

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. The Ohio Crankshaft Company and Muskegon Motor Specialties Company., U.S. District Court, N.D. Ohio, 1956 Trade Cases ¶68,329, (Apr. 18, 1956)

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United States v. The Ohio Crankshaft Company and Muskegon Motor Specialties Company.

1956 Trade Cases ¶68,329. U.S. District Court, N.D. Ohio, Eastern Division, Civil Action No. 28299. Filed April 18, 1956. Case No. 1100 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Price Fixing —Crankshafts.—A manufacturer of crankshafts was prohibited by a consent decree from entering into any understanding to fix or maintain prices or conditions for manufacturing or for sale of induction hardened crankshafts to or for third persons.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Exchange of Customer Names or Lists.—A manufacturer of crankshafts was prohibited by a consent decree from entering into any understanding to exchange names or lists or otherwise disclose the identity of customers or potential customers for induction hardened crankshafts or for manufacturing such crankshafts.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Allocation of Markets.—A manufacturer of crankshafts was prohibited by a consent decree from entering into any understanding to allocate or divide fields or markets for the manufacture or sale of induction hardened crankshafts.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Refusal to Deal.—A manufacturer of crankshafts was prohibited by a consent decree from entering into any understanding to refrain from manufacturing or selling any induction hardened crankshafts.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Tie-in Sales.—A manufacturer of induction hardened crankshafts was prohibited by a consent decree from conditioning the sale of induction hardening services upon the understanding that the manufacturer shall provide some or all of the machining service in connection with manufacturing such crankshafts.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Production and Sale Control.—A manufacturer of crankshafts was prohibited by a consent decree from limiting or restricting (1) any person in the use which may be made of any induction hardened crankshaft or of machines or equipment for induction hardening of crankshafts, or (2) the sale, lease, or other disposition of machines or equipment for induction hardening of crankshafts, except pursuant to any valid and lawful patent right.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Patents—Control of Licensing.—A manufacturer of crankshafts was prohibited by a consent decree from granting or receiving (1) any non-exclusive patent rights under any license, contract, agreement, or understanding which gives any licensee control over the number or scope of licenses issued or to be issued, or (2) any exclusive patent license which gives any licensee control over the granting of rights not possessed by the licensee, where any such patent rights or licenses relate to induction hardening of crankshafts or related machines or equipment.

Combinations and Conspiracies — Consent Decree —Practices Enjoined — Discriminatory Charges.—A manufacturer of crankshafts was prohibited by a consent decree from discriminating in charges for the induction hardening service on crankshafts as between customers for induction hardening only and customers for finished induction hardened crankshafts.

Department of Justice Enforcement and Procedure—Consent Decrees—Specific Relief —Manufacturing and Hardening of Crankshafts Ordered.—A manufacturer of crankshafts was ordered by a consent decree (1) to harden for any person crankshafts by inductive heat treatment which in the regular course of business it is capable of hardening, on a per piece, term, or fixed quantity basis, and (2) to manufacture for any person

finished induction hardened crankshafts within the capability of its plant facilities and personnel, without discrimination as to the filling of orders and at such prices and terms as it may from time to time lawfully establish.

Department of Justice Enforcement and Procedure—Consent Decrees—Limitations on Acceptance by the Government.—A consent decree provided that neither the entry nor the terms of the decree should in any manner be deemed to approve of a license agreement entered into between the defendants in the action, or to estop the Government from asserting disapproval of the license agreement or from initiating any action or seeking relief in connection with the agreement.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General, W. D. Kilgore, Jr., Marcus A. Hollabaugh, Robert B. Hummel, Frank B. Moore, Jr., and Lewis Bernstein.

For the defendant: Warren Daane for Muskegon Motor Specialties Co.

Final Judgment

JAMES C. CONNELL, District Judge [*In full text*]: Plaintiff, United States of America, having filed its complaint herein on June 22, 1951; defendant Muskegon Motor Specialties Company, having appeared and filed its answer denying the substantive allegations hereof and plaintiff and defendant Muskegon Motor Specialties Company, by their attorneys, having severally consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting evidence or an admission by defendant Muskegon Motor Specialties Company of any wrongful act;

Now, therefore, before any testimony has been taken herein, and 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

[*Sherman Act*]

This Court has jurisdiction of the subject matter herein and of the parties signatory hereto. The complaint states a claim against the defendant Muskegon Motor Specialties Company under Sections 1 and 2 of the Act of Congress dated July 2, 1890, entitled “An act to protect trade and commerce against unlawful restraints and monopolies,” commonly known as the Sherman Act.

