

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) Civil Action No. 72-659
)
 THE MATERIAL HANDLING)
 INSTITUTE, INC.;)
 HOIST MANUFACTURERS) Filed: August 10, 1972
 INSTITUTE;)
 THE INDUSTRIAL TRUCK)
 ASSOCIATION;)
 RACK MANUFACTURERS)
 INSTITUTE;)
 MONORAIL MANUFACTURERS)
 ASSOCIATION; and)
 CRANE MANUFACTURERS)
 ASSOCIATION OF AMERICA, INC.)
)
 Defendants)

COMPLAINT

The United States of America, by its attorneys, acting under the direction of the Attorney General of the United States, brings this action against the defendants, and complains and alleges as follows:

I

JURISDICTION AND VENUE

1. This complaint is filed and these proceedings are instituted against defendants under Section 4 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. § 4), commonly known as the Sherman Act, in order to prevent and restrain the continuing violation by the defendants of Section 1 of said Act, as amended (15 U.S.C. § 1).

2. Each of the defendants named herein transacts business and is found within the Western District of Pennsylvania.

II

DEFINITIONS

3. As used herein, the term "material handling equipment" means (i) industrial material handling equipment, (ii) material handling systems, (iii) communications or control systems, which are part of material handling equipment or material handling systems, or (iv) component parts for such equipment or such systems, which shall include, but not be limited to:

hook lifters, conveyors, controlled mechanical storage systems, cranes, gas and electric industrial trucks, hoists, industrial metal containers, loading ramps, monorails, motorized hand lift trucks, racks, and radio and electronic remote control systems.

4. As used herein, the term "MHI Trade Shows" means the regional or national expositions, sponsored by the Material Handling Institute, Inc., at which members exhibit material handling equipment. Commencing in 1968, each of these expositions has carried the designation "National Material Handling Show".

III

DEFENDANTS

5. The Material Handling Institute, Inc. (hereinafter referred to as "MHI") is made a defendant herein. MHI is a non-profit corporation organized in 1945 under the laws of the State of Delaware with its principal place of business in Pittsburgh, Pennsylvania. MHI is a trade association and its membership is composed of over 300 companies engaged in the manufacture and sale of material handling equipment

to retailers and others located in the United States. It is the largest trade association in the United States for manufacturers of material handling equipment.

6. The corporations named below are made defendants herein. Each of said corporations is organized and exists under the laws of the state indicated and has its principal place of business in the state indicated. Each of these corporations is a trade association whose membership is comprised of material handling equipment manufacturers. Each of these associations requires as a condition to membership therein that each of its members also be a member of MHI.

<u>Defendant Corporation</u>	<u>State of Incorporation</u>	<u>Principal Place of Business</u>
Hoist Manufacturers Institute (hereinafter "HMI")	Pennsylvania	Pennsylvania
The Industrial Truck Association (hereinafter "ITA")	District of Columbia	Pennsylvania
Rack Manufacturers Institute (hereinafter "RMI")	Ohio	Pennsylvania
Crane Manufacturers Association of America, Inc. (hereinafter "CMAA")	Delaware	Pennsylvania

7. Monorail Manufacturers Association (hereinafter "MMA") is made a defendant herein. MMA is an unincorporated trade association whose membership is comprised of material handling equipment manufacturers, with its principal place of business in Pennsylvania. A prerequisite to membership in MMA is membership in MHI.

IV

CO-CONSPIRATORS

8. The officers, Boards of Directors, managing directors

and the members of each of the defendants, and International Material Management Society (hereinafter "IMMS"), a Michigan corporation, and its members, are not named as defendants but are named as co-conspirators herein. IMMS, a professional society dedicated to the promotion of material management principles and techniques, is comprised of nearly 5,000 member individuals.

V

9. Material handling equipment is manufactured by more than 350 manufacturers located in at least 31 states of the United States. Material handling equipment is sold and shipped in a continuous flow of interstate and foreign trade and commerce, through manufacturers' representatives, independent distributors and dealers, to purchasers located in the various states of the United States and in foreign countries. In 1970, the total value of such shipments of material handling equipment manufactured in the United States was in excess of \$2 billion.

10. Substantial quantities of material handling equipment are regularly produced, in whole or in part, by manufacturers in the United Kingdom, France, Germany, Japan, Norway, Sweden and other foreign countries and are sold and shipped from such countries in a continuous flow of trade and commerce, through manufacturers, manufacturers' representatives, independent distributors and dealers, to purchasers located in the various states of the United States. Such products are regularly marketed in competition with material handling equipment produced in the

United States. In 1970, the total shipment value of material handling equipment imported into the United States was in excess of \$83 million.

11. MHI and the other defendant trade associations include among their members the leading manufacturers of material handling equipment in the United States which account for the dominant share of the total sales of material handling equipment in the United States.

12. MHI regularly sponsors and produces trade shows at various major cities throughout the United States, including shows at New York, New York in May 1964; Seattle, Washington in September 1964; Cleveland, Ohio in May 1965; Boston, Massachusetts in October 1965; Chicago, Illinois in June 1966; Buffalo, New York in October 1966; Los Angeles, California in May 1967; Cincinnati, Ohio in October 1967; Philadelphia, Pennsylvania in May 1968; Detroit, Michigan in May 1969; New Orleans, Louisiana in May 1970; Philadelphia, Pennsylvania in May 1971; and Chicago, Illinois in April 1972. MHI Trade Shows are the only nationwide general material handling equipment exhibitions presented in this country.

