WILLIAM C. HOOK,
Presiding Judge.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF MISSOURI.

In Equity No. 4489.

UNITED STATES OF AMERICA, PETITIONER,

VS.

UNITED SHOE MACHINERY COMPANY ET ALS, DEFENDANTS.

Term, 1920.

This cause came on to be heard at this term, and was argued by counsel: and thereupon and upon consideration thereof, it is ORDERED, ADJUDGED AND DECREED:

1. That the defendants, United Shoe Machinery Company of Maine, United Shoe Machinery Corporation, United Shoe Machinery Company of New Jersey, and Louis A. Coolidge, Harold G. Donham, Edward N. Chase, Edward P. Hurd, George W. Brown, George E. Keith, John H. Hanan, Edmund LeB. Gardner, Joseph C. Kilham, Charles G. Rice, John H. Connor, Alfred R. Turner, Samuel Weil and William Woodward, as directors and officers of their codefendant corporation, together with the officers, directors, agents and employees of each of them, are, each and all, hereby forever restrained and enjoined from making any lease of their machinery under which they shall hereafter lease, rent, or otherwise put out machinery for use by shoe manufacturers, which in terms of like tenor or effect contain the following terms, clauses and conditions, and from enforcing any such provisions in leases made by them since October 15, 1914:

(a) The lease machinery shall not, nor shall any part thereof, be used in the manufacture or preparation of any welted boots, shoes, or other footwear, or portions thereof, which have been or shall be welted in whole or in part or the soles in whole or in part stitched by the aid of any welt-sewing or sole-stitching machinery not held by the lessee under lease from the lessor, or in the manufacture or preparation of any turned boots, shoes or other footwear or portions thereof the soles of which have been or shall be in whole or in part attached to their uppers by the aid of any turn-sewing machinery not held by the lessee under lease from the lessor, or in the manufacture of any boots, shoes or other footwear which have been or shall be in whole or in part pulled over, slugged, heel seat nailed or otherwise partly made by the aid of any pulling-over or "metallic" machinery not held by the lessee under lease from the lessor.

(b) If at any time the lessee shall fail or cease to use exclusively lasting machinery held by him under

lease from the lessor for lasting all boots, shoes and other footwear made by or for him which are lasted by the aid of machinery, r shall fail or cease to use exclusively tacking mechanisms and appliances held by him under lease from the lessor for doing all work in the manufacture of all boots, shoes and other footwear made by or for him which is done by the aid of tacking mechanisms and appliances, the lessor, although it may have waived or ignored prior instances of such failure or cessation, may, at its option, terminate forthwith, by notice in writing, any or all leases or licenses of lasting machines, lasting machinery, lasting mechanisms or lasting devices then existing between the lessor and the lessee, whether as the result of assignment to the lessor or otherwise; and the possession of and full right to and control of all lasting machines, lasting machinery and lasting mechanisms shall thereupon revest in the lessor free from all claims and demands whatsoever.

(c) The lessee shall also purchase from the lessor exclusively, at the prices from time to time established by the lessor, all supplies, including string nails, tack strips and other fastening material used in connection with the leased machinery.

(d) 5. The leased machinery shall be used only in the manufacture or preparation of reinforced insoles which embody the inventions patented in Letters Patent of the United States of America No. 849,245, dated April 2, 1907, owned by the lessor, for use in welted boots, shoes and other footwear known in the trade as "Goodyear welts," which have been or are to be welted wholly by Goodyear Welt and Turn Shoe Machines or Goodyear Universal Inseam Sewing Machines held by the lessee under lease from the lessor, and the soles of which have been or are to be attached to their welts wholly by Goodyear Outsole Rapid Lockstitch Machines held by the Lessee under lease from the lessor, or for use as insoles or soles of turned boots, shoes or other footwear known in the trade as "Goodyear turns," the soles of which have been or are to be attached to their uppers by Goodyear Welt and Turn Shoe Machines or Goodyear Universal Inseam Sewing Machines held by the lessee under lease from the lessor. The auxiliary machinery hereby leased shall be used only in the manufacture or preparation of said patented insoles (or soles) which have been or are to be reinforced wholly by an Economy Insole Reinforcing Machine hereby leased or held by the lessee under other lease and license from the lessor.

6. The lessee is hereby licensed under Letters Patent of the United States No. 849,245, dated April 2, 1907, to manufacture by the use of the principal machinery hereby leased during the continuance in force of this lease and license the patented insoles covered by said Letters Patent and to use such patented insoles so made by the lessee in the manufacture of welted or turned boots, shoes or other footwear which have been or are to be manufactured as provided in article five hereof.

