

Civil Action No. 5152

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,
PLAINTIFF.

v.

WESTINGHOUSE ELECTRIC & MANUFACTURING
COMPANY AND WESTINGHOUSE ELECTRIC
INTERNATIONAL COMPANY,
DEFENDANTS.

FINAL JUDGMENT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,
Plaintiff.

v.

WESTINGHOUSE ELECTRIC & MANUFACTURING
COMPANY AND WESTINGHOUSE ELECTRIC
INTERNATIONAL COMPANY,
Defendants.

CIVIL ACTION
NO. 5152

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on April 12, 1945, and the defendants herein having appeared and filed their answers to the Complaint denying the substantive allegations thereof; and the plaintiff and said defendants by their attorneys having severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without admission by any party in respect of any such issues;

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 as aforesaid of all the parties hereto,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

I.

The Court has jurisdiction of the subject matter herein and of all the parties hereto. The Complaint of April 12, 1945, states a cause of action against the defendants 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, and under Section 73 of the Act of Congress of August 27, 1894, entitled "An Act to Reduce Taxation, to

Provide Revenue for the Government, and for Other Purposes," commonly known as the Wilson Tariff Act, as amended.

II.

For the purposes of this Judgment:

(a) "Westinghouse" shall mean the defendant Westinghouse Electric & Manufacturing Company, which by change of name effective May 10, 1945, is now the Westinghouse Electric Corporation.

(b) "International" shall mean the defendant Westinghouse Electric International Company.

(c) "Electrical equipment" shall mean machines, apparatus, devices, circuits, material and processes relating to the generation, transmission, distribution or utilization of electric energy except electric lamps, radio and communications apparatus, cable, X-ray apparatus, elevators and certain other specialized apparatus. Electrical equipment includes generators, transformers and switchgear, essential for the generation and distribution of electric energy; motors of various types which serve as the sources of power for other industries; motors, magnets, switches, and heating elements for incorporation in other manufactured products; and electrical appliances such as fans and cooling or heating devices for domestic use.

(d) "Patents acquired from Siemens" shall mean any patents, patent applications, or rights to grant licenses under patents or patent applications, directed to electrical equipment and heretofore acquired by defendants from Siemens-Schuckertwerke A.G. or from Siemens & Halske A.G., named as co-conspirators in the Complaint, and shall include all reissues, divisions, continuations or extensions of said patents, and any patents which may issue upon said applications. A list of the patents acquired from Siemens and which defendants now own or control is attached hereto and marked Exhibit "A".

III.

The provisions of this Judgment applicable to any defendant shall apply to such defendant, its officers, directors, agents, employees, successors, assigns, subsidiaries, and all other persons acting under, through, or for such defendant.

IV.

The agreement dated November 10, 1934, between Siemens-Schuckertwerke A.G., Siemens & Halske A.G. and the defendants, Westinghouse and International, and any agreements amendatory thereof or supplemental thereto, to the extent not heretofore terminated, are hereby terminated, and the defendants are hereby enjoined and restrained from the further performance of any of the provisions of said agreement. This Article shall not be deemed to terminate any patent rights held by defendants upon the termination of said agreement.

V.

Each defendant is ordered and directed, within ninety (90) days after the date of the entry of this Judgment, to dedicate to the public any and all right, title and interest which it may have on the date of the entry of this Judgment in and to each of the patents listed in Exhibit "A" to this Judgment, such dedication to be effective as of the date of entry of this Judgment; and in order to enable anyone who desires to do so, to practice the inventions of such dedicated patents, defendants shall, to the extent necessary, continue to license upon reasonable terms any patents which they now own or control pursuant to the policy set forth in the letter attached hereto as Exhibit "B".

Each defendant is hereby enjoined and restrained from instituting or threatening to institute, or maintaining any suit, counterclaim or proceeding, judicial or administrative, for infringement, or to realize or collect damages or other compensation for infringement under or on account of any patent listed in Exhibit "A".

VI.

Defendant Westinghouse is hereby ordered and directed to make available for examination on reasonable terms at its plant at East Pittsburgh, Pennsylvania, to any applicant, such technical information received from Siemens-Schuckertwerke A.G. and Siemens & Halske A.G. under the agreement dated November 10, 1934, as defendant Westinghouse now has in its possession in its Foreign Engineering Department at East Pittsburgh, Pennsylvania, or may hereafter discover elsewhere in its organization. Such information shall be made available by defendant Westinghouse in the form in which it is presently maintained. Any such applicant shall be permitted by defendant Westinghouse to reproduce copies of any such information, at applicant's expense and as applicant may desire, provided that the applicant shall agree to return or replace all copies of such information taken for purposes of reproduction from the files of defendant Westinghouse.

