

# Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. York Corporation., U.S. District Court, M.D. Pennsylvania, 1963 Trade Cases ¶70,946, (Dec. 19, 1963)

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United States v. York Corporation.

1963 Trade Cases ¶70,946. U.S. District Court, M.D. Pennsylvania. No. 7546— Civil. December 19, 1963. Case No. 1648 in the Antitrust Division of the Department of Justice.

## Sherman Act

**Exclusive Dealing—Air-conditioning Equipment—Territorial Restrictions—Consent Judgment.**—A manufacturer of air-conditioning equipment were prohibited by a consent judgment from limiting, dividing or restricting customers, territories or markets for the sale or exportation of its products or from restraining or attempting to impose any limitation or restriction on the persons to whom, the territories in which, or the use for which, any person may sell or put its products.

For the plaintiff: William H. Orrick, Jr., Assistant Attorney General, William D. Kilgore, Jr., and Lewis Bernstein, Attorneys, Department of Justice; Maurice Fitzgerald and Charles F. B. McAleer.

## Final Judgment

FOLLMER, District Judge [ *In full text*]: The plaintiff, United States of America, having filed its complaint herein on February 9, 1962, the defendant having filed its answer denying the substantive allegations thereof, and the parties hereto 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 evidence or an admission by any party hereto 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 the consent of the parties hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

### [ *Sherman Act* ]

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states claims for relief against the defendant 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

### [ *Definitions* ]

As used in this Final Judgment:

(A) “Defendant” shall mean the defendant, York Corporation, a corporation organized and existing under the laws of the State of Delaware;

(B) “Person” shall mean an individual, partnership, firm, corporation, association or other business or legal entity;

(C) “York product” shall mean any air conditioning, heating or refrigeration product and components and repair parts therefor including but not limited to air conditioners, commercial air conditioners, automotive air conditioners, furnaces, ice makers, condensing units and engineered machinery sold by the defendant.

III

**[ Applicability]**

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

IV

**[ Practices Prohibited]**

The defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, agreement or understanding with any person to:

- (A) Limit, divide, or restrict customers, territories or markets for the sale of any York product;
- (B) Limit, restrict or prevent the resale or exportation of any York product.

V

**[ Restrictions]**

The defendant is enjoined and restrained from imposing or attempting to impose any limitation or restriction upon the persons to whom, the territories in which or the use for which any person may sell or put any York product.

VI

**[ Compliance]**

Defendant is ordered and directed:

- (A) Within ninety (90) days after the entry of this Final Judgment, to furnish a copy of the Final Judgment to each person with which defendant has a sales agreement outstanding, and to notify such persons that to the extent any provision of any outstanding agreement or policy statement or notification is contrary to the provisions of Sections IV and V of this Final Judgment, such provision shall not be deemed of any further force or effect insofar as the defendant is concerned;
- (B) To conform all agreements between defendant and purchasers of York products to the provisions of Sections IV and V of this Final Judgment;
- (C) To furnish sufficient copies of this Final Judgment to its distributors for distribution to their dealers and to cancel the form of dealer agreements formerly issued to distributors;
- (D) To file with this Court, and serve upon plaintiff, within one hundred and five (105) days after the entry of this Final Judgment, an affidavit as to the fact and manner of compliance with subsections (A), (B) and (C) of this Section VI.

VII

**[ Inspection]**

For the purpose of securing or determining compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant made to its principal office, be permitted, subject to any legally recognized privilege and with the right of such defendant to have counsel present:

(A) Access, during 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 defendant relating to any matters contained in this Final Judgment;

(B) Subject to the reasonable convenience of 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.

Upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, the defendant shall submit such reports in writing with respect to the 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 permitted 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 in which the United States is a party for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

### VIII

#### **[ *Jurisdiction Retained* ]**

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 amendment or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.