

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) CIVIL NO. 2565
)
 ALLEN-BRADLEY COMPANY;) FILED June 7, 1961
 STACKPOLE CARBON COMPANY;)
 SPEER CARBON COMPANY; and)
 INTERNATIONAL RESISTANCE CO.,)
)
 Defendants.)

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on January 19, 1961, the defendants signatory hereto having appeared herein, and the plaintiff and the defendants signatory hereto by their respective attorneys having severally consented to the entry of this Final Judgment without admission by any party in respect to any issue;

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

ORDERED, ADJUDGED AND DECREED as follows:

I

This Court has jurisdiction of the subject matter hereof and the parties signatory hereto, and the complaint states a claim against the defendants signatory hereto 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.

II

As used in this Final Judgment:

(A) "Person" means an individual, partnership, firm, association, corporation or any other legal entity;

(B) "Composition resistors" means insulated, fixed resistors with a rated resistance element consisting of a composition of carbon in an organic binder;

(C) "Military packaging" means those levels of packing and packaging composition resistors provided for in military specifications of standards for the Armed Forces of the United States of America, except insofar as such specifications call for customary commercial packaging.

III

The provisions of this Final Judgment applicable to any defendant shall apply also to its successors, assignees, subsidiaries, officers, directors, agents and employees, and to all other persons in active concert or participation with any defendant who receive actual notice of this Final Judgment by personal service or otherwise. This Final Judgment shall not apply to sales of composition resistors for use outside the United States of America, except for sales of such resistors in military packaging.

IV

Defendants signatory hereto are each enjoined and restrained from entering into, adhering to, maintaining, furthering or claiming any rights under any contract, agreement or understanding with any other manufacturer of composition resistors or a seller of such resistors who purchases from a manufacturer thereof, to:

(A) Eliminate or suppress unreasonably competition in the sale of composition resistors;

(B) Fix or maintain prices, terms or conditions for the sale of composition resistors to third persons;

(C) Submit non-competitive, collusive or rigged bids for supplying composition resistors to any customer; or

(D) Exchange any information concerning bids, prices or other terms or conditions for the sale of composition resistors prior to general publication to customers, except in connection with bona fide purchase or sales transactions.

V

Defendants signatory hereto are each ordered and directed within thirty (30) days following the entry of this Final Judgment to file with this Court, with a copy served upon plaintiff, an affidavit stating that the defendant prior to the entry of this Final Judgment and subsequent to September 1, 1960, has issued new price lists for one-half, one and two watt composition resistors in commercial packaging, which prices were independently determined.

VI

Each defendant signatory hereto is enjoined and restrained from:

(A) Publishing to or otherwise generally circulating among any other persons any lists containing prices, terms or conditions for the sale of composition resistors in military packaging; provided, however, that upon request by any actual or prospective purchaser, such defendant may state its prices for composition resistors in military packaging;

(B) Refusing to accord, to any purchaser from it who is engaged in military packaging of composition resistors, prices and terms for the sale of such resistors for military packaging

at least as favorable to such purchaser as those provided for by such defendant's then-current price list for sales of such resistors to original equipment manufacturers; provided, however, that this subsection shall not prevent differentials which (1) make only due allowance for differences in the cost of manufacture, sale or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered, or (2) are made to meet an equally low price of a competitor.

VII

Each of the defendants signatory hereto is ordered and directed annually for a period of five years from the date of entry of this Final Judgment to notify each Agency and Department of the plaintiff to which the defendant has, within the preceding year, submitted a sealed bid for any composition resistors, that such defendant has been ordered, and each such defendant is hereby so ordered, to submit upon request of such Agency or Department a statement in the form set forth in the Appendix hereto with each sealed bid for composition resistors submitted to such Agency or Department.

VIII

Defendants signatory hereto are each enjoined and restrained from communicating to any other manufacturer or seller of composition resistors prior to the official opening of a bid submitted to an Agency or Department of the plaintiff (a) the intention to submit or not to submit such a bid to such Agency or Department, (b) the fact that a bid has or has not been submitted, or (c) the contents of any bid submitted.

IX

Nothing in this Final Judgment shall be construed to prevent any defendant signatory hereto from exercising any right it may have pursuant to the Act of Congress of August 17, 1937, commonly called the Miller-Tydings Act, or the Act of Congress of July 14, 1952, commonly called the McGuire Act.

X

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant signatory hereto, made to its principal office, be permitted, subject to any legally recognized privilege and with the right of said defendant to have counsel present:

(A) Access, during office hours of such defendant, to such books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant, relating to any subject matters contained in this Final Judgment;

(B) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers or employees of defendant, who may have counsel present, regarding any such subject matters.

Upon such written request, such defendant shall submit such reports in writing with respect to the subject 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 permitted in this Section X 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 the plaintiff except in the course of legal proceedings in which the United States is a party for the purpose of securing compliance with this Final Judgment. If any such information is divulged to a duly authorized representative of the Executive Branch, outside the Department of Justice, such information shall be given after notice to the defendant and on the condition that it will not be revealed to any person outside of such representative's Department or Agency except where required by regulation or statute or pursuant to court process.

XI

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 any purpose and for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification or termination of any of the provisions thereof, and for the purpose of enabling the plaintiff to apply to this Court for the enforcement of compliance therewith and for the punishment of violations thereof.

Dated: June 7, 1961

/s/ Carl A. Weinman
United States District Judge

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

For the Plaintiff:

/s/ Lee Loevinger
Assistant Attorney General

/s/ Robert B. Hummel

/s/ William D. Kilgore, Jr.

/s/ Norman H. Seidler

/s/ Baddia J. Rashid

/s/ Lester P. Kauffman
Attorneys Department of Justice

/s/ Joseph Kinneray
United States Attorney

For the consenting Defendants

Spear Carbon Co., by its attorneys,
Donovan, Leisure, Newton & Irvine
/s/ James R. Withrow, Jr.

/s/ Jack McCann

Of counsel: /s/ William F. Rogers

International Resistance Co., by its attorneys,
Pickrel, Schaeffer & Ebeling
/s/ F. Thomas Green

Schnader, Harrison, Segal & Lewis
/s/ W. Bradley Ward

/s/ Edward W. Mullinix

Stackpole Carbon Co., by its attorneys,
Cahill, Gordon, Reindell & Ohl
/s/ John F. Sonnett

/s/ David Ingraham

Turner, Wells, Granzow & Spayd
/s/ Guy Wells

Allen Bradley Co.
/s/ James C. Mallien

/s/ Harry P. Jeffrey

A P P E N D I X

AFFIDAVIT

The undersigned hereby certify to their best knowledge and belief that:

(1) The bid to _____
(name of recipient of bid) dated _____
has been prepared by _____
(name of defendant) without collusion with any other seller of composition resistors, and

(2) The prices, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent of _____
(name of defendant), to any other seller of composition resistors and will not be communicated to any such seller prior to the official opening of said bid,

in violation of the Final Judgment in Civil No. 2565 entered by the United States District Court for the Southern District of Ohio on _____, 1961.

Dated: _____, _____

Signature of person responsible
for the preparation of the bid

Signature of person supervising
the above person, where feasible