

U. S. vs. TIMKEN-DETROIT AXLE COMPANY
IN THE DISTRICT COURT OF THE UNITED STATES FOR
THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Civil Action No 5642.

UNITED STATES OF AMERICA, PLAINTIFF,

VS.

TIMKEN-DETROIT AXLE COMPANY, DEFENDANT.

FINAL JUDGMENT

The complainant, the United States of America, having filed its complaint herein on March 25, 1946 the defendant having appeared and filed its answer to such complaint, denying the substantive allegations thereof, the parties hereto by their respective attorneys herein 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 to 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 the consent of all the parties hereto, it is hereby

ORDERED, ADJUDGED AND DECREED

I

That this Court has jurisdiction of the subject matter herein and of the parties hereto; that the complaint states a cause of action against the defendants under the act of Congress of July 2, 1890, c. 647, 26 Stat. 209, entitled "An Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies" and acts amendatory thereof and supplemental thereto.

II

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

(a) "Multiwheel unit" signifies an assembly of or any portion of an assembly of two tandem sets of transversely aligned wheels closely associated with other mechanisms to support a portion of the vehicle frame or load and thus form a part of a multiwheel road vehicle.

(b) "Patent" or "patent application" shall include continuations, renewals, reissues or divisions of any such patent or patent application.

III

The defendant, and each of its officers, directors, agents, employees, attorneys, successors, subsidiaries and assigns, and each person acting or claiming to act under, through or for them or any of them, is enjoined and restrained from:

(a) Instituting or threatening to institute, or maintaining any suit, counterclaim or proceeding, judicial or administrative, for infringement or to realize or collect charges, damages, compensation or royalties alleged to

have accrued prior to the date of the entry of this judgment under or on account of either (1) any of the United States Letters Patent listed in, or issued on any application listed in, Schedule A, attached hereto and made a part hereof, or under or on account of (2) any foreign patent corresponding to any United States Letters Patent or application listed in Schedule A, where such suit, counterclaim or proceeding under the foreign patent is based on the use or sale in, or the importation into, a foreign country of a product made in the United States.

(b) Conditioning or requiring any other person to condition, directly or indirectly, any license or immunity express or implied to practice any invention relating to multiwheel units or parts used therein claimed in any United States patent by the tying of any license or immunity under such patent to the purchase or securing of any service or part, product, or article from or through the defendant or from or through any particular or designated source.

(c) Discriminating or requiring any other person to discriminate, directly or indirectly, in the granting of any license or immunity express or implied to practice any invention claimed in any United States patent relating to multiwheel units or parts used therein upon the basis of whether any service or part, product or article is purchased or secured from or through the defendant or from or through any particular or designated source.

(d) Adhering to, carrying out, maintaining, enforcing, furthering, performing or renewing, directly or indirectly, the agreements listed in Schedule B, or any agreement which conditions any license or immunity under the patents, and patents issued on applications for patents, listed in Schedule A, upon the purchase or securing of parts, products, articles or services from the defendant or from or through any particular or designated source.

IV

The defendant, and each of its officers, directors, agents, employees, attorneys, successors, subsidiaries and as-

signs, and any person acting or claiming to act under, through or for them or any of them, insofar and to the extent that they or any of them now have or may acquire the right or power to do so, shall grant to any applicant making written request therefor a non-exclusive license, sub-license, or immunity, to manufacture, use and sell under any one or more of the United States Letters Patent and the patents issued under applications for United States Letters Patent, the patent numbers and application numbers of which are listed in Schedule A attached hereto and made a part hereof without any condition or restriction whatsoever, except that a reasonable non-discriminatory royalty may be charged and collected, and where such royalty is charged provision may be made for a verified statement of the basis for the royalty due and payable and the amount of royalty due and payable, and for the inspection of the books and records of the licensee by an independent auditor who may report to the defendant licensor the basis for the royalty due and payable and the amount of royalty due and no other information. The defendant shall include in each such license, sub-license or immunity, a non-exclusive grant of immunity from suit under any foreign patents or patents issued on foreign applications for patents, corresponding to the United States Letters Patent or applications for patents listed in Schedule A to import into and sell or use and to have imported, sold or used in any country products made in the United States.

V

For the purpose of securing compliance with this judgment authorized representatives of the Department of Justice shall, on written request of the Attorney General, or an Assistant Attorney General, be permitted, subject to any legally recognized privilege, (1) upon reasonable notice to the defendant, access, during the office hours of such defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such de-

fendant, relating to any matters contained in this judgment, and (2) without restraint or interference from the defendant, to interview officers or employees of the defendant, who may have counsel present, regarding any such matters, and upon such request said defendant shall submit such reports with respect to the disposition and licensing of patents relating to multiwheel units or parts used therein as may from time to time be appropriate for the purpose of enforcement of this judgment; provided, however, that information obtained by the means permitted in this paragraph shall not be divulged by any representatives of 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 for the purpose of securing compliance with this judgment in which the United States is a party or as otherwise required by law.

VI

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

/s/ ERNEST A. O'BRIEN

United States District Judge

Dated: August 14, 1947.

