

UNITED STATES v. KELLOGG TOASTED CORN
FLAKE CO.

In Equity No. 5570.

IN THE DISTRICT COURT OF THE UNITED STATES FOR
THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN
DIVISION.

UNITED STATES OF AMERICA, PETITIONER,

VS.

KELLOGG TOASTED CORN FLAKE COMPANY, WILL K. KEL-
LOGG, WILFRED C. KELLOGG, AND ANDREW ROSS,
DEFENDANTS.

ORDER

This cause came on to be heard at this term and was argued by counsel, and thereupon and upon consideration thereof, and by agreement of the parties thereto, it was *ordered, adjudged, and decreed* as follows, viz:

(1) That the plan of selling toasted corn flakes used and enforced by defendant Kellogg Toasted Corn Flake Company, its officers and agents, at the time of the filing of the petition herein and prior thereto, was in violation of the act of Congress of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies."

(2) That said defendant, Kellogg Toasted Corn Flake Company, its officers, agents, servants, and employees, and all persons acting under, through, or by it or in its behalf or claiming so to act, and said individual defendants Will K. Kellogg and Andrew Ross, and all persons

acting under, through, by, or in behalf of them or either of them or claiming so to act, be, and they hereby are, from and after the fifteenth day of October, 1915, perpetually enjoined, restrained, and prohibited, as follows:

(a) From requiring jobbers to enter into any agreement or understanding to resell toasted corn flakes purchased from defendants, at a price fixed by defendants; and from suggesting to said jobbers, in writing or otherwise, that if they fail or refuse to observe said fixed price they will be cut off from a further supply of said product.

(b) From exacting in any manner from retailers of toasted corn flakes any agreement or understanding that they shall sell the same at a price fixed by defendants; and from suggesting to said retailers, in writing or otherwise, that if they fail to refuse to observe said fixed price they will be cut off from further supply of said product.

(c) From packing or selling said toasted corn flakes in cartons or boxes having thereon the following notice, to wit:

This package and its contents are sold conditionally by us with the distinct understanding, which understanding is a condition of the sale, that the package and contents shall not be retailed, nor advertised, nor offered for sale at less than ten cents per package. Retailing the package at less than ten cents per package is a violation of the conditions of sale, and is an infringement on our patent rights, and renders the vendor liable to prosecution as an infringer.

KELLOGG TOASTED CORN FLAKE COMPANY,

Battle Creek, Michigan.

or any notice of similar character.

(3) That petitioner have and recover its costs from said defendants.

J. W. WARRINGTON,

Circuit Judge.

LOYAL E. KNAPPEN,

Circuit Judge.

ARTHUR J. TUTTLE,

District Judge.

Filed September 20, 1915.