

U. S. vs. VEHICULAR PARKING, ET AL.

IN THE DISTRICT COURT OF THE UNITED STATES FOR
THE DISTRICT OF DELAWARE.

Civil Action No. 259.

UNITED STATES OF AMERICA, PLAINTIFF

vs.

VEHICULAR PARKING, LTD., THE KARPARK CORPORATION,
DUAL PARKING METER COMPANY, M. H. RHODES, INC.,
THE STANDARD METER CORPORATION, PEERLESS OIL
AND GAS COMPANY, DUNCAN METER COMPANY, FRANK
L. MICHAELS AND ALFRED R. MILLER, doing business
as MI-Co METER COMPANY, VERNON F. TAYLOR, JOHN
HOWARD JOYNT, WALTER J. HERSCHUDE, GUY KELCEY,
E. D. TIMBERLAKE, GEORGE E. TRIBBLE, CARL C.
MAGEE, M. H. RHODES, DONALD F. DUNCAN, and T. W.
L. NEWSOM, DEFENDANTS.

FINAL JUDGMENT.

This cause came on to be heard upon the complaint and the several answers and amended answers thereto, upon proofs duly taken, and upon argument by counsel. The Court having thereafter rendered and filed its opinion and having made and entered findings of fact and conclusions of law.

Now, upon motion of Plaintiff, by Wendell Berge, Assistant Attorney General, Ernest S. Meyers, Special

Assistant to the Attorney General, E. Houston Harsha, Special Attorney, and John J. Morris, Jr., United States Attorney, for relief in accordance with the prayer of the complaint; and the Defendants having severally appeared by counsel, it is ORDERED, ADJUDGED and DECREED as follows:

1. The Court has jurisdiction of the parties to, and the subject matter of, this suit and the complaint states grounds for relief against the defendants under the Act of Congress of July 2, 1890, as amended, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," known as, and hereinafter referred to as, the Sherman Act (26 Stat. 209, as amended, 50 Stat. 693, 15 U.S.C. § 1-7).

2. When used in this decree the term "person" shall mean and include, but not be limited to, the following: a corporation, company, partnership, individual, trust and government including federal, state, and local governments and subdivisions thereof.

3. The defendants, Vehicular Parking, Ltd., The Karpark Corporation, Dual Parking Meter Company, M. H. Rhodes, Inc., The Standard Meter Corporation, Peerless Oil and Gas Company, Duncan Meter Company, Frank L. Michaels and Alfred R. Miller, doing business as Mi-Co Meter Company (hereinafter collectively referred to as the company defendants), and the defendants Vernon F. Taylor, John Howard Joynt, Walter J. Herschede, Guy Kelcey, E. D. Timberlake, George E. Tribble, Carl C. Magee, M. H. Rhodes, Donald F. Duncan and T. W. L. Newsom (hereinafter collectively referred to as the individual defendants), and each of them, have unlawfully contracted, combined and conspired in violation of Sections 1 and 3 of the Sherman Act to restrain trade and commerce in the manufacture, distribution and sale of parking meters, parts, services and accessories thereto.

4. The company defendants and the individual defendants, and each of them, have violated Sections 1 and 3 of the Sherman Act by unlawfully contracting, com-

bining and conspiring to restrain trade in, through the use of patents, the manufacture, distribution and sale of parking meters, parts, services, and accessories thereto.

5. The company defendants and the individual defendants, and each of them, have violated Section 2 of the Sherman Act by unlawfully monopolizing, unlawfully attempting to monopolize, and unlawfully combining and conspiring to monopolize (a) United States Letters Patents and Patent Applications relating to parking meters, (b) the manufacture, distribution, and sale of parking meters, parts, services, and accessories, and services by improper use of the claims of patents.

