

**Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. United States Pipe and Foundry Company, James B. Clow & Sons, Glamorgan Pipe and Foundry Company, Lynchburg Foundry Company, McWane Cast Iron Pipe Company., U.S. District Court, D. New Jersey, 1948-1949 Trade Cases ¶62,285, (Jul. 21, 1948)**

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United States v. United States Pipe and Foundry Company, James B. Clow & Sons, Glamorgan Pipe and Foundry Company, Lynchburg Foundry Company, McWane Cast Iron Pipe Company.

1948-1949 Trade Cases ¶62,285. U.S. District Court, D. New Jersey. Civil Action No. 10772. July 21, 1948.

**Sherman Antitrust Act**

**Consent Judgment—Lease-License Agreements—Acts in Restraint of Trade Enjoined.**—A consent judgment entered against five manufacturers of cast iron pressure pipe and of machinery for the manufacture of such pipe terminates certain lease-license agreements, and enjoins defendants from conditioning licenses, disclosures of technical information, or sales or leases of machines for the manufacture of pipe upon the requirement that the other party to the agreement shall agree: to accept a license under any other patent owned by any defendant; to pay royalties under any unused patent; to manufacture pipe of specified kinds and sizes; not to manufacture pipe on machines not leased or sold by any defendant; to cross-license any patent owned or controlled by said other party, to any defendant; to maintain or adhere to prices or price ranges, or other terms of sale, for pipe; to maintain any restrictions as to quantity of pipe produced, or as to the exportation of pipe from the United States, or which limit the market or territories in which pipe may be sold or distributed in the United States. The defendants are enjoined from entering into any agreement to restrict, allocate or limit production of pipe; to allocate customers markets or fields; to fix, determine, maintain or adhere to prices or other terms or conditions of sale of pipe; or to attempt to limit the manufacture of pipe to any specified standards, grades or qualities. A defendant is enjoined from acquiring or holding any interest in the assets or capital stock of any other person engaged in manufacturing and selling pipe or machines for the manufacture of pipe, where such acquisition substantially lessens competition or tends to create a monopoly. That defendant is ordered to dedicate certain patents to the public, and to grant licenses of certain other patents on a reasonable royalty basis.

For plaintiff: Herbert A. Bergson, Assistant Attorney General; Sigmund Timberg, Special Assistant to the Attorney General; Isaiah A. Matlack, Acting United States Attorney; Victor H. Kramer, Morton H. Steinberg, Special Assistants to the Attorney General; Herbert Maletz, Special Attorney.

For defendants: J. W. Brennan, John A. Hartpence.

**Final Judgment**

Plaintiff, the United States of America, having filed its complaint herein the 23rd day of October, 1947; and all parties hereto by their attorneys herein having severally consented to the entry of this final judgment herein without trial or adjudication of any issue of fact or law herein, and without admission by any party in respect of any such issue:

NOW, THEREFORE, before any testimony has been taken herein, and without trial or adjudication of any issue of fact or law herein, and upon consent of all parties hereto, it is hereby

ORDERED, ADJUDGED and DECREED as follows:

[ *Jurisdiction* ]

I

The Court has jurisdiction of the subject matter herein and of all of the parties to this judgment, and the complaint states a cause of action against the defendants, and each of them, under Sections 1 and 2 of the Act of Congress of July 2, 1890, entitled "An Act to Protect Trade and Commerce against unlawful Restraints and monopolies", as amended, commonly know as the Sherman Act (15 U. S. C. Secs. 1, 2).

[ *Terms Defined*]

## II.

As used in this judgment, the following terms have the meaning assigned respectively to them below:

A) "USP" means the defendant, United States Pipe and Foundry Company;

B) "Lease-license agreements" means each, every and all agreements, letter contracts and contracts, existing and in full force and effect as of the date of this judgment, between defendant USP and other defendants, whereby licenses have been granted to manufacture, use and sell pipe under USP patents and whereby USP machines have been leased, or licenses granted for the manufacture and use thereof;

C) "Pipe" means centrifugally cast castiron pressure pipe for use in the conveyance of liquids and gases under pressure;

D) "USP machines" means machines and apparatus covered by one or more of USP patents, for the production of pipe;

E) "Patent" or "patents" means United States Letters Patent and all reissues and extensions thereof.