VII.

Each defendant is hereby enjoined and restrained from entering into, adhering to, maintaining or furthering, directly or indirectly, any contract, agreement, understanding, plan or program with Siemens-Schuckertwerke A.G. or Siemens & Halske A.G. or any of their subsidiaries, successors, assigns, officers, agents or employees, to:

- (a) allocate or divide territories or markets for the production, sale or other distribution of electrical equipment;
- (b) exclude any person from or to restrain or limit any such person in the manufacture, use, distribution or sale of electrical equipment;
- (c) limit, restrain or prevent the importation into or exportation from the United States, its territories, or possessions, of electrical equipment;
- (d) refrain from competition or to leave any person free from competition in any territory, field or market in the manufacture,

use, distribution or sale of electrical equipment.

Nothing in the foregoing provisions of this Article VII shall be construed to prohibit, without more, licenses or conveyances of patent rights or technical information, whether on an exclusive basis or otherwise.

VIII.

For the purpose of securing compliance with this Judgment, 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 the principal office of either defendant, be permitted (1) reasonable 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 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 said defendant, who may have counsel present, regarding such matters, and upon request said defendants shall submit such written reports as might from time to time be reasonably necessary to the enforcement of this Judgment. No information obtained by the means provided in this Article VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of such Department, except in the course of legal proceedings in which the United States is a party for the purpose of securing compliance with this Judgment, or as otherwise required by law.

IX.

Jurisdiction is retained for the purpose of enabling any of the parties to this 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 Judgment, or the modification or termination of any of the provisions thereof, or the enforcement of compliance therewith and for the punishment of violations thereof.

s/ Forman
United States District Judge

We hereby consent to the entry of the foregoing Final Judgment:

For Plaintiff:

Stanley N. Barnes
Assistant Attorney General

Edwin H. Pewett

W. D. Kilgore, Jr.

Donald E. Van Koughnet

Grover C. Richman, Jr.

Attorneys for the United States of America.

For defendants:

Cravath, Swaine & Moore
by Donald C. Swatland a member
of the above firm

Stryker, Tams & Horner
by Josiah Stryker a member
of the above firm

Attorneys for the Defendants.

EXHIBIT "A"

WESTINGHOUSE PATENTS OBTAINED ON
SIEMENS INVENTIONS

<u>Patent No.</u>	<u>Inventor</u>	<u>Date Issued</u>
2,027,235	Hans Klemperer	1-7-36
2,030,127	von Issendorff	2-11-36
2,032,137	Lubcke	2-25-36
2,036,223	Lapple	4-7-36
2,036,307	Steenbeck, et al	4-7-36
2,039,071	Duffing	4-28-36
2,042,183	Lubcke	5-26-36
2,044,133	Stolz, et al	6-16-36
2,044,142	Wulsten	6-16-36
2,055,991	Werner	9-29-36
2,061,301	Duffing	11-17-36
Re-20,962	Koppelman, et al	11-24-36
2,066,938	Janetschke	1-5-37
2,067,648	Reher	1-12-37
2,067,673	Kesselring, et al	1-12-37
2,068,402	Duffing, et al	1-19-37
2,068,422	Lotz	1-19-37
2,071,805	von Issendorff	2-23-37
2,078,642	Stockmeyer	4-27-37
2,078,691	Schulze	4-27-37
2,080,612	Kesselring, et al	5-18-37
2,081,993	Gebhart, et al	6-1-37
2,092,095	Steenbeck	9-7-37
2,094,379	Schenkel	9-28-37
2,095,729	Beiersdorf	10-12-37
2,095,772	Steenbeck	10-12-37
2,103,774	Friedlander	12-28-37
2,103,786	Janetschke	12-28-37
2,103,794	Rampacher	12-28-37
2,103,950	Leukert	12-28-37
2,106,826	Bosch	2-1-38
2,106,832	Hubert Dransfeld	2-1-38
2,108,560	Kesselring	2-15-38
2,112,046	Puller, et al	3-22-38
2,112,083	Fouquet	3-22-38
2,114,835	Fouquet	4-19-38
2,117,900	Mirow	5-17-38
2,121,589	Espe	6-21-38
2,121,598	Kerschbaum, et al	6-21-38
2,121,603	Lotz	6-21-38
2,128,044	Grabner	8-23-38
2,130,866	Wolters	9-20-38
2,130,896	Neugebauer	9-20-38
2,130,903	Rudenberg	9-20-38
2,134,593	Wulsten	10-25-38
2,137,046	Fouquet	11-15-38
2,137,052	Janetschke	11-15-38
2,140,356	Gutmann	12-13-38
2,144,475	Wulsten	1-17-39
2,147,461	Schroeder	2-14-39
2,150,307	Wulsten	3-14-39
2,151,743	Chladek	3-28-39
2,151,753	Etzrodt	3-28-39
2,154,260	L. Brandenburger	4-11-39