6. The agreement dated January 1, 1937 between the Karpark Corporation and the Parkrite Corporation, the agreement dated May 5, 1937 between Vehicular Parking, Ltd., and the Parkrite Corporation, the agreement dated October 13, 1937 between Vehicular Parking Ltd., and the Karpark Corporation, the two agreements dated January 20, 1940 between Vehicular Parking, Ltd., and M. H. Rhodes, Inc., the agreement dated June 1, 1940 between Vehicular Parking, Ltd., and Dual Parking Meter Company, the assignment of patents dated July 30, 1940 by Dual Parking Meter Company to Vehicular Parking, Ltd., the exclusive license dated July 30, 1940 granted by Dual Parking Meter Company to Vehicular Parking, Ltd., the agreement dated August 17, 1940 between Vehicular Parking, Ltd., and Duncan Meter Company, the agreement dated July 19, 1940 between Vehicular Parking, Ltd., and Mi-Co Meter Company, the agreement dated July 19, 1940 between Frank L. Michaels and Walter J. Herschede, the exclusive license dated July 19, 1940 granted by Frank L. Michaels to Vehicular Parking, Ltd., the agreement dated October 14, 1940 between Vehicular Parking, Ltd., and the Standard Meter Corporation, the agreement dated October 15, 1940 between Vehicular Parking, Ltd., and the Standard Meter Corporation, and the agreement dated June 1, 1940 between Vehicular Parking, Ltd., and the Karpark Corporation and any and all agreements amendatory or sup-

plemental to such agreements, including patent licensing provisions thereof are, and each of them is, hereby adjudged to be unlawful under Sections 1, 2, and 3 of the Sherman Act.

7. The agreement dated January 1, 1937 between the Karpark Corporation and The Parkrite Corporation, the agreement dated May 5, 1937 between Vehicular Parking, Ltd., and the Parkrite Corporation, the agreement dated October 13, 1937 between Vehicular Parking, Ltd., and the Karpark Corporation, the agreements dated January 20, 1940 between Vehicular Parking, Ltd., and M. H. Rhodes, Inc., the agreement dated June 1, 1940 between Vehicular Parking, Ltd., and Dual Parking Meter Company, the assignment of patents dated July 30, 1940 by Dual Meter Company to Vehicular Parking, Ltd., the exclusive license dated July 30, 1940 granted by Dual Parking Meter Company to Vehicular Parking, Ltd., the agreement dated August 17, 1940 between Vehicular Parking, Ltd., and Duncan Meter Company, the agreement dated July 19, 1940 between Vehicular Parking, Ltd., and Mi-Co Meter Company, the agreement dated July 19, 1940 between Frank L. Michaels and Walter J. Herschede, the exclusive license dated July 19, 1940 granted by Frank L. Michaels to Vehicular Parking, Ltd., the agreement dated October 14, 1940 between Vehicular Parking, Ltd., and The Standard Meter Corporation, the agreement dated October 15, 1940 between Vehicular Parking, Ltd., and The Standard Meter Corporation, and the agreement dated June 1, 1940 between Vehicular Parking, Ltd., and the Karpark Corporation, and any and all agreements amendatory or supplemental to such agreements, including patent licensing provisions thereof are, and each of them is, hereby cancelled, and each of the company defendants and each of their directors, officers, agents, employees, successors, and all persons acting or claiming to act under, through or for them, or any of them, are hereby enjoined and restrained from the further performance of any of the provisions of said agreements and of any agreements amendatory

thereof or supplemental thereto, including patent licensing provisions thereof.

8. Each of the individual defendants, each of the company defendants, and each of their directors, officers, agents, employees and successors, and all persons acting or claiming to act under, through or for them, or any of them, are hereby enjoined and restrained:

(A) From entering into, adhering to, maintaining or furthering, directly or indirectly, any contract, agreement, understanding, plan or program among themselves or with any other person:

(1) To determine, fix, establish, maintain, or adhere to prices, quotations, bids, terms or conditions which are to be charged, submitted to or required of others, for the manufacture, distribution, purchase, use or sale of parking meters, parts, services or accessories thereto;

(2) To determine, fix, establish, maintain, or adhere to prices or other terms or conditions, which are to be charged, submitted to or required of others for the granting of any license or sublicense of any patent or patents relating to the manufacture, use or sale of parking meters, parts, services, or accessories thereto;

(3) To divide sales territories or to allocate customers or markets or to refrain from competing in any territory for any customer, job, sale or bid in the distribution or sale of parking meters, parts, services or accessories thereto;

(4) To limit or eliminate the production, use, installation or sale of parking meters or of any type of parking meter or part or accessory thereto, or to prevent, restrict or eliminate the performance of any service in connection with any sale or installation of parking meters or any type of parking meter;

(5) To prevent or hinder any person from engaging in the business of manufacturing, distributing or installing parking meters, parts or accessories or to coerce, compel, advise or persuade any person to refrain from dealing with any manufacturer, dis-

tributor, purchaser, user or installer of parking meters or parts or accessories thereto.