Provided that nothing herein contained shall prevent defendants from granting lawful licenses under the Letters Patent hereinbefore mentioned.

(e) In case the lessee has more work of the kind which can be performed by any of the machines belonging to the metallic department of the lessor than the capacity of the metallic machinery which he has under lease from the lessor will permit, then the lessee shall either take from the lessor, under a like lease and agreement, sufficient additional machinery to perform the work, or in case the lessee does not thus lease additional metallic machinery from the lessor, then the lessor may, if it so elects, cancel forthwith this lease and any other lease of metallic machinery then in force between the lessor and the lessee, whether as the result of assignment, or otherwise.

(f) But if any breach or default shall be made in the observance of any one or more of the conditions herein contained or contained in any other lease or license agreement subsisting between the lessor and the lessee, whether as the result of assignment to the

lessor or otherwise and expressed to be obligatory upon the lessee, the lessor shall have the right by notice in writing to the lessee to terminate forthwith any or all leases of or licenses to use machinery then in force between the lessor and the lessee, whether as the result of assignment to the lessor or otherwise, and this notwithstanding that previous breaches or defaults may have been unnoticed, waived or condoned by or on behalf of the lessor.

Except that the right is reserved by said clause to cancel a lease for a breach or default of a condition contained in that particular lease not found unlawful in this action.

(g) The lessee shall pay to the lessor throughout the full term of this agreement the respective amounts set forth in the following schedule in respect to each pair of welted boots, shoes or other footwear, or portions thereof, manufactured or prepared by or for the lessee, which shall have been welted in whole or in part or the soles of which shall have been in whole or in part attached to welts by the use of any welting or stitching or sewing machinery, and in respect to each pair of "turned" boots, shoes, or other footwear, or portions thereof, manufactured or prepared by or for the lessee, the soles of which shall have been sewed or attached to their uppers in whole or in part by the use of any sewing or stitching machinery.

But in lieu thereof the defendants are not enjoined from inserting in form substance the following conditions:

"The lessee shall pay to the lessor throughout the full term of this agreement the respective amounts set forth in the following schedule in respect to each pair of welted boots, shoes or other footwear, or portions thereof, manufactured or prepared by or for the lessee which shall have been welted or the soles of which shall have been attached to welts by the use of any welting, stitching or sewing machinery, and in respect to each pair of "turned" boots, shoes or other footwear, or portions thereof, manufactured or prepared by or for the lessee, the soles of which shall have been sewed or attached to their uppers by the use of any sewing or stitching machinery. But this is limited to the machines mentioned in this paragraph which shall be leased from the defendants."

(h) The licensee, until such time as he shall have redelivered all of said machinery to the United Company, as hereinafter provided, shall pay to the United Company the sum of one-half of one cent (½c.) in respect to each and every pair of boots, shoes or other footwear, or portions thereof, manufactured or prepared in said factory or in any factory to which any of the said machinery shall be removed which have been pulled over in any way, whether wholly or in part, by the aid of machinery, whether or not of the United Company; and the licensee shall also pay to the United Company in respect to each pair of boots, shoes, or other footwear, or portions thereof, in the manufacture or preparation of which any machine hereby leased is used, the sum of one-quarter of one cent (¼c.) for each machine so used; provided, however, that the total of the payments required to be made under this article hereof or under the corresponding article of any other pulling-over department lease or license agreement or agreements heretofore executed between the licensee and the United Company shall not exceed such amount as shall make the total of such payments for such factory and of the payments for such factory required to be made under the corresponding article of any lease or license agreement or agreements between the licensee and the United Company covering lasting machines equal to a payment in respect to the total number of pairs of footwear made in whole or in part in such factory at the following rates, viz:

In respect to all footwear lasted machines held by the licensee under lease or license agreement from the United Company an amount for each pair three-fourths (¾) of one cent in excess of the amount required to be paid under the terms of the lease or license agreements covering such lasting machines.

In respect to all footwear lasted by machines held by held by the licensee under lease or license agreement from the United Company one and three-fourths (1¾) cents for each pair of children's (sizes 1 to 10½, inclusive) footwear and two (2) cents for each pair of all other kinds, excepting alone that turned footwear in the manufacture of which no lasting machine shall be used shall in such computation be included at the rate of three-fourths (¾) of one cent per pair only.

