

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Briggs Manufacturing Company, Abingdon Potteries, Inc., John Douglas Company, and Republic Brass Company., U.S. District Court, E.D. Michigan, 1952-1953 Trade Cases ¶67,603, (Nov. 3, 1953)

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United States v. Briggs Manufacturing Company, Abingdon Potteries, Inc., John Douglas Company, and Republic Brass Company.

1952-1953 Trade Cases ¶67,603. U.S. District Court, E.D. Michigan, Southern Division. Civil Action No. 8398. Filed November 3, 1953. Case No. 952 in the Antitrust Division of the Department of Justice.

Clayton Antitrust Act and Sherman Antitrust Act

Consent Decree—Practices Enjoined—Tie-In Sales—Refusal To Sell—Plumbing Fixtures and Sanitary Brass Goods.—Manufacturers of plumbing supplies were enjoined from selling (1) plumbing fixtures on the condition that the purchaser shall purchase any sanitary brass goods from the manufacturers; (2) sanitary brass goods on the condition that the purchaser shall purchase any plumbing fixtures from the manufacturers; (3) plumbing fixtures on the condition that the purchaser (a) shall not purchase sanitary brass goods made by anyone other than the manufacturers, or (b) shall not use or deal in sanitary brass goods other than those made or sold by the manufacturers; (4) sanitary brass goods on the condition that the purchaser (a) shall not purchase plumbing fixtures made by anyone other than the manufacturers, or (b) shall not use or deal in plumbing fixtures other than those made or sold by the manufacturers. The manufacturers also were enjoined from refusing to sell plumbing fixtures, refusing to fill or ship, or discriminating in or delaying the filling or shipping of any orders for plumbing fixtures because the customer has not purchased, is not purchasing, or will not agree to purchase sanitary brass goods from the manufacturers, or has purchased or is purchasing sanitary brass goods other than those made or sold by the manufacturers. The decree contained a similar prohibition with respect to the refusal to sell sanitary brass goods.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General; and John W. Neville, James A. Broderick, William D. Kilgore, Jr., and Charles F. B. McAleer, Attorneys.

For the defendants: Yates G. Smith, and Beaumont, Smith and Harris, Detroit, Mich.

For an opinion of the U. S. District Court, Eastern District of Pennsylvania, see [1948-1949 Trade Cases ¶ 62,470](#).

Final Judgment

KOSCINSKI, District Judge [*In full text*]: Plaintiff, United States of America, having filed its complaint herein on October 15, 1948, defendants having appeared and filed their answers denying the substantive allegations thereof, and the plaintiff and defendants by their attorneys having consented to the entry of this Final Judgment, Now therefore, without any testimony or evidence having been taken herein and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

[*Clayton and Sherman Acts*]

The Court has jurisdiction of the subject matter herein and of the parties hereto. The complaint 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, and under Section 3 of the Act of Congress of October 15, 1914, commonly known as the Clayton Act.

II

[*Definitions*]

As used in this Final Judgment:

- (A) “Defendants” shall mean Briggs Manufacturing Company, Abingdon Potteries, Inc., John Douglas Company and Republic Brass Company, or any of them;
- (B) “Plumbing fixtures” shall mean plumbing articles made of vitreous china or pottery (such as lavatories, water closets and urinals) and plumbing articles made of iron or steel enamelware (such as bathtubs, lavatories, and sinks), and other like goods or any one or more items of such goods;
- (C) “Sanitary brass goods” shall mean bath and shower fittings (such as tub fillers, tub and shower fittings, drains and overflows), lavatory fittings (such as faucets, drains and combination fittings), and sink fittings (such as sink faucets, strainers and combination fittings), and other like goods, or any one or more items of such goods.

III

[*Applicability of Provisions*]

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

IV

[*Tie-In Practices Prohibited*]

Defendants are hereby jointly and severally enjoined and restrained from selling or attempting to sell, or making or adhering to any contract for the sale of:

- (A) Plumbing fixtures on the condition, express or implied, that the purchaser shall purchase any sanitary brass goods from the defendants, or
- (B) Sanitary brass goods on the condition, express or implied, that the purchaser shall purchase any plumbing fixtures from the defendants.

V

[*Sales Restricting Use of Other Products*]

Defendants are hereby jointly and severally enjoined and restrained from selling or attempting to sell, or making or adhering to any contract for the sale of:

- (A) Plumbing fixtures on the condition, express or implied, that the purchaser
 - (1) shall not purchase sanitary brass goods made or sold by anyone other than the defendants, or
 - (2) shall not use, deal in or sell sanitary brass goods other than those made or sold by the defendants;
- (B) Sanitary brass goods on the condition, express or implied, that the purchaser
 - (1) shall not purchase plumbing fixtures made or sold by anyone other than the defendants, or
 - (2) shall not use, deal in or sell plumbing fixtures other than those made or sold by the defendants.

VI

[*Refusal To Sell*]

Defendants are jointly and severally enjoined and restrained from:

(A) Refusing to sell plumbing fixtures or refusing to fill or ship, or discriminating in or delaying the filling or shipping of any orders for plumbing fixtures because the customer has not purchased, is not purchasing or will not agree to purchase sanitary brass goods from the defendants, or has purchased or is purchasing sanitary brass goods other than those made or sold by defendants;

(B) Refusing to sell sanitary brass goods or refusing to fill or ship, or discriminating in or delaying the filling or shipping of any orders for sanitary brass goods because the customer has not purchased, is not purchasing or will not agree to purchase plumbing fixtures from the defendants, or has purchased or is purchasing plumbing fixtures other than those made or sold by defendants.

VII

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment, and for no other purpose, 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 any defendant made to its principal office, and subject to any legally recognized privilege, be permitted (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 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 and employees of said defendant, who may have counsel present, regarding any such matters. For the purpose of securing compliance with this judgment any defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division and on reasonable notice to its principal office, shall submit such written reports with respect to any of the matters contained in this judgment as from time to time may be necessary for the purpose of enforcement of this judgment. No information obtained by the means provided in this Section VII 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 to which the United States is a party for the purpose of securing compliance with this judgment, or as otherwise required by law.

VIII

[*Jurisdiction Retained*]

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