(B) From disclosing to any competitor bids or quotations for the sale or installation of parking meters, parts, services or accessories thereto or from establishing or maintaining any kind of bid depository or reporting system whereby information or data as to sales, contemplated or consummated, by identified sellers or to identified customers are made available to any competitor;

(C) From instituting or threatening to institute patent infringement suits against users or purchasers of parking meters or any part thereof unless the infringement of such patent or patents has been established previously by the adjudication of a court of competent jurisdiction against the manufacturer or fabricator or seller of the accused device;

(D) From representing or claiming that any parking meter, part or accessory manufactured or sold by a defendant embodies a patented invention when such patented invention is not incorporated, embodied or utilized in such parking meter, part or accessory;

(E) From representing or claiming that any parking meter manufactured or sold by a defendant constitutes a patented device when in fact only a part or an element of such parking meter is patented.

9. The Court specifically reserves the question as to whether each of the individual defendants, each of the company defendants, and each of their directors, officers, agents, employees, successors and assigns should be ordered to grant to any applicant therefor, to the extent to which the defendants or any of them possess the power to do so, an absolutely unrestricted, whether as to duration or otherwise, and royalty-free license or sub-license to use, manufacture and sell under any or all United States letters patent and patent applications including all renewals, extensions or reissues of such patents or patent applications, listed in Schedule A which is annexed hereto.

10. Each of the individual defendants, each of the company defendants and each of their directors, officers, agents, employees, successors and assigns be and they are hereby enjoined from instituting or threatening to institute suits for patent infringement or suits to collect royalties which are based upon any of the United States letters patent or patent applications, including renewals, extensions or reissues thereof, contained in Schedule A annexed hereto and made a part of this decree.

11. The Court specifically reserves the question whether each of the individual defendants and each of the company defendants and each of their directors, officers, agents, employees, successors and assigns should be individually ordered to file with the Attorney General of the United States, or the Assistant Attorney General in charge of the Antitrust Division, copies of all applications for licenses under the terms of this decree, immediately upon receipt thereof, and of all licenses issued, and to furnish the Attorney General of the United States, or the Assistant Attorney General in charge of the Antitrust Division, with full information as to the status of all negotiations between applicants and any of the defendants or a licensing agency with regard to the failure to grant a license or sublicense where an application therefor has been pending for a 30-day period, upon the condition that the failure of the Attorney General of the United States or the Assistant Attorney General in charge of the Antitrust Division to take any action following receipt of any information pursuant to this paragraph 11 or paragraph 12 hereof shall not be construed as an approval of the matter and things so filed or informed and shall not operate as a bar to any action or proceeding, civil or criminal, which may later be brought, or be pending, pursuant to any law of the United States based on matters or things so filed or informed.

12. For the purpose of securing compliance with this decree duly authorized representatives of the Department of Justice shall, on written request of the Attorney General, or an Assistant Attorney General, be permitted (1) access, during the office hours of the de-

endants, 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 decree, (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: *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 decree in which the United States is a party or as otherwise required by law.

13. 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 or the enforcement of compliance therewith and for the punishment of violations thereof.

Dated: July 18, 1944.

/s/ PAUL LEAHY,
United States District Judge.

SCHEDULE A

<i>Patent No.</i>	<i>Patent No.</i>
1,456,313	2,114,534
1,620,098	2,118,318
1,749,977	2,137,111
1,752,071	2,162,191
1,879,438	2,168,302
1,905,875	2,190,555
2,038,963	2,198,422
2,039,544	2,198,779
2,061,875	2,262,783
2,065,075	2,277,612
2,088,154	2,285,056
2,088,300	2,323,043
2,088,301	

Applications

79,302 dated May 12, 1936—Claim 13
86,045 dated June 19, 1936
116,419 dated Dec. 22, 1936
135,792 dated April 8, 1937
216,807 dated Jan. 30, 1938
256,210 dated Feb. 13, 1939—Claims 1, 2, 3, 7, 8,
14 to 22 inclusive;
24 to 28 inclusive.