

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Norma-Hoffmann Bearings Corporation., U.S. District Court, N.D. Ohio, 1952-1953 Trade Cases ¶67,523, (Jun. 26, 1953)

[Click to open document in a browser](#)

United States v. Norma-Hoffmann Bearings Corporation.

1952-1953 Trade Cases ¶67,523. U.S. District Court, N.D. Ohio. Civil Action No. 24216. Filed June 26, 1953. Case No. 867 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Consent Decrees—Practices Enjoined—Arrangements with Foreign Company.—A manufacturer of bearings was enjoined by a consent decree (1) from referring to a foreign company any order or inquiry from a prospective purchaser, (2) from referring to any affiliate of the foreign company not engaged in the manufacture of bearings any order or inquiry from a prospective purchaser unless the referral specifies that the order or inquiry be filled by bearings produced by the manufacturer or unless the manufacturer is unable to supply such bearings, (3) from agreeing with the foreign company or its affiliates that it will not appoint other distributors in the United Kingdom of Great Britain and Northern Ireland, or that the foreign company or its affiliates will not appoint other distributors in the United States and its possessions and territories, and (4) from refusing, upon the application of any person resident in the United Kingdom of Great Britain or Northern Ireland, to enter into an agreement with such person covering such territories for the distribution of bearings made by the manufacturer upon terms comparable to the terms extended by the manufacturer to any other distributor in said territory.

Consent Decrees—Practices Enjoined—Allocation of Territories and Restriction of Production.—A manufacturer of bearings was enjoined by a consent decree, with respect to bearings which may be the subject of import into or export from the United States, from entering into any plan with any person (except in certain instances) (1) to allocate territories or markets or to impose any territorial sales restrictions, (2) to refrain from producing, selling, or distributing or to refrain from competing in any market, (3) to prevent or restrict production, sale, or distribution or to exclude any other person from any market, and (4) to prevent or restrict the importation into or the exportation from the United States, its territories or possessions.

Consent Decrees —Practices Enjoined—Use of Trade-Mark.—A manufacturer of bearings was enjoined by a consent decree from using the trade-mark of a foreign company on bearings manufactured for sale by such manufacturer.

Consent Decrees—Practices Enjoined—Affiliations with Foreign Company.—A manufacturer of bearings was enjoined by a consent decree (1) from knowingly permitting any officer, director, or employee of a foreign company or its subsidiaries to serve as a director of it, and (2) from causing or authorizing any officer, director, or employee of it to serve as a director of the foreign company or its subsidiaries.

Consent Decrees—Specific Relief—Trade-Marks.—A manufacturer of bearings was ordered by a consent decree (1) to take all necessary steps to register and secure the right to use specified trade-marks and any other trade-marks (different from those used or owned by a foreign company) as to bearings to be used by it in the future in all foreign countries into which exports of bearings from the United States in the bona fide judgment of the manufacturer are or become commercially practicable, and (2) to take such reasonable steps as in the bona fide judgment of the manufacturer are or become commercially practicable to promote and develop export sales of bearings marked with a trade-mark referred to in (1) above. The manufacturer was enjoined from granting any exclusive rights to any person other than a wholly-owned subsidiary of it for any country in or to the trade-marks referred to in (1) above unless, at the same time, its whole business enterprise is transferred. The manufacturer also was ordered to reassign all right, title, and interest in a specified trade-mark to a foreign company.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General; Marcus A. Hollabaugh and Edwin H. Pewett, Trial Attorneys; and William D. Kilgore, Jr., Max Freeman, and William T. Jeter.

For the defendant: McCarter, English and Studer by James R. E. Ozias, of counsel, and Ray T. Miller by Creighton E. Miller.

Final Judgment

[*Consent to Entry of Decree*]

FREED, District Judge [*In full text*] : Plaintiff, United States of America, having filed its complaint herein on July 31, 1946; defendant, Norma-Hoffmann Bearings Corporation, having appeared and filed its answer to such complaint denying the substantive allegations thereof; the United States of America and Norma-Hoffmann Bearings Corporation, by their attorneys having severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law and without admission by any of the parties in respect to any such issue;

Now, therefore, before any testimony has been taken, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties, it is hereby Ordered, adjudged and decreed as follows:

I

[*Sherman Act Action*]

The Court has jurisdiction of the subject matter herein and of the parties hereto. The complaint alleges a cause of action against the defendant under Sections 1 and 3 of the Act of Congress of July 2, 1890, Chap. 647, 26 Stat. 209, as amended.

II

[*Definitions*]

As used in this Final Judgment:

- (A) "Norma-Hoffmann" shall mean defendant Norma-Hoffmann Bearings Corporation, a corporation incorporated under the laws of the State of New York, having a factory at Stamford, Connecticut;
- (B) "Hoffmann" shall mean Hoffmann Manufacturing Company, Ltd., a joint stock company, organized and existing under the laws of the United Kingdom, having a factory at Chelmsford, England;
- (C) "Bearings" shall mean each and all types of antifriction ball bearings, roller bearings, steel balls, steel rollers and accessories for and parts of such bearings;
- (D) "Person" shall mean an individual, partnership, firm, association, corporation or other business or legal entity.

III

[*Applicability of Decree*]

The provisions of this Final Judgment applicable to defendant Norma-Hoffmann shall apply to each of its subsidiaries, successors, assigns and nominees and to each of its officers, directors and agents and to any other person acting or claiming to act under, through or for said defendant.

IV

[*Contract and Trade-Mark*]

(A) Norma-Hoffmann is enjoined and restrained from enforcing, reviving, observing or carrying out, in whole or in part, any of the provisions of the agreement dated August 31, 1922, between Hoffmann and The Norma Company of America, a predecessor of Norma-Hoffmann, its successors and assigns, insofar as the said agreement affects the foreign commerce of the United States, its territories and possessions.

