

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

AMERICAN SAFETY RAZOR COMPANY,  
ARDELL INDUSTRIES, INC.  
and THE JORDAN COMPANY,

Defendants.

Civil Action No. 90-0188

Entered: February 22, 1991

**FINAL JUDGMENT**

WHEREAS, plaintiff, United States of America, having filed its Complaint herein on January 9, 1990, 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 any evidence against or an admission by any party with respect to any such issue;

AND WHEREAS, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, prompt and certain divestiture is the essence of this agreement, and defendants have represented to

plaintiff that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

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.

JURISDICTION

This Court has jurisdiction over the subject matter of this action and over each of the parties hereto. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II.

DEFINITIONS

As used in this Final Judgment:

A. "ASR" means defendant American Safety Razor Company; each division and subsidiary thereof, except Ardell; and each officer, director, employee, agent or other person acting for or on behalf of any of the foregoing.

B. "Ardell" means defendant Ardell Industries, Inc.; each division and subsidiary thereof; and each officer, director, employee, agent or other person acting for or on behalf of any of the foregoing.

C. "Divestiture Assets" means and includes all of the following: (a) Four (4) existing Ardell backers and shellers being identified as Nos. 4, 5, 6 and 7; and (b) License to the Original Purchaser to use only in the normal course of the Original Purchaser's business the drawings and specifications for the backers and shellers on a perpetual, royalty free basis. The license granted to the Original Purchaser shall be transferrable by the Original Purchaser to a subsequent purchaser or purchasers of one or more of the divested backers and shellers on the same terms and conditions as granted to the Original Purchaser.

D. "Divestiture Time Period" means the period ending May 31, 1991 and any extension thereof pursuant to Section IV.B hereof.

E. "Person" means any natural person, corporation, association, firm, partnership or other business or legal entity.

F. "Original Purchaser" means a Person to whom one or more of the backers and shellers are sold by ASR and Ardell pursuant to Section IV hereof or by the Trustee pursuant to Section V hereof.

G. "Trustee" means a Person appointed by the Court pursuant to Section V hereof.

### III.

#### APPLICABILITY

A. The provisions of this Final Judgment shall apply to ASR and Ardell, to their successors and assigns, to their

officers, directors, employees and agents and to all other Persons acting for or on behalf of ASR or Ardell who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Prior to the expiration of this Final Judgment, ASR and Ardell shall require, as a condition of the sale or other disposition of all or substantially all of their assets or stock, that the acquiring party agree to be bound by the provisions of this Final Judgment.

C. Nothing herein shall suggest that any portion of this Final Judgment is or has been created for the benefit of any third party, and nothing shall be construed to provide any rights to any third party.

#### IV.

##### DIVESTITURE

A. ASR and Ardell are hereby ordered and directed to divest all of their direct and indirect ownership and control of the Divestiture Assets to an Original Purchaser or Purchasers within the Divestiture Time Period. ASR and Ardell shall be deemed to have complied with this obligation if, within the Divestiture Time Period, they have entered into a binding contract or contracts, subject only to the provisions of this Final Judgment, for the sale of the Divestiture Assets to a purchaser or purchasers then or thereafter approved by plaintiff and on terms then or thereafter approved by plaintiff, provided,

such sale is consummated on such terms or such other terms as plaintiff may approve.

B. ASR and Ardell shall take all reasonable steps to accomplish the above-described divestiture on or before May 31, 1991. Plaintiff may, in its sole discretion, upon ASR's and Ardell's request and at any time on or before May 31, 1991, extend said period for an additional three months.

C. At the request of an Original Purchaser, ASR and Ardell shall provide technical assistance as such Original Purchaser may reasonably require to enable it to install, to debug, and to operate the Divestiture Assets until the Divestiture Assets are operational, provided, however, if the time required to achieve operational status of the Divestiture Assets exceeds fifteen (15) person days, then ASR and Ardell shall be compensated for such additional technical assistance in an amount equal to the salaries, benefits, and reasonable out-of-pocket expenses incurred in providing such assistance, and provided, further, ASR and Ardell shall not be required to provide such technical assistance after three months following delivery of the Divestiture Assets to the Original Purchaser.

D. Subject to Section IV.E hereof, a proposed divestiture of some or all of the Divestiture Assets shall be approved by plaintiff if plaintiff determines, in its sole discretion, that a proposed purchaser is purchasing Divestiture Assets for the purpose of competing effectively in the production

and sale of strip ground single edge industrial blades in the United States and that a proposed purchaser has or has the ability to obtain the managerial, operational and financial capability to become an effective competitor in the production and sale of strip ground single edge industrial blades in the United States.

E. The divestiture required by Section IV.A hereof shall not be made to Crescent Manufacturing Company, Industrial Blades Unlimited, SDI Corporation (formerly known as Shuen Der Industry Co., Ltd.), The Stanley Works, or Techni-Edge Manufacturing Corp.