<u>Patent No.</u>	<u>Inventor</u>	<u>Date Issued</u>
2,154,274	Curt Knappe, et al	4-11-39
2,154,279	P. Muller	4-11-39
2,154,287	Heinrich Schewe	4-11-39
2,155,090	Erwin Janetschke	4-18-39
2,157,922	Max Schwaiger	5-9-39
2,162,487	Albert Lotz	6-13-39
2,162,493	Eberhard Schutz	6-13-39
2,162,509	Wilhelm Leukert	6-13-39
2,162,533	Jergen von Issendorff	6-13-39
2,162,534	Paul Klein, et al	6-13-39
2,162,539	Joseph Rebhan, et al	6-13-39
2,165,041	Ludwig Filberich, et al	7-4-39
2,165,055	Wilhelm Kafka	7-4-39
2,172,197	Erich Friedlander	9-5-39
2,172,204	Heinrich Kann	9-5-39
2,173,489	Rudolf-Voigt	9-19-39
2,175,824	Rudolf Brey	10-10-39
2,175,841	Wilhelm Kafka, et al	10-10-39
2,175,860	Karl Waimann	10-10-39
2,175,920	Richard Schnarz	10-10-39
2,175,921	Richard Schnarz	10-10-39
2,179,283	Theodor Deeg	11-7-39
2,179,337	Wilhelm Leukert	11-7-39
2,179,353	Oskar Schmutz, et al	11-7-39
2,179,358	Robert Stix	11-7-39
2,181,321	Erich Friedlander, et al	11-28-39
2,182,628	Erwin Janetschke	12-5-39
2,182,640	Karl Pohlhausen	12-5-39
2,183,079	Hermann Kropp	12-12-39
2,184,764	Carl Theodor Buff	12-26-39
2,185,280	Karl Stuckardt, et al	1-2-40
2,186,207	Fritz Rampacher	1-9-40
2,186,211	Max Schwaiger	1-9-40
2,186,218	Gottfried Stolberg	1-9-40
2,186,244	Walter Hartel	1-9-40
2,187,418	Martin Doring	1-16-40
2,187,426	Carl Kuhnelt	1-16-40
2,189,353	Wolfgang Steinbauer, et al	2-6-40
2,189,615	Fritz Rampacher	2-6-40
2,189,617	Ernst Siebert, et al	2-6-40
2,192,059	Hans H. Willmann	2-27-40
2,193,598	Albert Lotz	3-12-40
2,196,409	Arno Belz	4-9-40
2,196,411	Fritz Geise	4-9-40
2,198,491	Hans Barthelt	4-23-40
2,205,208	Erwin Kubler	6-18-40
2,205,214	Wilhelm Leukert	6-18-40
2,205,221	Karl Seethaler	6-18-40
2,205,231	Max Steenbeck	6-18-40
2,208,342	Reinhold Reichmann	7-16-40
2,208,415	Seigfried Franck, et al	7-16-40
2,208,416	Erich Friedlander, et al	7-16-40
2,210,675	Hans Kother	8-6-40
2,210,688	Oskar Schmutz	8-6-40
2,210,694	Carl Vogel	8-6-40
2,214,610	Klaus Freudenhammer	9-10-40
2,217,268	August Folgmann	10-8-40
2,217,435	Hans Edler	10-8-40
2,217,457	Oskar Schmutz	10-8-40
2,217,460	Hans Trassl	10-8-40
2,217,462	Hans H. Willmann	10-8-40