(B) Norma-Hoffmann is enjoined and restrained from using the “Hoffmann” trademark on bearings manufactured for sale by Norma-Hoffmann and ordered and directed to reassign all right, title and interest in the said trademark to Hoffmann.

V

[Allocation of Territories Enjoined]

Norma-Hoffmann is enjoined and restrained with respect to bearings which may be the subject of import into or export from the United States, its territories and possessions, from entering into, adhering to, maintaining or furthering any combination, conspiracy, contract, agreement, understanding, plan or program, directly or indirectly, with any person (except for the distribution or agency arrangements with Hoffmann not inconsistent with the provisions of Section VI (D), (E) and (F) hereof and lawful distributorship or agency arrangements with any person other than a manufacturer of bearings):

- (A) To allocate or divide territories, fields, markets or customers or to impose any territorial sales restriction upon the purchase or sale of bearings;
- (B) To refrain from producing, selling or distributing bearings or to refrain from competing in or from any market, territory, field or customer in the production, sale or distribution of bearings;
- (C) To prevent, limit or restrict the production, sale or distribution of bearings, or to exclude any other person from any market for bearings;
- (D) To prevent, limit or restrict the importation into or exportation from the United States, its territories or possessions, of bearings.

VI

[Practices Concerning Foreign Company Enjoined]

Norma-Hoffmann is enjoined and restrained from:

- (A) Referring to Hoffmann or to any manufacturing affiliate of Hoffmann any order or inquiry from a prospective purchaser for bearings produced by NormaHoffmann; this, however, shall not be deemed to prevent Norma-Hoffmann from informing a prospective purchaser, from whom it has received an order or inquiry for bearings which Norma-Hoffmann is unable to supply, that Hoffmann might be able to supply such bearings;
- (B) Referring to any Hoffmann affiliate, not engaged in the manufacture of bearings, any order or inquiry from a prospective purchaser for bearings produced by NormaHoffmann unless the referral specify that the order or inquiry be filled by bearings produced or to be produced by Norma-Hoffmann or unless Norma-Hoffmann is unable to supply such bearings;
- (C) Following or adhering, directly or indirectly, to any instructions, directions or requests from Hoffmann, which, if complied with, would be contrary to the provisions of this Final Judgment, or participating in any agreement, plan or program with Hoffmann contrary to any of the provisions of this Final Judgment;
- (D) Agreeing with Hoffmann or its affiliates that it will not appoint other distributors or agents in the United Kingdom of Great Britain and Northern Ireland for the sale and servicing of bearings made by Norma-Hoffmann;
- (E) Agreeing with Hoffmann or its affiliates that Hoffmann or its affiliates will not appoint other distributors or agents in the United States, its possessions and territories for the sale and servicing of bearings made by Hoffmann or its affiliates;
- (F) Refusing, upon application of any person resident in the United Kingdom of Great Britain or Northern Ireland and duly qualified to sell and service bearings made by Norma-Hoffmann to enter into an agreement with such person covering the United Kingdom of Great Britain and Northern Ireland for the sale, distribution and servicing of bearings made by Norma-Hoffmann upon terms comparable to the terms extended by Norma-Hoffmann to

any other distributor or agent for the sale, distribution and servicing in said territory of bearings made by Norma-Hoffmann.

VII

[*Trade-Mark Rights to Be Secured*]

(A) Norma-Hoffmann is ordered and directed:

- (1) To take all necessary steps to register and secure the right to use the trademarks “Norma” and “Norma-Hoffmann”, and any other trade-marks (different from those used or owned by Hoffmann) as to bearings to be used by it in the future, in all foreign countries into which exports of bearings from the United States in the bona fide judgment of Norma-Hoffmann are or become commercially practicable;
- (2) To take such reasonable steps as in the bona fide judgment of Norma-Hoffmann are or become commercially practicable to promote and develop export sales of bearings, marked with a trade-mark referred to in the foregoing paragraph (1).

(B) Norma-Hoffmann is enjoined and restrained from assigning or granting any exclusive rights to any person other than a wholly owned subsidiary of NormaHoffmann for any country in or to the trade-marks referred to in subsection (A) (1) of this Section VII unless, at the same time, its whole business enterprise is transferred.

VIII

[*Prohibited Directorships*]

Norma-Hoffmann is enjoined and restrained after ninety days from the date of entry of this Final Judgment, from:

- (A) Knowingly permitting any officer, director or employee of Hoffmann or its subsidiaries to serve as a director of NormaHoffmann;
- (B) Causing, authorizing or knowingly permitting any officer, director or employee of Norma-Hoffmann to serve as a director of Hoffmann or its subsidiaries.

IX

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final 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 Norma-Hoffmann, be permitted (1) access during the office hours of Norma-Hoffmann to all its books, ledgers, accounts, correspondence, memoranda and other of its records and documents in its possession or under its control relating to any matters contained in this Final Judgment; (2) subject to the reasonable convenience of the defendant and without restraint or interference from it, to interview officers or employees of Norma-Hoffmann, who may have counsel present, regarding any such matters; and, further, (3) upon such request, Norma-Hoffmann shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as may from time to time be reasonably necessary to the enforcement of this Final Judgment; provided, however, that no information obtained by any representative of the Department of Justice by the means provided in this Section IX shall be divulged 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 Final Judgment, or as otherwise required by law.

X

[*Jurisdiction Retained*]

Jurisdiction is retained for the purpose of enabling the United States of America or Norma-Hoffmann Bearings Corporation 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 Final Judgment, for the amendment or modification of any of the provisions thereof, or for the enforcement of compliance therewith or for the punishment of violations thereof.