But the defendants are not enjoined hereby from inserting in form or substance the following conditions in their leases:

"The licensee, until such time as he shall have redelivered all of said machinery to the United Company, as hereinafter provided, shall pay to the United Company the sum of one-half of one cent (½c.) in respect to each and every pair of boots, shoes or other footwear, or portions thereof, manufactured or prepared in said factory or in any factory to which any of the said machinery shall be removed which have been pulled over by the aid of the leased machinery of the United Company; and the licensee shall also pay to the United Company in respect to each pair of boots, shoes or other footwear, or portions thereof, in the manufacture or preparation of which any machine hereby leased is used, the sum of one-quarter of one cent (¼c.) for each machine so used."

(i) The licensee shall pay to the United Company, in accordance with the following "Schedule of payments," in respect to each pair of footwear made in said factory or in any factory to which any of the said machinery shall be removed, in the manufacture of which any one or more of the operations of the kinds which can be performed by the machines of the metallic department of the United Company or any one of them is performed by machinery, whether performed by machinery of the United Company or by other machines, viz:

Schedule of payments

	Per Pair
For each pair of turned footwear in which no metallic fastening machine is used for attaching sole	½ cent
For each pair of welted or slip soled or McKay sewed footwear in which no metallic fastening is used for attaching either a welt, slip sole or outsole	1 cent
For each pair of footwear the outsoles of which are attached by metallic fastenings	3 cents
For each pair of footwear of all other kinds	2 cents

Excepting, however, that in the case of each pair of footwear in which all such metallic operations as are preformed by machinery in the manufacture thereof are performed by metallic department machinery of the United Company, held by the licensee under lease or license agreement from the United Company, and in which all of the metallic materials inserted by such machinery are obtained from the United Company at the prices from time to time established by the United Company (which prices include not only the prices for the materials themselves but also an additional amount as royalty for the use of the machines by which the same are inserted), such payment in accordance with the foregoing "Schedule of payments" shall not be required to be made.

But the defendants are not enjoined from inserting in form or substance the following conditions:

"The licensee shall pay to the United Company such prices as may be fixed 'in respect to each pair of footwear made in said factory, or in any factory to which any of the said machinery shall be removed, in the manufacture of which any one or more of the operations is performed by machines of the metallic department of the United Company,' provided such prices do

not constitute an unlawful rebate and are not discriminatory within the terms of this decree."

(j) The lessee, as rent and royalty for the leased machinery, shall purchase exclusively of the lessor all the fastening material used by him in connection with the leased machinery, and shall pay the lessor in cash on delivery the regular and uniform prices therefor as established from time to time by the lessor, which shall not be more than ten (10) per cent in excess of the prices to be established from time to time by the lessor for like fastening material to be used in its metallic department machinery by lessees who shall agree not to use the metallic department machinery leased to them in the manufacture of boots or shoes which are lasted on machines other than those leased from the lessor, or of welted boots or shoes which are not welted or stitched on welt sewing and sole stitching machines leased from the lessor or of turned shoes the soles of which are not attached by turn sewing machines leased from the lessor.

But the prohibitions of this decree shall be held to apply only to leases covering shoe machinery where such machinery is shipped from one state to the user, or to his factory for his use, in a different state, in the course of or as a part of the transaction between the lessor and the lessee resulting in the making of the lease.

The provisions of the Act of Congress of October 15, 1914, entitled, "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," and the provisions of this decree and injunction do not apply to provisions of defendants' leases issued prior to October 15, 1914.

The injunction hereby ordered is suspended for six months to give the defendants an opportunity to move the Supreme Court of the United States for a supersedeas suspending the injunction until the final decision of the case on appeal, with the right to move before the District Court for a further suspension of the injunction if no action is taken by the Supreme Court.

It is FURTHER ADJUDGED AND DECREED that the petitioner pay one-half (½) the costs of taking and printing the proofs in this cause, including one-half (½) of the expenses of the examiner, and that the defendants pay all other costs.

And thereupon come all of the said defendants at the same term of court and join in open court in praying an appeal from the foregoing decree to the Supreme Court of the United States and file their application accordingly, accompanied by their assignment of errors.

Upon consideration of the premises it is ordered that said appeal be and the same hereby is granted, returnable thirty days from this date, and it is further ordered that a bond in the penal sum of five hundred dollars ($500) shall be filed by the corporate defendants, a bond by the individual defendants having been waived by the United States. Said bond was thereupon presented and approved.

Thereupon comes the United States, petitioner, and in open court waives the issuance, signing and service of a citation herein and acknowledges to have received and be charged with all the force and effect of the proper issuance, signing and service of a formal citation. Defendants are allowed until September 15th, 1920, to docket said appeal in the Supreme Court.

(Signed) JACOB TRIEBER,
United States District Judge.

Dated May 12, 1920.