F) "USP patents" means the United States Letters Patent and applications therefor, listed in Exhibit A attached hereto and made a part hereof, all of which are owned by USP.

## III.

The provisions of this judgment applicable to any defendant herein shall apply to each of its subsidiaries, successors, and assigns, engaged in the production of pipe, and to each of its officers, directors, agents, and employees, and to each person acting, or claiming to act, under, through or for such defendant.

[ *Agreements Terminated*]

## IV.

The lease-license agreements, as defined in this judgment, are, and each of them is, hereby terminated; and the defendants are hereby jointly and severally enjoined and restrained from any further performance in whole or in part of such lease-license agreements, and from any further performance of any of the obligations assumed under or in furtherance of any such agreements. The defendants are hereby jointly and severally enjoined and restrained from directly or indirectly, maintaining, reinstating or enforcing such lease-license agreements.

[ *Acts Enjoined*]

## V.

The defendants herein are individually and jointly restrained from conditioning:

1) a license or immunity granted under any patent;

2) a disclosure made of technical information or data; or

3) a sale or lease made of machines; for the manufacture of pipe, upon the requirement that the other party to such trans action shall agree:

a) to request or accept a license or immunity under any other patent owned or controlled by any defendant;

b) to pay royalties under any patent or patents which are unused by said other party;

c) not to challenge the validity of any patent or patents owned or controlled by any defendants;

- d) to manufacture only pipe of specified kinds and sizes or to manufacture only pipe covered by specified patent or patents or the production of which is covered by specified patent or patents;
- e) to adopt and to use trademarks or trade names owned or controlled by any defendant;
- f) to maintain standards, grades or qualities of pipe prescribed or suggested by any defendant;
- g) not to manufacture pipe on machines not leased or sold by defendant;
- h) to buy or lease from any defendant any other machines for the manufacture of pipe;
- i) not to buy or lease machines, for the manufacture of pipe, manufactured by other than any defendant;
- j) to cross-license or assign any patent, or patents, or to disclose technical information or data, owned or controlled by said other party, to any defendant;
- k) to maintain or adhere to prices or price ranges, or other terms and conditions of sale, for pipe;
- l) to maintain or adhere to any restrictions as to quantity of pipe produced;
- m) to maintain or adhere to any restrictions which limit the exportation of pipe from the United States, its territories, or possessions, or which limit the market or territories in which pipe may be sold or distributed in the United States.

#### VI.

The defendants are severally and jointly restrained from entering into, executing, maintaining or adhering to, any contract, agreement, understanding or arrangement with any manufacturer of pipe:

- a) to restrict, allocate or limit production of pipe;
- b) to allocate customers, markets or fields for the manufacture, sale or distribution of pipe in the United States, its territories or possessions;
- c) to fix, determine, maintain or adhere to prices or other terms or conditions of sale of pipe;
- d) to prohibit or restrict the sale of pipe for export from or import into the United States, its territories or possessions;
- e) to limit or attempt to limit the manufacture of pipe to any specified standards, grades or qualities;
- f) to provide for the inspection of any records, files or other documents and papers of any manufacturer of pipe except that an independent public accountant may be employed for the purpose of determining amounts of royalties or rentals due.

#### VII.

Defendant USP is hereby enjoined and restrained from hereafter acquiring, or holding after such acquisition, any interest in the assets or capital stock of any other person engaged in manufacturing and in selling pipe, or machines for the manufacture of pipe, where such acquisition substantially lessens competition or tends to create a monopoly in the manufacture and sale of pipe.

[ *Title To Be Conveyed*]

#### VIII.

Defendant USP is hereby ordered and directed to convey, within sixty (60) days from date of entry of this judgment and without further consideration, or conditions, legal title to any USP machines, now in possession of any other persons under lease-license agreements with defendant USP, to such other persons.

