

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,
Plaintiff,

v.

THE MATERIAL HANDLING
INSTITUTE, INC.;
HOIST MANUFACTURERS
INSTITUTE;
THE INDUSTRIAL TRUCK
ASSOCIATION;
RACK MANUFACTURERS
INSTITUTE;
MONORAIL MANUFACTURERS
ASSOCIATION; and
CRANE MANUFACTURERS
ASSOCIATION OF AMERICA, INC.,
Defendants.

Civil Action No. 72-659

Filed: Feb. 16, 1973

Entered: March 21, 1973

FINAL JUDGMENT

PLAINTIFF, United States of America, having filed its complaint herein on August 10, 1972 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 of them in respect to any issue;

NOW, THEREFORE, before any testimony has been taken herein and upon consent of the parties hereto, it is hereby, ORDERED, ADJUDGED and DECREED as follows:

I

This Court has jurisdiction over the subject matter of this action and of the parties hereto. The complaint states claims upon which relief may be granted against the defendants under Section 1 of the Act of Congress of July 2, 1890, as amended (15 U.S.C. Section 1), commonly known as the Sherman Act.

II

As used in this Final Judgment:

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

(B) "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.

III

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

IV

Each defendant is directed to cancel and terminate, and is enjoined and restrained from adhering to any by-law, rule, regulation or practice which restricts eligibility for membership in any defendant to a person who manufactures within the United States not less than 75% (whether measured in dollars or some other manner) of all material handling equipment sold by such person in the United States.

V

(A) Each defendant is enjoined and restrained from adopting, maintaining or adhering to, any by-law, rule, regulation, or qualification for membership which is unreasonable or discriminatory.

(B) Each defendant is ordered and directed:

(1) To admit to membership any person which meets its membership requirements; and

(2) To permit any person which manufactures material handling equipment for sale in the United States to demonstrate, promote or exhibit any of such equipment at any trade show conducted or sponsored by any such defendant.

VI

Each defendant is enjoined and restrained from adopting, maintaining, or adhering to any by-law, rule, regulation, plan or practice which, directly or indirectly, in any manner:

(A) Restricts or limits eligibility for membership or retention of membership in any defendant to a person who manufactures within the United States any particular percentage (whether measured in dollars, units, or any other manner) of all material handling equipment sold by such person in the United States; or

(B) Establishes any qualification for membership or retention of membership that, directly or indirectly, limits a person's manufacture or sale of material handling equipment produced outside of the United States. This does not prohibit, however, a requirement for membership that a person actually manufacture in facilities maintained by such person in this country; and that if a person should be a corporation, that it be organized under the laws of the United States or a State thereof. "Manufacture"

for the purposes of this subparagraph means the production of material handling equipment by taking raw material or semi-finished material and fabricating, converting, or producing therefrom semi-finished or finished material handling equipment for sale commercially through the performance of processes involving engineering and design. "Manufacture" is not merely assembling or combining components manufactured by others;

(C) Prohibits, restricts, restrains, limits or prevents any member of any defendant from demonstrating, promoting or exhibiting at any trade show conducted or sponsored by any defendant, material handling equipment manufactured in any foreign country or countries; or

(D) Prohibits, restricts, restrains, limits or prevents any member of any defendant from, in any manner, dealing with any manufacturer, importer or distributor of material handling equipment manufactured in any foreign country or countries, or which prohibits, restrains, restricts, limits or prevents any member from manufacturing material handling equipment in any foreign country or countries for sale in the United States; or

(E) Has the purpose or effect, directly or indirectly, of prohibiting, restricting, limiting or preventing any member of any defendant from selling in the United States any material handling equipment manufactured in any foreign country or countries; or

(F) Has the purpose or effect of prohibiting any member of any defendant from attending, demonstrating, promoting or exhibiting material handling equipment at trade shows which are not produced or sponsored by MHI;
or

(G) Has the purpose or effect of restraining any person in the production or sponsorship of trade shows for material handling equipment.

VII

The defendants are ordered and directed to mail within sixty (60) days after the date of entry of this Final Judgment, a copy thereof to each of their members and, within one hundred and eighty (180) days from the aforesaid date of entry, to file with the Clerk of this Court, an affidavit setting forth the fact and manner of compliance with Sections IV, V, VI and VII of this Final Judgment.

VIII

For a period of ten (10) years from the date of entry of this Final Judgment, each of the defendants is ordered to file with the plaintiff, on each anniversary date of such entry, a report setting forth the steps that it has taken during the prior year to advise its appropriate officers, directors, employees and members of its and their obligations under this Final Judgment.

IX

For the purpose of determining or securing compliance with this Final Judgment:

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 a defendant made to its principal office, be permitted, subject to any legally recognized privilege and subject to the presence of counsel if so desired:

(1) Access during its office hours to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession of or under the control of such defendant relating 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 such defendant regarding any such matters; and upon such request, such 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 IX 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.

X

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 of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

/s/ JOSEPH F. WEIS, JR.
United States District Judge

Dated: March 21, 1973