SCHEDULE A

PATENT NO.	DATE	PATENT NO.	DATE
Des. 59,342	Oct. 11, 1921	1,660,188	Feb. 21, 1928
59,728	Nov. 22, 1921	1,660,189	Feb. 21, 1928
59,729	Nov. 22, 1921	1,670,119	May 15, 1928
60,400	Feb. 14, 1922	1,692,891	Nov. 27, 1928
1,522,783	Jan. 13, 1925	1,703,536	Feb. 26, 1929
1,592,970	July 20, 1926	1,705,137	Mar. 12, 1929
1,644,023	Oct. 4, 1927	1,712,057	May 7, 1929

Patent No.	Date	Patent No.	Date
1,728,869	Sept. 17, 1929	1,866,637	July 12, 1932
1,736,826	Nov. 26, 1929	1,871,432	Aug. 9, 1932
1,738,212	Dec. 3, 1929	1,899,240	Feb. 28, 1933
1,739,355	Dec. 10, 1929	1,907,179	May 2, 1933
1,739,450	Dec. 10, 1929	1,912,308	May 20, 1933
1,744,320	Jan. 21, 1930	1,912,498	June 6, 1933
1,744,401	Jan. 21, 1930	1,913,799	June 13, 1933
1,745,431	Feb. 4, 1930	1,924,646	Aug. 29, 1933
1,745,432	Feb. 4, 1930	1,924,984	Aug. 29, 1933
1,745,433	Feb. 4, 1930	1,926,273	Sept. 12, 1933
1,747,580	Feb. 18, 1930	1,926,274	Sept. 12, 1933
1,747,902	Feb. 18, 1930	1,928,360	Oct. 3, 1933
1,750,399	Mar. 18, 1930	1,930,207	Oct. 10, 1933
1,763,767	June 17, 1930	1,930,208	Oct. 10, 1933
1,773,732	Aug. 26, 1930	1,935,667	Nov. 7, 1933
Re. 17,889	Dec. 2, 1930	1,933,674	Nov. 7, 1933
1,815,416	July 21, 1931	1,933,675	Nov. 7, 1933
1,816,981	Aug. 4, 1931	1,935,746	Nov. 21, 1933
1,818,902	Aug. 11, 1931	1,936,834	Nov. 28, 1933
1,825,194	Sept. 29, 1931	1,940,914	Dec. 26, 1933
1,845,674	Feb. 16, 1932	1,947,337	Feb. 13, 1934
1,847,348	Mar. 1, 1932	1,947,358	Feb. 13, 1934
1,851,198	Mar. 29, 1932	1,949,830	Mar. 6, 1934
1,857,248	May 10, 1932	1,975,292	Oct. 2, 1934
1,857,249	May 10, 1932	1,981,449	Nov. 20, 1934
1,860,470	May 31, 1932	1,981,593	Nov. 20, 1934
1,860,471	May 31, 1932	1,992,365	Feb. 26, 1935
1,863,974	June 21, 1932	2,006,800	July 2, 1935

Inventor	Patent Issued	Patent No.
Buckendale	Oct. 14, 1930	1,778,242
Buckendale and Pierce	Dec. 9, 1930	1,784,268
Alden	Feb. 24, 1931	1,794,099
Alden	June 30, 1931	1,811,837
Rockwell	Mar. 22, 1932	1,850,942
Porter	Apr. 26, 1932	1,855,868
Porter	Jan. 3, 1933	1,893,150
Kneese	May 2, 1933	1,906,613
Morgan	May 2, 1933	1,906,708
Alden	Nov. 21, 1933	1,935,602
Buckendale	Feb. 6, 1934	1,946,060
Hastings and Knowles	Oct. 2, 1934	1,975,208
Buckendale and Alden	Feb. 5, 1935	1,990,916
Alden	Apr. 2, 1935	1,996,138
Alden	Apr. 23, 1935	1,999,071
Alden and Buckendale	June 4, 1935	2,003,412
Keese	Mar. 10, 1936	2,033,246
Keese	Feb. 23, 1937	2,071,537
Alden	Apr. 27, 1937	2,078,521
Alden	Oct. 19, 1937	2,096,530
Buckendale	Aug. 8, 1939	2,168,970
Buckendale	Jan. 26, 1943	2,309,162
Keese	Mar. 23, 1943	2,314,833
Buckendale	June 13, 1944	2,351,001
Morgan	Sept. 17, 1946	2,497,675

Inventor	Applications Filed	Serial No.
Buckendale	Mar. 13, 1943	479,086
Buckendale	Apr. 7, 1944	530,023
Alden	Sept. 17, 1945	616,703
1,565,526	12-15-25	Templin Running Gear for Motor Vehicles
1,565,527	12-15-25	Templin Torque Neutralizing Mechanism
1,651,742	12- 6-27	Templin Running Gear for Motor Vehicles
1,665,865	4-10-28	Templin Motor Vehicle Driving Mechanism
1,691,742	11-13-28	Templin Running Gear for Motor Vehicles
1,695,259	12-11-28	Templin Running Gear for Motor Vehicles
1,779,393	10-21-30	Evans Truck for Motor Vehicles
1,846,284	2-23-32	Templin Running Gear for Motor Vehicles

and all continuations, renewals, reissues, or divisions of any of the foregoing patents or patent applications.

SCHEDULE B

SUB-LICENSEE	ORIGINAL AMENDED	LETTER AGREEMENT
Sub-Licensee	Original	Amended Letter Agreement
a. Langlois Brothers	12- 6-33	1-24-36
b. Six Wheels, Inc.	1-20-34	12- 4-34
c. F.A.B. Mfg. Co.	6- 6-34	1-24-36
		2-15-37
		5-26-37
d. Edwards Iron	6- 7-36	1-24-36
e. Guilder Engineering Co. (Now Hendrick)	1-11-38	1-24-36
f. Nelson-LeMoon (Now Federal LeMoon)	5-27-35	1-24-36
g. Available Truck Co.	2- 3-36	8-31-45
h. Liggett Spring and Axle	7-15-36	
i. Hendrickson	4-15-38	
j. Fruehauf Trailer Co.	6- 1-38	8-22-45
k. Thornton Tandem Co.	9- 1-38	