[ *Dedication To Public*]

#### IX.

Defendant USP is hereby ordered and directed to dedicate to the public, within thirty (30) days from the date of entry of this judgment, all of the USP patents listed in Exhibit A.

*[ Licenses To Be Made Available]*

Upon the grant of a license or immunity under any patent, for the manufacture of pipe, acquired by any defendant within a period of three (3) years from the date of entry of this judgment, a license of immunity under such patent shall be available to any other applicant on non-discriminatory terms.

*[ Inspection for Compliance Purposes]*

**XI.**

For the purpose of securing compliance with this judgment and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or an Assistant Attorney General, and upon reasonable notice to any defendant herein made to the principal office of such defendant be permitted, subject to any legally recognized privilege, (1) access during the office hours of said defendant to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of said defendant, relating to any of the matters contained in this judgment, and (2) subject to the reasonable convenience of said defendant and without restraint or interference from it, to interview officers or employees of such defendant, who may have counsel present, regarding such matters. Upon written request of the Attorney General, or an Assistant Attorney General, on reasonable notice to any defendant herein made to its principal office, such defendant shall submit such reports as might from time to time be reasonably necessary to the enforcement of this judgment, *provided* however that no information obtained by the means provided in this Section XI shall be divulged by 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 to which the United States is a party for the purpose of securing compliance with this judgment or as otherwise required by law.

*[ Jurisdiction Retained]*

**XII.**

Jurisdiction of this action is retained by this Court for the purpose of enabling any of the parties to this judgment to apply to the Court any time for, and for the Court to make, such further orders or directions as may be necessary or appropriate for the construction or carrying out of this judgment, for the modification thereof, or for the enforcement of compliance therewith, and for punishment of violations thereof.

**Exhibit A**

Patent No.	Inventor	Title	Date
1,833,025	Langenberg, F. C.	Method for Hardening the Inner Surface of Cylindrical Metal Bodies	Nov. 24, 1931
1,834,128	Langenberg, F. C.	Method and Apparatus for Improving the Texture of Hollow Metal Bodies	Dec. 1, 1931
1,845,127	Clark, S. B.	Conveyor Mechanism	Feb. 16, 1932
1,849,072	Clark, S. B.	Runner Trough for Centrifugal Casting Machines	Mar. 15, 1932
1,856,863	Clark, S. B.	Pipe Annealing Furnace	May 3, 1932
1,856,874	Langenberg, F. C.	Manufacture of Centrifugal Pipe Molds	May 3, 1932
1,856,890	Stokes, D. B.	Pipe Joint Packing	May 3, 1932
1,890,498	Daniel, R. E.	Runway for Pipes	Dec. 13, 1932
	Haughton, R. K.		
	Clark, S. B.		
1,897,631	Clark, S. B.	Method for Casting Pipes	Feb. 14, 1933
1,899,383	Clark, S. B.	Centrifugal Pipe Casting Apparatus	Feb. 28, 1933
1,903,220	Lemert, L. T.	Flange Protector	Mar. 28, 1933

