resold; or

(B) Pay, receive, or impose or require or provide that any Person pay, receive or impose any payment or penalty conditioned on the location or locations at or from which; or the Person or Persons to whom; or the territory or territories, or market or markets in, for or to which, any Watch or Watches are resold; or

(C) Limit or restrict the exportation from the United States of Watches; or

(D) Limit or restrict the importation into the United States of Watches other than undertakings for lawful distribution arrangements which do not involve any restrictions on resales.

V

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

(A) Taking or threatening to take any coercive or disciplinary action against any Person whether by fine, penalty, discrimination, failure to renew any franchise, license or distribution agreement, or otherwise, because of the customers to whom; or the locations at or from which; or the territories or markets within, to or for which, such Person has resold or intends to resell Watches; or

(B) Prohibiting, limiting or otherwise restricting or attempting to prohibit, limit or restrict any Person from importing Watches into the United States other than undertakings for lawful distribution arrangements which do not involve any restrictions on resales, or from exporting Watches from the United States; or

(C) Coercing, threatening or attempting to coerce or threaten, any Person to refrain from purchasing Watches from any other Person owning such Watches; or

(D) Purchasing or agreeing to purchase Watches imported into the United States and retailed by any Person other than another defendant other than in a bona fide search for counterfeit copies of Watches or for unfair or deceptive trade practices; or

(E) Except as ancillary to a bona fide arm's length sale of the assets and business associated with any trademark, assigning or otherwise transferring such a trademark for the purpose of attempting to prevent or to prevent, or with the effect of preventing, the importation of Watches into the United States pursuant to the Tariff Act of 1930, 19 U.S.C. §1526; or

(F) Refusing or causing any Person to refuse to honor a guarantee by any defendant on a Watch because of where or from whom such Watch was purchased, including but not limited to a prior purchaser.

VI

Each manufacturer defendant shall supply upon request of any Person to whom such manufacturer defendant directly sells or supplies Watches, Watches marked or impressed with the designations and information required by agencies of the United States Government for importation into the United States in the manner and form required for such importation, without discrimination in favor of or against such Person as to time or conditions, and without charge or penalty beyond the reasonable and necessary costs to the manufacturer defendants of rendering such marks or impressions. For the purpose of ful-

filling such requests each manufacturer defendant during the course of each year in addition to Watches scheduled for its United States distributors, shall have available Watches so marked or impressed equal to at least 10% of the previous year's shipments of such Watches to its United States distributors.

VII

Each defendant is ordered and directed to:

(A) Take all necessary and appropriate action to inform each of its present and future officers and directors, and those present and future employees and agents having marketing responsibilities, of the provisions and requirements of this Final Judgment and that they are required to comply therewith; and to furnish within 90 days of the entry hereof a copy of this Final Judgment to each of its present officers and directors, and those present employees and agents having marketing responsibilities, and upon election or engagement to furnish a copy of this final judgment to each of its future officers and directors, and to each of its future employees and agents having marketing responsibilities; and

(B) Deliver, within 90 days from the date of entry of this Final Judgment, a copy of this Final Judgment to each distributor which is a Watch customer of such defendant, and to accompany such copy delivered to any non-United States customer of any such defendant a copy of a letter in the form annexed as Appendix A, and to any Virgin Island or duty-free zone Watch customer of any

such defendant a copy of a letter in the form attached as Appendix B; and

(C) Deliver, within 90 days from the date of entry of this Final Judgment, to each retail dealer which is a Watch customer of such defendant a letter in the form annexed as Appendix C.

(D) File with the plaintiff within one hundred and twenty (120) days from the date of the entry of this Final Judgment and on each anniversary date of this Final Judgment for a period of five (5) years, a report setting forth the steps which such defendant has taken during the prior period to comply with this Final Judgment and to advise such defendants' officers, directors, agents and employees of its and their obligation under this Final Judgment.

VIII

For the purpose of securing or determining compliance with this Final Judgment, and subject to any legally recognized privilege:

(A) Any authorized representative or representatives of the Department of Justice shall upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division or of an authorized agent of either and upon reasonable notice to any defendant at its principal place of business or upon notice as provided by Section VIII (E) hereof be permitted:

(1) Access during the office hours of such defendant to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession of or under the control of such defendant that relate to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant, and without restraint or interference from it, to interview officers or employees of defendant, who may have counsel present, regarding any matters contained in this Final Judgment;

(B) Upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division or of an authorized agent of either, made to any defendant at a principal place of business of such defendant, or made as provided by Section VIII (E) hereof, such defendant shall submit, under oath if requested, such reports in writing, including authenticated copies of documents described in Section VIII (A) (1), with respect to any matters contained in this Final Judgment which from time to time may be requested;

(C) Any defendant incorporated in and having its principal place of business in a foreign country shall not be required to bring to the United States any books or other records or copies thereof from such place of business, nor to permit access by representatives of the Department of Justice to any such defendant's books, ledgers, accounts, correspondence, memoranda and other records and documents in such foreign country pursuant to subparagraph A(1) above, nor to permit interviews in such foreign country pursuant to subparagraph A(2) above, when such action is prohibited by the laws of such country applicable to such defendant and such defendant has exercised good faith efforts to obtain permission of the appropriate authorities but such permission has not been secured;

(D) Each defendant shall promptly notify plaintiff

of any change of address of its principal office.

