

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,) Civil No. 8541
)
 v.) Entered: November 9, 1964
)
 THE A P PARTS CORPORATION)
 and GOERLICH'S, INC.,)
)
 Defendants.)

FINAL JUDGMENT

The plaintiff, United States of America, having filed its Complaint herein on November 10, 1960, and defendants, The A P Parts Corp., and Goerlich's, Inc., having appeared herein and having filed their answers to said Complaint denying the substantive allegations thereof, and the plaintiff and the defendants by their respective 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 admission by defendants in respect of any such issue;

NOW, THEREFORE, before any testimony or evidence has 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

This Court has jurisdiction of the subject matter herein and of the parties hereto. The Complaint states a claim for relief 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, as amended, and Section 3 of the Act of Congress of October 15, 1914, as amended, entitled "An act to supplement existing laws against unlawful restraints and monopolies and for other purposes," commonly known as the Clayton Act.

II

As used in this Final Judgment:

(A) "Automotive exhaust systems and parts" means automotive exhaust systems used on passenger automobiles and light trucks and the principal parts of such systems: mufflers, exhaust pipes, and tail pipes;

(B) "Distributor" means a wholesaler engaged in the business of purchasing automotive parts from manufacturers for resale to jobbers, and, in some instances, also to retailers;

(C) "Jobber" means a wholesaler engaged in the business of purchasing automotive parts from distributors, and, in some instances, from manufacturers, for resale to retailers.

III

The provisions of this Final Judgment shall apply to the defendants and to each of their subsidiaries, successors, officers, directors, employees, and agents, and to those persons in active concert or participation with either defendant who receive actual notice of this Final Judgment by personal service or otherwise. The provisions of this Final Judgment are not applicable to the foreign commerce of the United States.

IV

The defendants are each enjoined and restrained from selling or contracting to sell any automotive exhaust system parts to any distributor or jobber upon the condition, agreement, or understanding that the purchaser shall not deal in automotive exhaust system parts

manufactured by any person other than the defendants.

V

(A) The defendants are directed within forty-five (45) days after the entry of this Final Judgment, to mail a copy thereof to each of their direct customers and to each of the franchised jobbers located within the United States.

(B) The defendants are ordered and directed to file with this Court, and to serve upon the plaintiff, within sixty (60) days after the entry of this Final Judgment, a report of their compliance with subsection (A) of this Section V.

VI

For the purpose of securing compliance with this Final Judgment, 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 a defendant made to its principal office, be permitted:

- (1) Reasonable 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 the defendant which relate to any matters contained in this Final Judgment; and
- (2) Subject to the reasonable convenience of such 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 for the enforcement of this Final Judgment.

No information obtained by the means provided in this Section VI shall be divulged by any representative of the Department of Justice to any person, other than a duly authorized representative of the Executive Branch of plaintiff, 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.

VII

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 of any of the provisions thereof, the enforcement of compliance therewith and for the punishment of violations thereof.

Dated: November 9, 1964

Frank J. Battisti

United States District Judge