1,939,703	Hunt, H. S. Arnold, P. L.	Feeding Device for Finely Divided Material	Dec. 19, 1933
1,949,433	Russell, N. F. S. Langenberg, F. C.	Method and Apparatus for Casting Pipes Centrifugally	Mar. 6, 1934
1,953,180	Langenberg, F. C. Reddick, H. G.	Cast Iron Annulus and Method of Manufacturing the Same	Apr. 3, 1934
1,954,892	Russell, N. F. S. Langenberg, F. C.	Centrifugally Cast Cast Iron Pipe	Apr. 17, 1934
1,963,146	Russell, N. F. S. Langenberg, F. C.	Method of Casting Centrifugal Pipes	June 19, 1934
1,963,147	Russell, N. F. S. Langenberg F. C.	Centrifugal Pipe Casting Apparatus	June 19, 1934
1,963,148	Russell, N. F. S. Langenberg, F. C.	Centrifugal Pipe Casting Machine	June 19, 1934
1,963,149	Russell, N. F. S. Langenberg, F. C.	Centrifugal Pipe Casting Apparatus	June 19, 1934
1,963,150	Russell, N. F. S. Langenberg F. C.	Centrifugal Pipe Casting Machine	June 19, 1934
1,971,376	Hunt, H. S. Arnold, P. L.	Apparatus for Coating Centrif. Pipe Molds	Aug. 28, 1934
1,971,385	Russell, N. F. S. Langenberg, F. C.	Cast Iron Pipe	Aug. 28, 1934
1,979,141	Clark, S. B. Langenberg, F. C.	Pipe Joint and Pipe Joint Gasket	Oct. 30, 1934
1,982,044	Clark, S. B.	Pipe Joint	Nov. 27, 1934
1,982,762	Russell, N. F. S. Langenberg, F. C.	Method for Casting Metallic Annuli	Dec. 4, 1934
1,986,985	Stuart, H. W. Hunt, H. S. Arnold, P. L.	Coated Metallic Centrifugal Pipe Mold	Jan. 8, 1935
1,988,470	Arnold, P. L.	Centrifugal Pipe Casting Apparatus	Jan. 22, 1935
1,988,471	Arnold, P. L.	Centrifugal Pipe Casting Apparatus	Jan. 22, 1935
2,018,025	Langenberg, F. C. Hunt, H. S.	Method of Centrifugally Casting Pipe	Oct. 22, 1935
2,027,453	Russell, N. F. S. Langenberg, F. C.	Centrifugal Pipe Casting Apparatus	Jan. 14, 1936
2,032,576	Hering, E.	Pipe Joint	Mar. 3, 1936
2,128,327	Russell, N. F. S. Langenberg, F. C.	Method and Apparatus for Coating Molds	Aug. 30, 1938
2,162,829	Hunt, H. S.	Mold Coating Mechanism for Metallic Centrifugal Pipe Molds	June 20, 1939
2,165,051	Hering, E.	Flexible Pipe Joint	July 4, 1939
2,165,052	Hering, E.	Flexible Pipe Joint	July 4, 1939
2,239,530	Langenohl, Max Projahn, Heinrich	Lining Composition for Centrifugal	Apr. 22, 1941
2,246,063	Projahn, H.	Method of Producing Refractory Linings	June 17, 1941
2,255,896	Projahn, H.	Production of Centrifugal Castings	Sept. 16, 1941
2,262,184	Ireton, S. R. Jr.	Method and Apparatus for Coating MOLDS	Nov. 11, 1941
2,267,896	Bridewell, W. G. Jordan, F. M.	Centrifugal Casting Apparatus	Dec. 30, 1941
2,267,958	Szwed, V. A.	Centrifugal Casting Apparatus	Dec. 30, 1941
2,278,555	Myers, W. S.	Centrifugal Casting Apparatus	Apr. 7, 1942
2,289,681	Projahn, Heinrich	Mold for Centrifugal Casting	July 14, 1942

2,313,926	A. von Frankenberg		
2,346,861	Daniel, R. E.	Centrifugal Casting Apparatus	Mar. 16, 1943
	Montgomery, W. A.	Method and Apparatus for Grinding MOLDS	Apr. 18, 1944
2,349,646	Arnold, P. L.	Apparatus for Radially Contracting Tubular Metal Bodies	May 23, 1944
2,437,626	Tinsley, C R.	Method for Reclaiming Used Metal Molds	Mar. 9, 1948

Application Serial Number	Inventor	Title	Filing Date
585,467	Koch, R. H.	Slurry Distributing System	Mar. 29, 1945
729,219	Koch, R. H.	Apparatus for Lining Hollow Bodies with Mortar	Feb. 18, 1947
22,375	Kurtz, R. W.	Centrifugal Casting Apparatus	Apr. 21, 1948