

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Bay West Paper Co., U.S. District Court, E.D. Wisconsin, 1967 Trade Cases ¶72,205, (Oct. 9, 1967)

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United States v. Bay West Paper Co.

1967 Trade Cases ¶72,205. U.S. District Court, E.D. Wisconsin. Civil Action 64-C-86. Entered October 9, 1967. Case No. 1793 in the Antitrust Division of the Department of Justice.

Sherman Act

Customers and Territories—Allocation—Consent Judgment.—A manufacturer of industrial paper towels was prohibited by a consent judgment from agreeing with or requiring distributors to limit, allocate or restrict territories and customers in the sale of the manufacturer's product.

For the plaintiff: Edwin M. Zimmerman, Acting Assistant Attorney General. William D. Kilgore, Jr., Baddia J. Rashid, Lewis Bernstein, and L. David Cole, Attorneys, Dept. of Justice.

For the defendant: Theodore A. Groenke.

Final Judgment

TEHAN, District Judge: Plaintiff, United States of America, having filed its complaint herein on April 1, 1964, and defendant, Bay West Paper Company, having appeared and 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 any admission by any party hereto with respect to such issue and the Court having considered the matter and being duly advised,

Now, Therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law and upon the consent of the parties hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

I

[Jurisdiction]

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim against the defendant under Sections 1 and 3 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" means Bay West Paper Company, a Wisconsin corporation, having its principal office and place of business at Green Bay, Wisconsin;
- (B) "Person" means any individual, partnership, firm, association or other business or legal entity;
- (C) "Industrial paper towels" means towels made of paper in folded or continuous roll form for use in the washrooms of institutional or commercial establishments such as schools, hospitals, factories, offices, restaurants and other public places;

(D) "Distributor" means any person, engaged in whole or in part in the purchase from defendant of industrial paper towels for resale to institutional or commercial establishments.

III

[*Applicability*]

The provisions of this Final Judgment applicable to defendant shall also apply to each of its successors, assigns, directors, officers, agents and employees, 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

[*Territories and Customers*]

The defendant is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under any contract, combination, agreement or understanding with any distributor to limit, allocate or restrict the territory in which, or the person or classes of persons to whom, any distributor may sell industrial paper towels purchased from defendant.

V

[*Notification*]

Defendant is ordered and directed to mail a copy of this Final Judgment to each of its distributors within sixty days after the date of entry of this Final Judgment and to file with this Court an affidavit showing that such mailing was made.

VI.

[*Inspection and Compliance*]

For the purpose of 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 defendant, made to its principal office, be permitted (1) access during reasonable office hours to all books, ledger, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant relating to any of the subject matters contained in this Final Judgment, and (2) subject to the reasonable conveniences of defendant, and without restraint or interference from it, to interview officers or employees of the 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 provided in this Section VI 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 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.

VII.

[*Jurisdiction Retained*]

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