

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Solvay Process Company and Solvay Sales Corporation., U.S. District Court, D. Kansas, 1944-1945 Trade Cases ¶157,229, (Mar. 14, 1944)

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United States v. Solvay Process Company and Solvay Sales Corporation.

1944-1945 Trade Cases ¶157,229. U.S. District Court, D. Kansas, Second Division. Civil Action No. 2046. March 14, 1944.

A consent decree is entered in an action under the anti-trust laws, enjoining defendant manufacturers of soda ash from maintaining without operating, or from threatening to acquire, facilities for the manufacture of soda ash for the purpose of preventing a competitor from producing soda ash, and from constructing or otherwise acquiring facilities for the manufacture of soda ash in Kansas unless permitted by the Court upon a finding that such construction or acquisition will not unreasonably prevent a competitor from producing soda ash.

For plaintiff Lester Luther, Asst. U. S. Attorney; Wendell Berge, Asst. Attorney General; Robert L. Wright, Special Asst. to the Attorney General.

For defendants: H. M. Langworthy and Langworthy, Matz & Linde by H. M. Lang-worthy; Wright, Gordon, Zachry, Parlin & Cahill by George Nebolsine.

Decree entered by Guy T. Helvering, U. S. District Judge.

Final Judgment

The United States of America having filed its complaint herein on the 24th day of June 1942 against the defendants named herein, and all of the defendants having appeared severally and filed their answers to such complaint, denying the substantive allegations thereof, and all the parties hereto by their respective attorneys herein having severally consented to the entry of this final judgment herein without trial or adjudication of any issue of fact or law and without admission by the defendants in respect to any such issue except that a controversy to which this judgment is applicable exists and that the Court has jurisdiction, and it appearing from the defendants' answer that the defendant Solvay Process Company has now dismantled the soda ash plant at Hutchinson, Kansas, described in the complaint and divested itself of all ownership and control of the real estate and facilities in the State of Kansas which were connected with the production of soda ash without any restriction as to the future use thereof;

Now, therefore, before any testimony has been taken herein and on consent of all of the parties hereto, and the Court being advised and having considered the matter, it is hereby ordered and decreed as follows:

I

[*Jurisdiction and Cause of Action*]

That the Court has jurisdiction of the subject-matter and of all the parties hereto; and that the complaint states a cause of action against the defendants under the Act of Congress of July 2, 1890, entitled "An Act to Protect Trade and Commerce against Unlawful Restraints and Monopolies," and the Acts amendatory thereof and supplemental thereto.

II

[*Activities Enjoined*]

Each of the defendants and each of their successors, affiliates, subsidiaries, directors, officers, and employees and agents, and all persons acting under, or for them, or any of them, are hereby enjoined and restrained from

maintaining without operating or from threatening to acquire facilities for the manufacture of soda ash and for the purpose of restraining or preventing a competitor or competitors or a potential competitor or competitors from producing soda ash.

III

Each of the defendants and each of their successors, affiliates, subsidiaries, directors, officers, and employees and agents, and all persons acting under, through, or for them, or any of them, are hereby enjoined and restrained from constructing or otherwise acquiring facilities for the manufacture of soda ash in the State of Kansas, provided, that if the Court is satisfied upon a showing by the defendants herein that such construction or other acquisition will not unreasonably restrain or prevent a competitor or competitors or a potential competitor or competitors from producing soda ash, the Court may, upon such terms and conditions as may be appropriate, permit such construction or acquisition.

IV

[Access of Department of Justice to Records, Interviews and Reports]

For the purpose of securing compliance with this Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or an Assistant Attorney General, and on reasonable notice to the defendants made to the principal office of the defendants, be permitted, subject to any legally recognized privilege, (1) access during the office hours of the defendants to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendants, relating to any matters contained in this Judgment; (2) without restraint or interference from the defendants, to interview officers or employees of the defendants who may have counsel present, regarding any such matters; and (3) the defendants, on any such request, shall submit such reports in respect of any such matters as may from time to time be reasonably necessary for the proper enforcement of this Judgment, provided, however, that information obtained by the means permitted in this paragraph shall not be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice except in the course of legal proceedings for the purpose of securing compliance with this Judgment in which the United States is a party or as otherwise required by law.

V

[Jurisdiction Retained]

Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this decree 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 decree, for the modification or termination of any of the provisions thereof, for the enforcement of compliance therewith and for the punishment of violations thereof.

VI

[Decree to Have No Effect on Activities Outside U. S.]

This decree shall have no effect with respect to operations or activities outside the United States, its territories and the District of Columbia.