

RETURN TO ADMINISTRATIVE SECTION  
ROOM 3217  
IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF COLUMBIA  
ANTITRUST (DDP)

UNITED STATES OF AMERICA, : Filed 12-13-49  
:   
Plaintiff, : Civil Action  
:   
v. : No. 36040  
:   
THE STANDARD REGISTER :   
COMPANY, :   
:   
Defendant. :

FINAL JUDGMENT

The plaintiff, United States of America, having filed its complaint herein on July 30, 1946, and having filed an amendment to the complaint on February 24, 1948; the defendant, The Standard Register Company, a corporation, having appeared and filed its original answer to said complaint, and its supplemental answer to the amended complaint, denying the substantive allegations thereof; and the plaintiff and said defendant by their respective attorneys having consented to the entry of this final judgment herein without trial or adjudication of any issue of fact or law herein, other than the determinations made in the opinion and in the order of this Court dated June 26, 1947, on plaintiff's motion for summary judgment;

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, other than as hereinabove stated, and without any admission by any party in respect to any such issue and upon the 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 parties to this judgment; the complaint and amended complaint state a cause of action against the defendant, The Standard Register Company, under Sections 1, 2, and 3 of the Act of Congress of July 2, 1890, as amended, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," said Act being commonly known as the "Sherman Act" and under Section 3 of the Act of Congress of October 15, 1914, as amended, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," said Act being commonly known as the "Clayton Act."

II.

When used in this final judgment, the following terms have the meanings assigned respectively to them below:

(a) "Standard Register" means the defendant, The Standard Register Company, a corporation organized and existing under the laws of the State of Ohio, having its principal office at Dayton, Ohio, and having an office and transacting business in the District of Columbia.

(b) "Marginally punched continuous forms" means such continuous forms, unilaterally or bilaterally punched, which are or may be used over defendant Standard Register's platens or auxiliary equipment, whether such forms are manufactured or supplied by defendant Standard Register or by others.

(c) "Platens" means devices of the type similar

to those known as "Registrator Platens", utilized for the purpose of positively feeding, aligning, and registering marginally punched continuous forms, and installed in and for use in producing machine written records in typewriters, billing machines, tabulating machines, some types of addressing machines, and other accounting and business machines.

(d) "Auxiliary equipment" means addressograph attachments and other mechanisms, other than platens, (some of which auxiliary equipment contains built-in platens), utilizing marginally punched continuous forms for machine written records usually in a secondary operation.

(e) "Patents" means all presently issued United States Letters Patent, and renewals, reissues, divisions, and extensions thereof, owned or controlled by defendant Standard Register, or under which it has power to issue licenses or sublicenses, relating to platens and auxiliary equipment, consisting of the United States Letters Patent shown on the attached schedule made a part of this judgment and marked Exhibit A; and all United States Letters Patent subsequently issued upon all Applications for United States Letters Patent now pending, owned or controlled by defendant Standard Register, relating to platens and auxiliary equipment, together with any renewals, reissues, divisions, and extensions thereof, the serial numbers of which pending applications are shown on the attached schedule made a part of this judgment and marked Exhibit B.

### III.

The provisions of this judgment applicable to defendant Standard Register shall apply to each of its subsidiaries, successors, and assigns, and to each of its officers, directors, agents, nominees, employees, or any other person acting or claiming to act under, through, or for such defendant Standard Register.

IV.

Defendant Standard Register is hereby enjoined  
and restrained from:

- A. Leasing, selling, or making or adhering to any contract for the lease or sale of, either platens or auxiliary equipment, whether patented or unpatented, or fixing a price charged therefor or discount from or rebate upon such price, on or accompanied by any condition, agreement, or understanding, that the lessee or purchaser thereof shall not purchase for use in connection with said platens or auxiliary equipment marginally punched continuous forms manufactured or supplied by anyone other than the defendant Standard Register.
- B. Leasing, selling, or making or adhering to any contract, agreement, or understanding for the lease or sale of, either platens or auxiliary equipment, whether patented or unpatented, or fixing a price charged therefor or discount from or rebate upon such price, on condition that the lessee or purchaser shall purchase from the defendant Standard Register any volume, quota, percentage, or value of marginally punched continuous forms.
- C. Refusing to sell or lease, or except as to the warranty described in the first sentence of subparagraph H of this paragraph, discriminating in the sale or lease of, platens or auxiliary equipment or parts or to make repairs thereof because the purchaser or lessee thereof procures or uses marginally punched continuous forms supplied by others than the defendant Standard Register or any other source designated by the defendant Standard Register.