<u>Patent No.</u>	<u>Inventor</u>	<u>Date Issued</u>
2,217,487	Gabriel Letsch	10-8-40
2,221,573	Werner Bruckmann	11-12-40
2,221,574	Wilhelm Chladek	11-12-40
2,221,614	Ernst Siebert	11-12-40
2,223,729	Albert Kleindienst, et al	12-3-40
2,224,664	Alfred Bierend	12-10-40
2,224,733	Herbert Konig, et al	12-10-40
2,224,755	Otto Werner	12-10-40
2,225,763	Ernst Bayha	12-24-40
2,228,077	Alfred Grabner	1-7-41
2,228,101	Hans H. Willmann	1-7-41
2,229,460	Erwin Kubler, et al	1-21-41
2,229,950	Otto Werner	1-28-41
2,230,869	Otto Neumann	2-4-41
2,231,683	Fritz Rampacher	2-11-41
2,231,708	Paul Duffing	2-11-41
2,231,723	Hans Jung, et al	2-11-41
2,233,605	Franz Gunther	3-4-41
2,234,275	Joseph Rebhan	3-11-41
2,234,361	Ernst Baumann	3-11-41
2,235,074	Fritz Kesselring	3-18-41
2,235,388	Gunther Scharowsky, et al	3-18-41
2,235,474	Max Bosch	3-18-41
2,235,903	Kurt Schonfelder	3-25-41
2,238,608	Ernst Siebert	4-15-41
2,238,611	Josef Tittel	4-15-41
2,239,554	Paul Duffing	4-22-41
2,239,641	Alfred Bierend	4-22-41
2,240,598	Richard Wilke	5-6-41
2,242,946	Johannes Falk	5-20-41
2,246,289	Siegfried Brockhaus	6-17-41
2,246,308	Erwin Kubler	6-17-41
2,246,324	Ernst Schroder	6-17-41
2,246,904	Hans Stackinger	6-24-41
2,247,201	Alfred Loos	6-24-41
2,248,929	Hans Adler	7-15-41
2,249,006	Fritz Kesselring, et al	7-15-41
2,252,488	Alfred Bierend	8-12-41
2,253,370	Otto Eisenschmid	8-19-41
2,253,390	Otto Muller	8-19-41
2,254,029	Wilhelm Chladek, et al	8-26-41
2,254,896	Theodor Kaukewitsch	9-2-41
2,254,899	Wilhelm Laubenheimer, et al	9-2-41
2,254,903	Lothar Mirow	9-2-41
2,254,917	Ernst Schroder	9-2-41
2,254,918	Max Schwaiger	9-2-41
2,254,941	Erich Friedlander	9-2-41
2,255,926	Dietrich Muller, et al	9-16-41
2,255,927	Max Huber, et al	9-16-41
2,258,136	August Folgmann	10-7-41
2,259,289	Wilhelm Blumentritt	10-14-41
2,259,313	Gabriel Letsch	10-14-41
2,259,321	Arno Pahl	10-14-41
2,261,661	Joseph Rebhan	11-4-41
2,261,667	Wilhelm Stroszeck	11-4-41
2,261,675	Hans Edler	11-4-41
2,261,676	Otto Eisenschmid	11-4-41
2,261,678	Erich Friedlander	11-4-41
2,261,685	Hans Jordan	11-4-41
2,261,686	Fritz Kesselring	11-4-41