II

[*Definitions*]

As used in this Final Judgment:

- (A) “Defendant” shall mean Muskegon Motor Specialties Company, a corporation organized and existing under the laws of the State of Delaware with its principal place of business at Jackson, Michigan;
- (B) “Crankshafts” shall mean steel shafts used in engines to convert the power of the piston strokes to a rotary motion and to transfer this motion and power to the transmissions;
- (C) “Induction hardened crankshafts” shall mean Crankshafts manufactured by rough machining, hardening by inductive heat treatment and precision machining;
- (D) “Manufacturing” shall mean the rough machining, hardening or precision machining of Crankshafts;
- (E) “Person” shall mean any individual, partnership, corporation, association, firm or any other business or legal entity.

III

[*Applicability of Decree*]

The provisions of this Final Judgment shall apply to the defendant and to each of its subsidiaries, successors, assigns, officers, agents, servants, employees and attorneys, and upon those Persons in action concert or participation with said defendant who receive actual notice of this Final Judgment by personal service or otherwise.

IV

[*Practices Prohibited*]

Defendant is enjoined and restrained from entering into, adhering to, maintaining or furthering, or claiming any rights under, any combination, conspiracy, contract, agreement, understanding, plan or program with any other Person to:

- (A) Refrain from Manufacturing or selling any Induction Hardened Crankshafts;
- (B) Determine, fix, maintain or adhere to the prices or other terms or conditions for Manufacturing, or for sale of Induction Hardened Crankshafts to or for third persons;
- (C) Exchange names or lists or otherwise disclose the identity of customers or potential customers for Induction Hardened Crankshafts or for Manufacturing thereof;
- (D) Allocate or divide fields, customers or markets for the sale of Induction Hardened Crankshafts or Manufacturing.

V

Defendant is enjoined and restrained from:

- (A) Conditioning the sale of induction hardening services upon the agreement or understanding that the defendant shall provide some or all of the machining service in connection with Manufacturing;
- (B) Limiting, hindering or restricting:
 - (1) any Person in the use which may be made of any Induction Hardened Crankshaft or of machines or equipment for induction hardening of Crankshafts, or
 - (2) the sale, lease or other disposition of machines or equipment for induction hardening of Crankshafts, except pursuant to any valid and lawful patent right;
- (C) Granting or receiving:
 - (1) any non-exclusive patent rights under any license, contract, agreement or understanding which gives any licensee control over the number or scope of licenses issued or to be issued, or
 - (2) any exclusive patent license which gives any licensee control over the granting of rights not possessed by the licensee,where any such patent rights or licenses relate to induction hardening of Crankshafts or machines or equipment therefor.

VI

[*Hardening of Crankshafts Ordered*]

(A) Defendant is ordered and directed:

- (1) To harden for any Person Crankshafts by inductive heat treatment which in the regular course of business it is capable of hardening, on a per piece, term or fixed quantity basis, and without discrimination as to the filling of orders and at such prices, terms and conditions as it may from time to time lawfully establish;

(2) To manufacture for any Person finished Induction Hardened Crankshafts within the capability of its plant facilities and personnel, and without discrimination as to the filling of orders and at such prices, terms and conditions as it may from time to time lawfully establish;

(B) Defendant is enjoined and restrained from discriminating in charges for the induction hardening service on Crankshafts as between customers for induction hardening only and customers for finished Induction Hardened Crankshafts.

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, 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 made to its principal office, be permitted, subject to any legally recognized privilege:

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

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

Upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, the defendant shall submit such reports in writing with respect to the 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 VII shall be divulged by any representative 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 in which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

VIII

[*Jurisdiction Retained*]

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final 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 Final Judgment, for the amendment or modification or termination of any of the provisions thereof, for the enforcement of compliance therewith and for the punishment of violations thereof.

IX

[*Disapproval of License Agreement Not Barred*]

Neither the entry nor the terms of this Final Judgment shall in any manner be deemed:

(A) To approve of the license agreement dated January 16, 1956 entered into between the defendant and the Ohio Crankshaft Company;

(B) To stop the plaintiff from hereafter asserting disapproval of said agreement or from initiating any action or seeking relief in connection therewith.