- D. Refusing to sell, or except as to the warranty described in the first sentence of subparagraph H of this paragraph, discriminating in the sale of, marginally punched continuous forms because the purchaser thereof procures or uses platens or auxiliary equipment supplied by others than the defendant Standard Register or any other source designated by the defendant Standard Register.
- E. Removing platens or auxiliary equipment from the premises of any lessee or purchaser thereof, because such lessee or purchaser purchases, uses, or deals in marginally punched continuous forms manufactured or supplied by any person other than the defendant Standard Register or any other source designated by defendant Standard Register.
- F. Conditioning any license or immunity, express or implied, to practice any invention related to platens or auxiliary equipment by the tying of any license or immunity for such invention to the procurement or use of marginally punched continuous forms from defendant Standard Register or any other source designated by defendant Standard Register.
- G. Except as to the warranty described in the first sentence of subparagraph H of this paragraph, conditioning (a) any other warranties, directly applicable to its marginally punched continuous forms, upon the use of defendant Standard Register's platens or auxiliary equipment, or conditioning (b) any other warranties, directly applicable to its platens or auxiliary equipment, upon the use of defendant Standard Register's marginally punched continuous forms.
- H. Offering, making or issuing to its customers any

instruments formally and expressly warranting the use of defendant Standard Register's marginally punched continuous forms in combination with its platens or auxiliary equipment, or in combination with platens or auxiliary equipment made under and in accordance with defendant Standard Register's supervision, unless there is included in such instrument a statement to the effect that such warranty does not imply that forms purchased from sources other than defendant Standard Register either will or will not perform satisfactorily. The word "instrument" as used in this subparagraph is not applicable to and does not include advertisements, sales literature and presentations, and sales promotional material.

Defendant Standard Register is furthermore required to instruct its salesmen and other agents, and to otherwise use its best efforts, to make their activities and conduct consistent with the provisions of this subparagraph H.

- I. Entering into, adopting, adhering to, or furthering any agreement or course of conduct for the purpose of, or which in effect constitutes, the making or adhering to, a contract or arrangement containing a condition contrary to the provisions of subparagraphs A, B, F and G of this paragraph; or from adopting or adhering to any course of conduct which in effect is contrary to subparagraphs C, D and E of this paragraph.

J. Instituting or threatening to institute or maintaining any suit, counter-claim, or proceeding, judicial or administrative, for infringement, or to collect charges, damages, compensation, or royalties, alleged to have occurred or accrued prior to the date of this judgment under any existing platen patents or existing auxiliary equipment patents, as defined in paragraph II, subsection (c), of this judgment.

V.

Defendant Standard Register is hereby ordered and directed to offer to sell platens and auxiliary equipment of the types from time to time being manufactured by it, to any person other than to its competitors and other than to persons purchasing on behalf of or for sale to defendant Standard Register's competitors, providing the person to whom such offer is made has a proper credit rating or, in the absence of such rating, is willing to pay cash. Defendant Standard Register shall offer to sell such platens or auxiliary equipment at non-discriminatory prices, and at prices and under terms having a commercially reasonable relationship to prices and terms at which its similar devices are then being leased. Sales of platens and auxiliary equipment shall be free from any reservation of rights or privileges on the part of defendant Standard Register, including any right to repurchase,

other than a right which may be reserved to defendant Standard Register to repurchase auxiliary equipment, on terms and conditions not in conflict with any of the provisions of this judgment.

VI.

- A. Defendant Standard Register is hereby ordered and directed to grant to each applicant therefor a non-exclusive license to make, use, and vend, or any one or more of these rights, under any, some, or all platen and auxiliary equipment patents as herein defined.
- B. Defendant Standard Register is hereby enjoined and restrained from making any sale or other disposition of any of said patents which deprives it of the power or authority to grant such licenses, unless it sells, transfers, or assigns such patents and requires, as a condition of such sale, transfer, or assignment, that the purchaser, transferee, or assignee shall observe the requirements of paragraphs IV, V, and VI of this judgment, and the purchaser, transferee, or assignee shall file with this Court, prior to consummation of said transaction, an undertaking to be bound by the provisions of said Paragraphs IV, V, and VI of this judgment.
- C. Defendant Standard Register is hereby enjoined and restrained from including any restriction whatsoever in any license or sublicense granted by it pursuant to the provisions of this paragraph, except that:
- (1) The license may be non-transferable;



- (2) A reasonable royalty may be charged, but such royalty shall not be discriminatory between licensees procuring the same rights under the same patents;
- (3) Reasonable provision may be made for periodic inspection of the books and records of the licensee to make, use, and vend, by an independent auditor or any person acceptable to the licensee, who shall report to the licensor only the amount of the royalty due and payable;
- (4) Reasonable provision may be made for cancellation of the license to make, use, and vend, upon failure of the licensee to pay the royalties or to permit the inspection of his books and records as hereinabove provided; and
- (5) The license must provide that the licensee may cancel the license at any time after one year from the initial date thereof by giving thirty days' notice in writing to the licensor.

