

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. HERSCHEDA, GUY KELCEY,
E. D. TIMBERLAKE, GEORGE E. TRIBBLE, CARL C.
MAGEE, M. H. RHODES, DONALD F. DUNCAN, and T. W.
L. NEWSOM, DEFENDANTS.

ORDER AMENDING JUDGMENT AND DENYING MOTIONS.

This cause came on to be heard on the complaint and the several answers and amended answers thereto, upon proofs duly taken and upon argument by counsel. The Court thereafter rendered and filed its opinion and made and entered findings of fact and conclusions of law, and on July 18, 1944 filed its Judgment. The Court having considered the motion to vacate or modify said Judgment, made on May 10, 1945, by defendants Vehicular Parking, Ltd., The Karpark Corporation, Peerless Oil and

Gas Company, Vernon F. Taylor, John Howard Joynt, Walter J. Herschede, Guy Kelcey and E. D. Timberlake, and after argument by counsel the Court having rendered and filed its opinion on August 8, 1945, directing the amendment and modification of said Judgment in certain respects, and the Court having considered the further motion to modify said Judgment made on September 27, 1945, by the aforesaid defendants,

NOW, THEREFORE, it is ORDERED, ADJUDGED AND DECREED THAT:

1. Paragraph 7 of the Judgment entered July 18, 1944, be and it hereby is deleted and the following paragraph be and it hereby is substituted:

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 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.

2. Paragraph 9 of the Judgment entered July 18, 1944, be and it hereby is deleted and the following paragraph be and it hereby is substituted:

9. 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 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 the duration or otherwise, license or sublicense 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, *provided*, after the date of the entry of this order amending the judgment entered July 18, 1944, a reasonable royalty may be charged for such licensing of the United States letters patent and patent applications, including all renewals, extensions, or reissues of such patents or patent applications, listed in Schedule A annexed hereto, *provided*, further, the provisions of this paragraph 9 shall not be deemed to adjudicate any defense which any person might raise or claim in any suit or proceeding by any defendant, its successors or assigns for infringement, damages, injunction or compensation on account of the patents and patent applications, including all renewals, extensions or reissues of such patents or patent applications, listed in Schedule A annexed hereto.

3. Paragraph 10 of the aforesaid Judgment be and it hereby is deleted and the following paragraph be and it hereby is substituted:

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 past infringement or suits to collect past 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 Judgment.

4. Paragraph 11 of the aforesaid Judgment be and it hereby is deleted and the following paragraph be and it hereby is substituted:

11. Each of the individual defendants and each of the company defendants and each of their directors, officers, agents, employees, successors and assigns be and they are hereby ordered 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 for licenses under this Judgment and any of the defendants with regard to the failure to grant a license or sublicense where an application therefor has been pending for a 30-day period, and upon request of the Attorney General of the United States, or the Assistant Attorney General in charge of the Antitrust Division 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 this Judgment, 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.

5. Paragraph 13 of the aforesaid Judgment be and it hereby is deleted and the following paragraph be and it hereby is substituted:

13. 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, including the determination of the reasonableness of the royalties charged for the licensing of the patents listed in Schedule A which is annexed hereto, and for the amendment, modification or termination of any of the provisions of this Judgment or the enforcement or compliance therewith and for the punishment of violations thereof.

6. The Judgment entered July 18, 1944, be and it hereby is amended to add thereto the following paragraph as Paragraph 14:

14. Defendant Vehicular Parking, Ltd., and each of its directors, officers, agents, employees, successors and assigns, and all persons acting or claiming to act under, through or for it or on behalf of it, are hereby enjoined and restrained from disclosing to The Union Metal Manufacturing Company or any of its directors, officers, agents, employees, successors and assigns, information or data concerning inquiries or requests for information relating to parking meters emanating from purchasers or prospective purchasers of parking meters unless defendant Vehicular shall simultaneously disclose such information or data to all other companies or individuals manufacturing or distributing parking meters who have requested such information in writing, or who are licensed under patents owned or controlled by defendant Vehicular.

7. The Judgment entered July 18, 1944, be and it hereby is amended to add thereto the following paragraph as Paragraph 15:

15. For all purposes of this Judgment, the Union Metal Manufacturing Company be and it hereby is deemed a successor to defendant Dual Parking Meter Company, and The Union Metal Manufacturing Company and each of its directors, officers, agents, employees and successors, and all persons acting or claiming to act under, through or for it, or on behalf of it, be and they hereby are bound by all provisions of this Judgment.

8. Schedule A, Annexed to the aforesaid Judgment, be and it hereby is amended to add thereto claims 1, 2 and 7 through 13, inclusive, of Patent No. 2,118,318; to add thereto claim 8 of Patent No. 2,137,111; to add thereto claims 3 through 14, inclusive, of Patent No. 2,168,302; and to delete therefrom Patent Nos. 2,088,301 and 2,198,779.

9. The motions made on May 10, 1945 and September 27, 1945, by defendants Vehicular Parking, Ltd., The Karpark Corporation, Peerless Oil & Gas Company, Vernon F. Taylor, John Howard Joynt, Walter J. Herschede, Guy Kelcey, and E. D. Timberlake, in all other respects are hereby denied with prejudice.

Dated May 6, 1946.

s/ PAUL LEAHY,
United States District Judge.