F. ASR or Ardell shall not finance all or any part of any purchase of Divestiture Assets by an Original Purchaser without the prior written approval of the plaintiff.

## V.

### TRUSTEE

A. If ASR and Ardell have not accomplished the divestiture required under Section IV.A hereof within the Divestiture Time Period, the Court shall appoint a Trustee for the purpose of accomplishing said divestiture in accordance with the provisions of this Section V. Within twenty days of the expiration of the Divestiture Time Period without divestiture having been accomplished, plaintiff shall furnish ASR and Ardell with the names and qualifications of at least two nominees for the Trustee. Within ten days of receiving plaintiff's names and

qualifications, ASR and Ardell shall advise plaintiff of either their acceptance of one of those nominees or the names and qualifications of one or more other nominees for the Trustee. If the parties fail to agree on the appointment of a nominee within ten days, plaintiff shall promptly apply to the Court for the appointment of a Trustee. The Court may hear the parties as to the qualifications of their respective nominees and shall promptly appoint one of the nominees to be the Trustee.

B. Upon his or her appointment the Trustee shall have the exclusive right and authority to sell the Divestiture Assets to an Original Purchaser approved by plaintiff at such price and on such terms as are then obtainable upon a reasonable effort by said Trustee, provided, however, the Trustee shall not sell Divestiture Assets to any Person enumerated in Section IV.E hereof. ASR and Ardell may object to a sale of Divestiture Assets by the Trustee on the ground of the Trustee's malfeasance. Any such objection shall be conveyed in writing to plaintiff and the Trustee within fifteen (15) days of the Trustee's notification to the parties of a proposed sale.

C. If requested by the Trustee in order to facilitate a sale to an Original Purchaser not already engaged in producing strip ground industrial blades, ASR and Ardell shall agree to provide technical assistance as such Original Purchaser may reasonably require to enable such purchaser to procure, install, debug and operate strip grinding equipment of the same general

type and efficiency as the strip grinding equipment currently used by Ardell to produce single edge industrial blades until such strip grinding equipment is operational, provided, however, ASR and Ardell are only required to provide such technical assistance if the Original Purchaser agrees (a) to compensate ASR and Ardell for such technical assistance in an amount equal to the salaries, benefits and reasonable out-of-pocket expenses incurred in providing such assistance; and (b) to hold harmless and indemnify ASR and Ardell from and against any and all claims arising out of the provision of such assistance, and, provided, further, ASR and Ardell shall not be required to provide such technical assistance after three months following delivery of such strip grinding equipment to such Original Purchaser.

D. In making the divestiture pursuant to this Section, the Trustee shall give preference to an otherwise qualified Person ready, willing and able to purchase a greater portion or all of the Divestiture Assets over an otherwise qualified Person ready, willing and able to purchase a lesser portion of the Divestiture Assets subject to the need to sell all of the Divestiture Assets.

E. The Trustee shall serve at the cost and expense of ASR and Ardell, shall receive compensation based on a fee arrangement providing an incentive based on price and terms of the divestiture and the speed with which it is accomplished, and shall serve on such other terms and conditions as the Court may

prescribe, provided, however, that the Trustee shall receive no compensation nor incur any costs or expenses prior to the date of his or her appointment. The Trustee shall account for all monies derived from the sale of Divestiture Assets and for all costs and expenses incurred in connection therewith. After the Court's approval of the Trustee's accounting, including the Trustee's fees, all remaining monies shall be paid to Ardell and the Trust shall then be terminated.

F. ASR and Ardell shall assist the Trustee in his or her efforts to accomplish the required divestiture to the extent reasonably requested and shall take no action to impede such efforts. The Trustee shall have full access to personnel, books, records and facilities related to the Divestiture Assets, and ASR and Ardell shall develop such financial or other information relevant to the Divestiture Assets as the Trustee may reasonably request, subject to appropriate protections for confidential information.

G. The Trustee shall provide the parties with monthly reports setting forth his or her efforts to accomplish the required divestiture. Each report shall contain (a) the name and address of each Person who, during the preceding month, expressed any interest in purchasing, made any inquiry regarding, or was contacted regarding the Divestiture Assets; and (b) a detailed description of all communications from and to each such

Person. The Trustee shall maintain full records of all such communications.

H. If the Trustee has not accomplished the required divestiture within six months of his or her appointment, he or she shall within twenty days of the expiration of said six-month period submit a report to the parties and the Court setting forth (a) the Trustee's efforts to accomplish the divestiture, (b) the reasons, in the Trustee's judgment, why divestiture has not been accomplished, and (c) the Trustee's recommendations. The parties shall thereupon have the right to be heard and to make their own recommendations. The Court shall thereafter enter such orders as it deems appropriate, which may include extension of the Trust and the Trustee's appointment for some specified further period.

