

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. The American MonoRail Company., U.S. District Court, N.D. Ohio, 1955 Trade Cases ¶68,041, (May 5, 1955)

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

United States v. The American MonoRail Company.

1955 Trade Cases ¶68,041. U.S. District Court, N.D. Ohio, Eastern Division Civil Action No. 31799. Filed May 5, 1955. Case No. 1231 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Patent Practices—Overhead Handling Equipment and Cleaning Equipment.—A manufacturer of overhead handling equipment and cleaning equipment was enjoined by a consent decree from entering into any agreement to (1) refuse to grant to any person a license under any patent relating to such equipment, (2) refuse to furnish to any person any technological data used by the manufacturer in the manufacture of such equipment, and (3) grant to any person a license under any patent relating to such equipment upon terms which are preferential or discriminatory for or against any other licensee under the same patent.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Allocation of Markets.—A manufacturer of overhead handling equipment and cleaning equipment was enjoined by a consent decree from entering into any agreement to (1) allocate markets for the manufacture, sale, or distribution of such equipment, (2) refrain from manufacturing, selling, or distributing such equipment in any market, and (3) refrain from competition in the manufacture, sale, or distribution of such equipment.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Acquisitions of Stock.—Under the terms of a consent decree, a domestic manufacturer of overhead handling equipment and cleaning equipment was enjoined from acquiring any financial interest in, or capital stock of, a British company which would increase the proportion of its equity or participation in the British company beyond that existing on February 1, 1955.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Export and Import Control.—A manufacturer of overhead handling equipment and cleaning equipment was enjoined by a consent decree from restricting or preventing any person from exporting from, or importing into, the United States any such equipment.

Combinations and Conspiracies—Consent Decree—Practices Enjoined—Interlocking Personnel.—A manufacturer of overhead handling equipment and cleaning equipment was enjoined by a consent decree from knowingly permitting any of its officers, directors, agents, or employees to serve at the same time as an officer, director, agent, or employee of any other person engaged in the manufacture, sale, or distribution of overhead handling equipment or cleaning equipment, except a person of whose stock 51 per cent or more is owned by the defendant manufacturer.

For the plaintiff: Stanley N. Barnes, Assistant Attorney General; Robert B. Hummel, Trial Attorney; Baddia J. Rashid, Special Assistant to the Attorney General; Sumner Canary, United States Attorney; William D. Kilgore, Jr., Harry N. Burgess, Alfred Karsted and Bernard Manning, Attorneys.

For the defendant: James A. Farrell.

Final Judgment

CHARLES J. MCNAMEE, District Judge [*In full text*]: Plaintiff, United States of America, having filed its complaint herein on the fifth day of May, 1955, and defendant, The American MonoRail Company, by its attorneys, having appeared herein, and plaintiff and said defendant having severally consented to the making and entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without admission in respect to any issue:

©2018 CCH Incorporated and its affiliates and licensors. All rights reserved.

Subject to Terms & Conditions: http://researchhelp.cch.com/License_Agreement.htm

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 hereto, it is hereby

Ordered, Adjudged and Decreed as follows:

I

[*Sherman Act*]

This Court has jurisdiction of the subject matter hereof and of the parties hereto. The complaint states a cause of action against defendant The American MonoRail Company 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," as amended, commonly known as the Sherman Act.

II

[*Definitions*]

As used in this Final Judgment:

- (A) "Overhead handling equipment" means any mechanical apparatus used in industrial or other plants to convey materials above working floor areas, and to perform the accompanying hoisting and lowering operations;
- (B) "Cleaning equipment" means any mechanical apparatus used to prevent the accumulation of lint in textile mills, particularly on spinning frames or looms;
- (C) "Person" means any individual, partnership, firm, corporation, association, trustee or any other business or legal entity;
- (D) "Manufacturer" means any person engaged in the manufacture of overhead handling equipment or cleaning equipment;
- (E) "Defendant" means the defendant The American MonoRail Company.

III

[*Applicability of Judgment*]

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

IV

[*Termination of Agreements— Compliance*]

- (A) Defendant is ordered and directed, forthwith, to take such steps as may be necessary to cancel its agreements with Dodds Investments, Limited, dated March 9, 1951 and with British MonoRail Company, dated August 7, 1951, and all amendments and modifications thereof, and all supplements thereto;
- (B) Defendant is enjoined and restrained from, directly or indirectly, renewing, maintaining, adhering to, or enforcing either of said contracts, or any amendment or modification thereof, or supplement thereto;
- (C) Defendant is ordered and directed to file with this Court within ninety (90) days after the date of the entry of this Final Judgment a report setting forth the fact and manner of its compliance with subsection (A) of this Section, and to serve a copy of such report upon the Attorney General or the Assistant Attorney General in charge of the Antitrust Division.

V

[*Agreements Prohibited*]

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

- (A) Allocate or divide territories or markets for the manufacture, sale or distribution of overhead handling equipment or cleaning equipment;
- (B) Refrain from manufacturing, selling or distributing overhead handling equipment or cleaning equipment in any territory or market;
- (C) Refrain from competition or leave any other person free from competition in the manufacture, sale or distribution of overhead handling equipment or cleaning equipment;
- (D) Refuse to grant to any person a license under any United States Letters Patent owned or controlled by defendant relating to the manufacture, sale or distribution of overhead handling equipment or cleaning equipment;
- (E) Refuse to furnish to any person any technological data or information, or copies of any plans, specifications or drawings, used by defendant in the manufacture of overhead handling equipment or cleaning equipment;
- (F) Hinder, restrict, limit or prevent the importation into, or exportation from, the United States of any overhead handling equipment or cleaning equipment;
- (G) Grant to any person a license or licenses under any United States Letters Patent relating to overhead handling equipment or cleaning equipment upon terms or conditions which are preferential or discriminatory for or against any other licensee or applicant for a license under the same patent or patents.

VI

[*Exports, Imports, Acquisitions, and Interlocking Personnel*]

Defendant is enjoined and restrained from:

- (A) Hindering, restricting, or preventing, or attempting to hinder, restrict, or prevent any person from exporting from, or importing into, the United States any overhead handling-equipment, or cleaning equipment;
- (B) Acquiring, by purchase, lease or otherwise, any financial interest in, or any of the capital stock of, British MonoRail Company, or any successor or assignee thereof which would increase the proportion of its equity or participation in such company beyond that existing on February 1, 1955. Nothing in this Final Judgment shall be construed so as to require defendant to divest itself of any of the shares of stock of British MonoRail Company owned or controlled by it on February 1, 1955;
- (C) Knowingly permitting any of its officers, directors, agents, servants or employees to serve, at the same time as an officer,, director, agent, servant or employee of any other person engaged in the manufacture, sale or distribution of overhead handling equipment or cleaning equipment, except a person 51% or more of whose stock is owned by defendant The American MonoRail Company.

VII

[*Permissive Provision*]

The provisions of the foregoing Sections V or VI of this Final Judgment shall not be construed so as to prohibit the defendant from appointing any person except a manufacturer as its agent in any territory for the sale or distribution of overhead handling equipment or cleaning equipment.

VIII

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment and for no other purpose, and subject to any legally recognized privilege, 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 defendant made to its principal office, be permitted (1) 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 of the subject matters contained in this Final Judgment, and (2) subject to the reasonable convenience of the defendant and without restraint or interference from it to interview officers or employees of the defendant who may have counsel present, regarding any such matters; and upon such request the defendant shall submit such reports in writing to the Department of Justice with respect to 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 provided in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department except in the course of legal proceedings to which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

IX

[*Jurisdiction Retained*]

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