

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

UNITED STATES OF AMERICA, :
 :
 : Plaintiff, :
 : Civil Action No. 7796
 : v. :
 : Date: March 15, 1963
 :
 BAND-IT COMPANY and :
 VALDEMAR LODHOLM, :
 :
 : Defendants. :
 :
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FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on November 15, 1962, each of the defendants having appeared and having filed their answers denying the substantive allegations of said complaint, and the plaintiff and each of the 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 or admission by any party with respect to any such issue:

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 plaintiff and each defendant, 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 hereto. The Complaint states a cause of action against the defendants, and each of them, upon which relief may be granted, under Section 1 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce

against unlawful restraints and monopolies," commonly known as the Sherman Act as amended.

II

As used in this Final Judgment:

(A) "Corporate defendant" means the defendant herein BAND-IT COMPANY, a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at Denver, Colorado, its officers, directors, and employees.

(B) "Banding devices and/or related products" shall mean steel bands, buckles, clamps, brackets, nipples, couplers, swivel adapters, menders and tools for fastening or use in connection with such equipment, which are sold by the corporate defendant.

(C) "Person" means any individual, partnership, firm, corporation, association, trustee or any other business or legal entity other than the corporate defendant.

(D) "Distributor" shall mean any person which, at any time, purchases any banding devices and related products from the corporate defendant for resale.

(E) "United States" means the 50 States of the United States, the District of Columbia and any of its territories or possessions. For the purposes of this Final Judgment any sale to any agency or instrumentality of the United States, wherever located, shall be deemed to be a sale within the United States.

III

The provisions of this Final Judgment shall apply to the individual defendant, the corporate defendant, and to each of its officers, directors, agents and employees, its subsidiaries, successors and assigns and to all other persons in active concert

or participation with any such defendant who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Defendants are jointly and severally enjoined and restrained from entering into, adhering to, maintaining or enforcing any contract, agreement, understanding, plan or program with any other person, directly or indirectly to:

(A) Fix, determine, or stabilize the price or prices, terms or conditions at or upon which any banding devices and/or related products shall be resold by any such person or other person within the United States.

(B) Exchange, with any such person or other person within the United States, any information, whether in the form of price lists, suggested price lists, circular or policy letters or otherwise, regarding the price or prices, terms or conditions at or upon which any banding devices and/or related products shall be resold within the United States.

V

Defendants are jointly and severally enjoined and restrained from, directly or indirectly:

(A) Hindering, restricting, limiting or preventing, or attempting to hinder, restrict, limit or prevent any person within the United States, including specifically (but not limited to) any distributor from offering to sell, or selling, any banding devices and/or related products (i) to any other person or class of persons or (ii) at or upon any price or prices, terms or conditions which such person may individually determine;

(B) Cancelling, or threatening to cancel, the distributorship contract, or any like or similar contract with any person within

the United States, in whole or in part, because of the price or prices, terms or conditions at or upon which any such person has sold, or offered to sell any banding devices and/or related products purchased from any defendant;

(C) For a period of five (5) years after the date of the entry of this Final Judgment, issuing or circulating any list or lists within the United States containing any price or purported price for any banding devices and/or related products except those prices at which the corporate defendant itself regularly offers to sell such banding devices and/or related products directly to any distributor, use or other class of customer.

VI

The corporate defendant is ordered and directed:

(A) Forthwith, and in any event, not later than sixty (60) days after the entry of this Final Judgment to notify, in writing, each of its present distributors within the United States that such distributors are thereafter free to sell any banding devices and/or related products purchased from the corporate defendant at any price or prices, and upon any terms or conditions which such distributors may individually determine.

(B) (i) Forthwith, and in any event, not later than sixty (6) days after the date of the entry of this Final Judgment to notify, in writing, each of its present foreign distributors and, (ii) upon the appointment of any new foreign distributors within three (3) years from the date of entry of this Final Judgment, to notify, in writing, such distributors at the time of the appointment that such distributors are free to sell to any agency or instrumentality of the United States Government, wherever located, any banding devices and/or related products

purchased from the corporate defendant at any price or prices, and upon any terms or conditions which such distributors may individually determine.

(C) Not later than ninety (90) days after the date of the entry of this Final Judgment to file with this Court and serve upon the plaintiff an affidavit setting forth the fact and manner of its compliance with the subsections (A) and (B)(1) of this Section VI.

(D) To notify, in writing, each distributor within the United States who will be appointed within three (3) years from the entry of this Final Judgment, at the time of such appointment, that such distributor will be free to sell any banding devices and/or related products purchased from the corporate defendant at any price or prices, and upon any terms or conditions which such distributor may individually determine.

(E) For a period of five (5) years after the date of the entry of this Final Judgment, to furnish a copy of this Final Judgment to any person upon request and without charge.

VII

For the purposes of determining and securing compliance with this Final Judgment and subject to any legally recognized privilege, 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 any defendant made to its or his principal office, be permitted (1) access during the office hours of such defendant to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant relating to any of the 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 who may have counsel present, regarding any such matters; and upon such request such defendant shall submit such reports in writing to the Department of Justice with respect to matters contained in this Final Judgment as may from time to time be necessary to the enforcement of this Final Judgment. No information obtained by the means provided in this Section VII 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 the 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.

IX

Jurisdiction is retained 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 or for the modification or termination of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

Dated: March 15, 1963

/s/ ALFRED A. ARRAJ
United States District Judge