## VI.

### NOTIFICATION

ASR and Ardell or the Trustee, whichever is then responsible for effecting the divestiture, shall notify plaintiff of any proposed divestiture pursuant to Section IV or V hereof. If the Trustee is responsible, he or she shall also notify ASR and Ardell. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each Person not previously identified who offered to acquire, or expressed an interest in acquiring or desire to acquire any ownership interest in the Divestiture Assets, together with full details of same. Within fifteen (15)

days of receipt by plaintiff of such notice, plaintiff may request additional information concerning the proposed divestiture and the proposed purchaser. ASR and Ardell or the Trustee shall furnish any additional information requested within twenty (20) days of the receipt of any such request, unless the parties shall otherwise agree. Within thirty (30) days after receipt of the notice or within twenty (20) days after plaintiff has been provided the additional information requested, whichever is later, plaintiff shall provide written notice to ASR and Ardell and any Trustee, stating whether or not plaintiff objects to the proposed divestiture. If plaintiff provides written notice to ASR and Ardell or the Trustee that it does not object, then the divestiture may be consummated, subject only to ASR's and Ardell's rights to object to the sale pursuant to Section V.B hereof. Upon objection by plaintiff, a divestiture proposed under Section IV shall not be consummated. Upon objection by plaintiff or by ASR and Ardell, a divestiture proposed under Section V. shall not be consummated unless approved by the Court.

## VII.

### PRESERVATION OF ASSETS

Until the divestiture required by this Final Judgment has been accomplished, defendants (a) shall take all reasonable steps to assure that the Divestiture Assets are maintained as distinct and saleable assets; (b) shall not sell, lease, assign,

transfer or otherwise dispose of the Divestiture Assets or further pledge them as collateral for any loan; (c) shall, so long as the Divestiture Assets remain within ASR's or Ardell's custody, possession or control, preserve the Divestiture Assets in at least the same condition of operation and repair as such conditions existed on October 15, 1990, ordinary wear and tear excepted; and (d) preserve the documents, books and records relating to the Divestiture Assets.

#### VIII.

##### TECHNI-EDGE RELATIONSHIP

A. ASR is hereby ordered and directed to waive and release any and all rights, which ASR may have to acquire Techni-Edge Manufacturing Corp., ("Techni-Edge") under the Right of First Refusal Agreement between Techni-Edge Manufacturing Corp. and ASR, dated April 28, 1989.

B. ASR and Ardell are hereby ordered and directed to waive and release any and all claims which ASR or Ardell may have against Techni-Edge arising out of Techni-Edge's use of any of Ardell's existing (as of the date of this Final Judgment) proprietary manufacturing or engineering information and know-how.

C. Ardell is hereby ordered and directed to terminate its consulting relationship with Bert Ghavami no later than six months after entry of this Final Judgment.

IX.

HANS RATH RELATIONSHIP

A. ASR is hereby ordered and directed to waive and release any and all claims which ASR may have against Hans Rath arising out of Hans Rath's Employee Patent and Confidential Information Agreements dated December 16, 1963, May 18, 1966 and May 5, 1981; Hans Rath's Covenant Not to Disclose Confidential Information and Not to Compete dated February 14, 1980; or any other substantially similar written agreement with the exception of Hans Rath's Consulting Agreement dated October 25, 1988.

B. ASR is hereby ordered and directed to release Hans Rath from any and all executory obligations he may have under a Consulting Agreement between Hans Rath and ASR, dated October 25, 1988, provided, Hans Rath releases ASR from any executory obligations ASR may have under said Consulting Agreement. Notwithstanding the foregoing, ASR is hereby ordered and directed to waive and release any and all claims which ASR may have against Hans Rath arising out of Paragraph VIII(e) of said Consulting Agreement.

X.

COMPLIANCE INSPECTION

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

A. Duly authorized 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, and on reasonable notice to any defendant made to its principal office, be permitted:

1. access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, who may have counsel present, 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, employees, and agents of such defendant, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to any defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided herein shall be divulged by a 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 (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by any defendant to plaintiff, such 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 such 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 ten (10) days notice shall be given by plaintiff to defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

## XI.

### RETENTION OF JURISDICTION

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 herewith, and for the punishment of any violations hereof.

XII.

TERMINATION

This Final Judgment will expire one year after the completion of the divestiture of the Divestiture Assets in accordance with the provisions of Section IV or Section V hereof.

XIII.

DISMISSAL OF COMPLAINT AGAINST  
THE JORDAN COMPANY

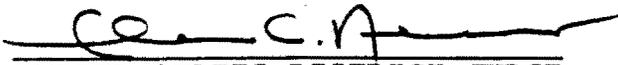
The Amended Complaint is hereby dismissed with prejudice against The Jordan Company, each party to bear its own costs.

XIV.

PUBLIC INTEREST

Entry of this Final Judgment is in the public interest.

Dated: Feb. 22, 1991

  
UNITED STATES DISTRICT JUDGE