13. The purposes of the MHI Trade Shows are to spread knowledge about material handling equipment among distributors of and dealers in material handling equipment and customers and potential customers of the members exhibiting their products; to bring the newest product developments to maximum audiences; to create a forum for education in the material handling field; and generally to provide a marketplace for MHI member manufacturers of material handling equipment to demonstrate, promote and sell their products and services.

VI

VIOLATION ALLEGED

14. For many years up to and including the date of the filing of this complaint, the defendants and co-conspirators have been continuously engaged and now are engaged in a combination and conspiracy to restrain unreasonably the aforesaid interstate and foreign trade and commerce in material handling equipment in violation of Section 1 of the Sherman Act. Said violation is continuing and will continue unless the relief hereinafter prayed for is granted.

15. The aforesaid combination and conspiracy has consisted of a continuing agreement and concert of action among the defendants and co-conspirators to restrain actual and potential competition in domestic sales of material handling equipment manufactured in the United States and foreign countries.

16. For the purpose of forming and effectuating the aforesaid combination and conspiracy the defendants and co-conspirators have agreed, among other things:

(a) that the members of defendants refrain from manufacturing material handling equipment in foreign countries for sale in the United States, and refrain from acquiring for sale in the United States material handling equipment manufactured in foreign countries;

(1) by restricting eligibility for membership in MHI to firms which manufacture within the United States not less than 75 percent (measured in dollars) of all material handling equipment sold by such firms in the United States; and

(2) by restricting eligibility for membership in HMI, ITA, RMI, CMAA and MMA to firms which manufacture within the United States not less than 75 percent (measured in dollars) of all material handling equipment sold by such firms in the United States;

(b) that the members of defendants refrain from exhibiting, demonstrating or promoting, at trade shows sponsored by MHI, material handling equipment manufactured in foreign countries; and

(c) that IMMS refrain from conducting or endorsing trade shows for the exhibition, demonstration or promotion of material handling equipment manufactured in foreign countries.

17. For the purpose of effectuating the aforesaid violation, the defendants and co-conspirators have done the things which, as hereinbefore alleged, they combined, conspired and agreed to do.

VII

EFFECTS

18. The aforesaid combination and conspiracy has had and will continue to have, unless enjoined by this Court, the following effects, among others:

(a) actual and potential competition in the United States between foreign and domestically manufactured material handling equipment has been suppressed;

(b) actual and potential domestic customers of material handling equipment have been denied

the benefits of free and unrestricted competition between foreign and domestic manufacturers; and

(c) actual and potential domestic customers of material handling equipment have been denied access to the exhibition, demonstration and promotion at domestic trade shows of material handling equipment manufactured in foreign countries.

PRAYER

WHEREFORE, the plaintiff prays:

1. That the Court adjudge and decree that the defendants and co-conspirators have combined and conspired to unreasonably restrain interstate and foreign trade and commerce, as hereinbefore alleged, in violation of Section 1 of the Sherman Act.
2. That each of the defendants, its successors and assigns, and its respective officers, directors, agents and employees, and all persons acting or claiming to act on behalf of any of them, be perpetually enjoined and restrained from carrying out, directly or indirectly, the aforesaid combination and conspiracy and from engaging in any other combination and conspiracy having a similar purpose or effect, or from adopting, performing or following any practice, plan, program or device having a similar purpose or effect.
3. That the Court order and direct each of the defendants, within 30 days following the entry of judgment herein:
 - (a) to eliminate the membership eligibility restrictions described in paragraph 16(a)(1) and (2) of this complaint and any by-laws, rules, regulations, or practices which directly or indirectly, through qualifications for

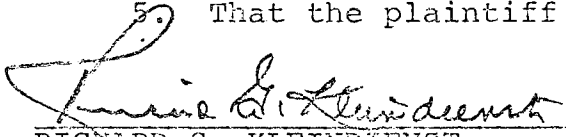
membership or otherwise, restrain or restrict any member from dealing with manufacturers, importers or distributors of material handling equipment manufactured in foreign countries, or which restrain or restrict any member from manufacturing material handling equipment in foreign countries for importation, distribution and sale in the United States; and


(b) to furnish by mail to each of its officers, directors and members a copy of the judgment entered herein, together with a copy of its by-laws revised to comply with the requirement of paragraph 3(a), above; and

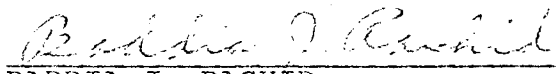
(c) to file with the Court and furnish by mail to the Antitrust Division, Department of Justice, Washington, D. C., a copy of its by-laws revised to comply with the requirements of paragraph 3(a), above.

4. That the plaintiff have such other, further and different relief as the Court may deem just and proper in the premises.

5. That the plaintiff recover the costs of this action.


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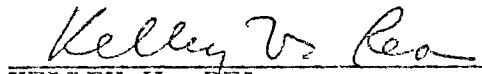

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