<u>Patent No.</u>	<u>Inventor</u>	<u>Date Issued</u>
2,261,694	Walter Meenen	11-4-41
2,261,695	Willi Nerlich, et al	11-4-41
2,261,697	Paul Paschen, et al	11-4-41
2,261,699	Fritz Rampacher	11-4-41
2,261,701	Wolfgang Steinbauer, et al	11-4-41
2,261,702	Karl Tamele, et al	11-4-41
2,261,711	Joseph Behringer	11-4-41
2,261,712	Joseph Behringer	11-4-41
2,261,720	Paul Duffing, et al	11-4-41
2,261,721	Paul Duffing	11-4-41
2,261,725	Georg Hoppe	11-4-41
2,261,727	Erwin Kubler	11-4-41
2,261,733	Arno Pahl	11-4-41
2,270,404	Hermann Bitter	1-20-42
2,271,890	Joseph Rebhan	2-3-42
2,273,712	Emil Kottgen	2-17-42
2,280,973	Hermann Philippi	4-28-42
2,280,977	Reinhold Reichmann	4-28-42
2,280,987	Hans Trassl	4-28-42
2,282,219	Wilhelm Fries	5-5-42
2,285,634	Jurgen von Issendorff, et al	6-9-42
2,285,643	Hans Beirsdorf, et al	6-9-42
2,285,691	Johannes Wegener, et al	6-9-42
2,287,875	Othmar Grober	6-30-42
2,288,050	Hans Vatter	6-30-42
2,290,320	Paul Duffing	7-21-42
2,290,367	Gunther Bottinger, et al	7-21-42
2,290,516	Hans H. Willmann	7-21-42
2,290,683	Friedrich Gieffers	7-21-42
2,291,781	Herbert O. Wulff	8-4-42
2,292,187	Hans Willmann	8-4-42
2,293,407	Hans Schirrmeister	8-18-42
2,295,286	Eberhard Michelsen	9-8-42
2,297,472	Carl Hahn, et al	9-29-42
2,298,114	Walther Estorff	10-6-42
2,298,130	Erwin Janetschke	10-6-42
2,300,515	Ernst Ludwig	11-3-42
2,300,868	Gunther Bottinger	11-3-42
2,301,698	Hermann Harz, et al	11-10-42
2,301,752	Ernst Schulze	11-10-42
2,303,443	Paul Duffing, et al	12-1-42
2,303,505	Walter Schilling	12-1-42
2,306,263	Josef-Johann Gutbrod, et al	12-22-42
2,307,205	Wilhelm Ewald, et al	1-5-43
2,307,500	Friedrich Geise	1-5-43
2,310,131	Karl Tofflinger	2-2-43
2,310,145	Marcell Zuhlke	2-2-43
2,310,444	Ernst Kriebel	2-9-43
2,310,456	Willi Nerlich	2-9-43
2,310,470	Georg Soldner	2-9-43
2,310,792	Floris Kopplemann, et al	2-9-43
2,312,174	Werner Kaufmann	2-23-43
2,313,153	Werner Kaufmann	3-9-43
2,316,905	Ferdinand Waibel, et al	4-20-43
2,318,042	Karl Aschwanden	5-4-43
2,318,068	Richard Elsner, et al	5-4-43
2,318,279	Karl Aschwanden	5-4-43
2,320,959	Peter Weber	6-1-43
2,327,799	Werner Kaufmann, et al	8-24-43
2,333,547	Otto Neumann	11-2-43
2,337,833	Arno Pahl	12-28-43
2,340,083	Richard Schnarz	1-25-44
2,340,098	Marcell Zuhlke	1-25-44
2,343,376	Julius Horst	3-7-44
2,347,014	Hans H. Willmann	4-18-44

EXHIBIT "B"

20 May
1953

Attorney General
Department of Justice
Washington, D. C.

Attention: Mr. Stanley N. Darnes
Assistant Attorney General

Dear Sir: Subject: United States of America v. Westinghouse
Electric & Manufacturing Company, et al.
Civil Action 5152

In connection with the consent decree which has been negotiated with the Antitrust Division in the settlement of the above case, we wish to confirm our conversations with you relative to the "patents acquired from Siemens" as defined in the decree and the Westinghouse patent licensing policy.

A list of "patents acquired from Siemens" has been compiled and is attached to the decree as Exhibit "A." This is based upon an examination of its records by Westinghouse and to the best of our knowledge comprises all of such patents. Should any other patents falling within the definition be subsequently discovered, we shall so advise you and dedicate them to the public as contemplated by the decree.

We have not included any patents other than United States patents because neither Westinghouse nor Westinghouse Electric International Company owns or has the right to grant licenses under any such patents outside the United States.

It is the general policy of Westinghouse to grant licenses under its United States patents at reasonable royalty rates or for other reasonable consideration to any applicant. Such licenses are generally granted on the basis of individual negotiations, with the royalty rate or other consideration being determined by the individual factors involved in each case.

Exceptions to this general policy are made (a) with respect to basic or controlling patents and (b) patents covering inventions upon which large expenditures of time, effort or money have been made. Very frequently, categories (a) and (b) are one and the same. Even in these cases, Westinghouse usually grants licenses to qualified applicants.

In our judgment, none of the patents acquired from Siemens is basic or controlling. All have been the subject of licensing under the general policy outlined above since prior to World War II. They have been licensed with such other Westinghouse patents as may have been necessary to enable the licensee to practice the inventions covered thereby. Reasonable royalty rates have been charged.

Very truly yours,

sgd. E. V. Huggins
E. V. HUGGINS
Vice President