D. Upon receipt of written request for a license under the provisions of this paragraph, defendant Standard Register shall advise the applicant in writing of the royalty which it deems reasonable for the patent or patents to which the request pertains. If the parties are unable to agree upon a reasonable royalty within sixty days from the date such request for the license was received by defendant Standard Register, the applicant therefor or defendant Standard Register may apply to this Court for the determination of a reasonable royalty, and defendant Standard Register shall,

upon receipt of notice of the filing of such application, or upon the making of an application by defendant Standard Register, promptly give notice thereof to the Attorney General. In any such proceeding, the burden of proof shall be on defendant Standard Register to establish the reasonableness of the royalty requested by it, and the reasonable royalty rates determined by the Court shall apply to the applicant and all other licensees having the same rights under the same patent or patents. Pending the completion of negotiations or any such proceedings, the applicant shall have the right to make, use and vend, or any one or more of these rights under the patents to which his application pertains without payment of royalty or other compensation; provided, however, that upon the final determination of the reasonable royalty, defendant Standard Register shall issue a license providing for the periodic payment of royalties and providing for the rights to which the licensee shall be entitled under this judgment. Such final determination shall be retroactive for the licensee-applicant to the date upon which licensee-applicant shall have acquired the right to make, use, and vend, or any one or more of these rights, under the patent to which the application pertains. The final determination as aforesaid shall be retroactive, for all other licensees having the same rights under the same patents, to the date the licensee-applicant files his application with the Court. If the applicant for a license fails to accept such license, the applicant for a license shall pay the court costs in such proceeding.

E. Nothing herein shall prevent any applicant from attacking, in the aforesaid proceedings or in any other controversy, the validity or scope of any of the patents, nor shall this judgment be construed as importing any validity or value to any of said patents.

VII.

Defendant Standard Register is hereby ordered and directed, within ninety (90) days after the entry of this judgment, to notify all present lessees of its platens and all present owners of its auxiliary equipment of the changes in their agreements with defendant Standard Register in compliance with this final judgment and informing them of their rights under this final judgment. Such notice shall be deemed completed when mailed by defendant Standard Register by registered mail, addressed to the respective last known post office addresses of defendant Standard Register's present lessees of its platens and owners of its auxiliary equipment.

VIII.

Defendant Standard Register is hereby ordered and directed to file with this Court and with the Attorney General of the United States, or with the Assistant Attorney General in charge of the Anti-Trust Division, a report within 120 days after the date of the entry of this judgment, of all action taken by it to comply with or conform to the terms of this judgment.

IX.

For the purpose of securing compliance with this judgment and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written

request of the Attorney General or an Assistant Attorney General, and on reasonable notice to defendant Standard Register, made to its principal office, be permitted, subject to any legally recognized privilege:

- (1) Access, during the office hours of said defendant Standard Register, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of said defendant Standard Register relating to any matters contained in this judgment: and
- (2) Subject to the reasonable convenience of said defendant Standard Register and without restraint or interference from it, to interview officers or employees of such defendant Standard Register, who may have counsel present, regarding any such matters.

For the purpose of securing compliance with this judgment, defendant Standard Register, upon the written request of The Attorney General or an Assistant Attorney General, and upon reasonable notice to its principal office, shall submit such written reports with respect to any of the matters contained in this judgment as from time to time may be necessary for the purpose of enforcement of this judgment. No information obtained by the means provided in this paragraph shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of such Department, except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this judgment, or as otherwise required by law.

X.

Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this judgment to apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this judgment, for the amendment, modification, or termination of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

/s/ Bolitha Laws  
United States District Judge

Dated: December 13, 1949

We hereby consent to the entry of the foregoing final judgment:

/s/ HERBERT A. BERGSON  
HERBERT A. BERGSON  
Assistant Attorney General

/s/ Sigmund Timberg  
SIGMUND TIMBERG  
Special Assistant to the  
Attorney General

/s/ Victor H. Kramer  
VICTOR H. KRAMER  
Trial Attorney

/s/ Herbert N. Maletz  
HERBERT N. MALETZ  
Attorney

Attorneys for plaintiff

STEPTOE & JOHNSON

By /s/ Donald O. Lincoln  
DONALD O. LINCOLN

Attorneys for Defendant  
The Standard Register Company

EXHIBIT A

<u>PATENT NO.</u>	<u>DATE OF ISSUANCE</u>	<u>INVENTOR</u>
1,894,065	1/10/33	John Q. Sherman et al.
1,896,032	1/31/33	John Q. Sherman et al.
1,974,368	9/18/34	John Q. Sherman
2,000,649 re.20,888	5/7/35	John Q. Sherman
2,000,650	5/7/35	John Q. Sherman et al.
2,000,651	5/7/35	John Q. Sherman et al.
2,004,395	6/11/35	John Q. Sherman et al.
2,012,282	8/27/35	Albert W. Metzner
2,012,289	8/27/35	John Q. Sherman et al.
2,033,868	3/10/36	John Q. Sherman et al.
2,047,233	7/14/36	John Q. Sherman
2,067,210	1/12/37	John Q. Sherman
2,067,211 re.21,842	1/12/37	John Q. Sherman et al.
2,095,292	10/12/37	John Q. Sherman
2,095,293	10/12/37	John Q. Sherman
2,098,978	11/16/37	John Q. Sherman
2,102,651	12/21/37	John Q. Sherman et al.
2,112,833	4/5/38	Henry G. Dyvbig
2,113,579	4/12/38	Henry G. Dyvbig
2,128,924	9/6/38	Henry G. Dyvbig
2,149,316	3/7/39	John Q. Sherman
2,160,916	6/6/39	John Q. Sherman et al.
2,172,414	9/12/39	John Q. Sherman
2,173,864	9/26/39	John Q. Sherman et al.
2,177,675	10/31/39	John Q. Sherman
2,200,308	5/14/40	John Q. Sherman et al.
2,237,320	4/8/41	Spayd et al.
2,252,720	8/19/41	Albert W. Metzner

<u>PATENT NO.</u>	<u>DATE OF ISSUANCE</u>	<u>INVENTOR</u>
2,252,733	8/19/41	John Q. Sherman et al.
2,252,734	8/19/41	John Q. Sherman
2,252,735	8/19/41	John Q. Sherman
2,252,736	8/19/41	John Q. Sherman et al.
2,275,475	3/10/42	John Q. Sherman
2,277,156	3/24/42	John Q. Sherman et al.
2,277,693	3/31/42	Henry G. Dyvbig
2,280,095	4/21/42	Albert W. Metzner
2,291,658	8/4/42	John Q. Sherman
2,293,769	8/25/42	John Q. Sherman
2,307,809	1/12/43	John Q. Sherman
2,309,656	2/2/43	Albert W. Metzner
2,311,702	2/23/43	John Q. Sherman
2,318,020	5/4/43	John Q. Sherman et al.
2,327,377	8/24/43	Albert W. Metzner et al.
2,328,582	9/7/43	Raymond G. Ratchford et al.
2,345,008	3/28/44	John A. Schmidt
2,346,163	4/11/44	Hiles
2,353,194	7/11/44	John Q. Sherman et al.
2,355,668	8/15/44	Morse
2,355,690	8/15/44	Abram T. Zent
2,361,421	10/31/44	John Q. Sherman
2,368,674	2/6/45	Albert W. Metzner
2,368,683	2/6/45	John Q. Sherman
2,377,896	6/12/45	Albert W. Metzner
2,380,949	8/7/45	John T. Davidson
2,384,807	9/18/35	Bruce T. Bickel
2,392,838	1/15/46	John T. Davidson
2,440,302	4/27/48	John Q. Sherman
2,452,591	11/2/48	Albert Metzner
2,476,326	7/19/49	John Q. Sherman

EXHIBIT B

<u>SERIAL NO.</u>	<u>FILING DATE</u>	<u>INVENTOR</u>
62,798	12/1/48	John T. Davidson et al.
83,196	3/24/49	John T. Davidson et al.
685,457	7/22/46	Stimpson et al.
749,640	5/22/47	John T. Davidson et al.
122,459	10/20/49	John T. Davidson
128,774	11/22/49	John T. Davidson