(E) Each defendant incorporated in or having its principal place of business in a foreign country shall appoint and maintain continuously a representative within the Southern District of New York duly authorized to receive service of process or of requests or notices, under this Section VIII or Section IX, to any defendant having its principal place of business in a foreign country, and upon receipt of such a written request from the Attorney General or the Assistant Attorney General, or his agent, such representative shall notify such consenting defendants and, within 60 days of the receipt of such request by the representative, such consenting defendants shall provide duly authenticated copies of such documents at the Department of Justice in Washington, D.C.

Gerard Mandelbaum, 516 5th Avenue, New York, New York 10036 shall act as such a representative to be succeeded immediately upon death, disappearance or unavailability, or in the discretion of such defendants upon notice duly given, by C T Corporation System, 277 Park Avenue, New York, New York 10017 which is hereby designated as his successor, provided, however, that such defendants shall have the right to appoint a successor corporate representative different from C T Corporation System, as long as such successor is a corporation incorporated under the laws of some state within the United States and such successor corporation is acceptable to the plaintiff. The appointment of any such representative shall not be terminated except with the appointment of a successor acceptable to the plaintiff and notice to the Court.

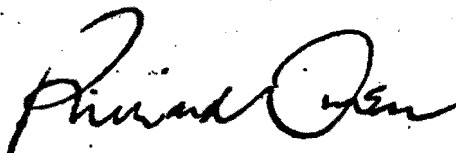
No information obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice to any Person other than duly authorized representatives of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party or for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

IX

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 of or carrying out of this Final Judgment, for the amendment or modification of any provision contained herein, for the enforcement of compliance therewith, and for the punishment of the violation of any of the provisions contained herein.

X

Entry of this Final Judgment is in the public interest.



UNITED STATES DISTRICT JUDGE

Dated: *April 15, 1976*

JUDGMENT ENTERED - *4/20/76*

Raymond F. Burghardt
CLERK

APPENDIX A

Dear :

Norman M. Morris Corporation, Norman M. Morris Associates, Omega Louis Brandt Et Frere S.A., CHS Tissot Et Fils S.A., Societe Suisse Pour L'Industrie Horlogere Management Services S.A. and the United States Department of Justice have agreed to the entry of a Consent Judgment, a copy of which is enclosed, in United States v. Norman M. Morris Corp., et al., Civil Action No. (S.D.N.Y.).

Pursuant to the terms of the judgment, you are free to sell or offer for sale in or to the United States any watches purchased by you from the undersigned or any of the undersigned.

The judgment was entered with the mutual consent of all of the parties thereto without testimony having been taken and without the judgment constituting evidence or an admission by any of the parties.

If you wish any information with regard to the above, please do not hesitate to call upon the undersigned.

Very truly yours,

APPENDIX B

Dear :

Norman M. Morris Corporation, Norman M. Morris Associates, Omega Louis Brandt Et Frere S.A., CHS Tissot Et Fils S.A., Societe Suisse Pour L'Industrie Horlogere Management Services S.A. and the United States Department of Justice have agreed to the entry of a Consent Judgment, a copy of which is enclosed, in United States v. Norman M. Morris Corp., et al., Civil Action No. (S.D.N.Y.).

Pursuant to the terms of the judgment, you are free to purchase Omega and Tissot watches from any supplier including, but not limited to, Norman M. Morris Corp. and Norman M. Morris Associates, Inc.

The judgment was entered with the mutual consent of all of the parties thereto without testimony having been taken and without the judgment constituting evidence or an admission by any of the parties.

If you have any information with regard to the above, please do not hesitate to call upon the undersigned.

Very truly yours,

APPENDIX C

Dear :

The Norman M. Morris Corporation, Norman M. Morris Associates, Omega Louis Brandt Et Frere S.A., CHS Tissot Et Fils S.A., Societe Suisse Pour L'Industrie Horlogere Management Services S.A. and the United States Department of Justice have agreed to the entry of a Consent Judgment, in United States v. Norman M. Morris Corp., et al., Civil Action No. (S.D.N.Y.). The decree clarifies existing legal requirements applicable to distribution relationships between the manufacturers and the distributors and the retailers.

Under the Consent Judgment and under Federal law, the above companies may not agree to allocate or divide territories or customers in or for which watches may be resold nor may they agree to limit the importation into the United States by third persons or the exportation from the United States by any person of Omega or Tissot watches. Nor may any company take any threatening or coercive action against any person because of the reseller from whom he buys watches or because of the customers to whom or the markets in which watches are resold. Nor may any of these companies attempt to prevent any person from importing watches into the United States.

Under the terms of the judgment no defendant may preclude any retailer from purchasing Omega and Tissot ,

watches from any reseller or selling such watches to others.

The Consent Judgment was entered with the mutual consent of all of the parties thereto without testimony having been taken and without the judgment constituting evidence or an admission by any of the parties.

If you have any questions with regard to this or if you would like to receive a copy of this judgment please do not hesitate to call us.

Very truly yours,