

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : CIVIL ACTION
V. :
JERROLD ELECTRONICS CORPORATION, :
NATIONAL JERROLD SYSTEMS, INC., :
JERROLD-NORTHWEST, INC., :
JERROLD-SOUTHWEST, INC., :
JERROLD-OHIO, INC., :
JERROLD MID-ATLANTIC CORPORATION, :
and MILTON JERROLD SHAPP : NO. 22080

FINAL JUDGMENT

The plaintiff, United States of America, having filed its complaint herein on February 15, 1957, and its amended complaint on April 2, 1959; the defendants having appeared and filed their answers to such complaint; the issues having been tried from November 9 to December 18, 1959; the court having entered its Findings of Fact and Conclusions of Law together with its opinion on July 25, 1960 (Document No. 58), which has been supplemented by the Memorandum Opinion of October 10, 1960; and it appearing to the court that there is no just reason for delay in entering a final judgment, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I

The court has jurisdiction of the subject matter hereof and of the parties hereto. The defendants have (a) combined and conspired to insist on service contracts and to sell only full systems in order to restrain trade and commerce in community television antenna equipment in violation of Section 1 of the

Sherman Act (15 U. S. C. A. § 1); (b) have contracted to sell and have made sales of equipment for community television antenna systems upon unlawful conditions in violation of Section 3 of the Clayton Act (15 U. S. C. A. § 14); and (c) defendant Jerrold has made acquisitions of community television antenna systems, the effect of which has been to foreclose competitors of the defendants from a share of the market in community television antenna system equipment and if future acquisitions are not enjoined the effect of any further acquisitions may be to substantially lessen competition and tend to create a monopoly in the sale and distribution of said equipment in various sections of the United States in violation of Section 7 of the Clayton Act (15 U. S. C. A. § 18); and (d) defendant Jerrold-Northwest, Inc., has attempted to monopolize trade and commerce in violation of Section 2 of the Sherman Act (15 U. S. C. A. § 2).

II

(A) "Person" shall mean a corporation, partnership, individual, association or any other legal entity;

(B) "Community television antenna system" shall mean any system for the reception of television signals and their transmittal throughout a community;

(C) "Equipment" shall mean any equipment designed for use as part of or in conjunction with a community television antenna system, including parts thereof, and shall include, but not be limited to, antennas, head end equipment, amplifiers, filters and traps, automatic gain control devices, converters, test equipment, and tap-off units;

(D) "Jerrold equipment" shall mean any equipment man-

ufactured or sold by any defendant;

(E) "Services" shall mean engineering and technical services relating to the planning, installation, testing, maintenance, repair or enlargement of community television antenna systems;

(F) "Jerrold services" shall mean any services furnished by any defendant;

(G) "Defendants" shall mean the defendants Jerrold Electronics Corporation, National Jerrold Systems, Inc., Jerrold-Northwest, Inc., Jerrold-Southwest, Inc., Jerrold-Ohio, Inc., Jerrold Mid-Atlantic Corporation, and Milton Jerrold Shapp, and each of them.

III

The provisions of this final judgment applicable to any defendant shall apply to such defendant, its officers, directors, agents, employees, successors, and assigns and to those persons in active concert or participation with such defendant who receive actual notice of this final judgment by personal service or otherwise.

IV

(A) Each of the defendants is ordered and directed, within forty-five (45) days from the date of entry of this final judgment, to:

(1) Terminate and cancel any and all provisions of each of their contracts with any community television antenna system operator which are or may be contrary to or inconsistent with any of the provisions of this final judgment;

(2) Mail a copy of this final judgment to each person to whom such defendant has sold equipment or with whom such defendant has a service contract.

(B) Each of the defendants is ordered and directed:

(1) Within sixty-five (65) days from the date of entry of this final judgment, to file with the Clerk of this court, with a copy to the Attorney General, an affidavit setting forth the fact and manner of compliance with subsection (A) of this Section IV;

(2) For a period of three years from the date of entry of this final judgment, to furnish a copy of said judgment to any person making written request therefor.

V

The defendants are enjoined and restrained from, directly or indirectly:

(A) Selling or offering to sell equipment on the condition or understanding that the purchaser thereof purchase services from the defendants;

(B) Furnishing or offering to furnish services on the condition or understanding that the recipient thereof purchase any Jerrold equipment;

(C) Selling or offering to sell any item of Jerrold equipment on the condition or understanding that the purchaser thereof buy or use any other Jerrold equipment;

(D) Selling or offering to sell any equipment on the condition or understanding that the purchaser thereof will not purchase or use equipment manufactured or sold by any other per-

son; provided, however, this subsection (D) shall not prohibit defendants from electing to sell or offer for sale Jerrold equipment upon the condition or understanding that defendants will not guarantee, warrant or, in any manner, be responsible for, the operation or efficiency of such equipment, or the system in which the same may be installed or used, if the purchaser thereof installs, as a part of such system, any equipment or attachments manufactured by any other person which, in defendants' opinion, might either (a) impair the quality of television reception or signal distribution capability of the system, or (b) cause damage to, or impair the operation or efficiency of, any of the Jerrold equipment sold or offered for sale. In the event the defendants elect to sell, or offer for sale, Jerrold equipment upon the foregoing condition or understanding, defendants shall prepare a complete list of each item of equipment manufactured by defendants and setting forth in such list, opposite each item of Jerrold equipment, the item or items of equipment equivalent thereto manufactured or sold by others and which, in the opinion of the defendants, may be used in conjunction or connection with Jerrold equipment and which will not impair the quality of television reception or signal distribution capability of the system and will not cause damage to or impair the efficiency of Jerrold equipment used in the system. And provided further that defendants shall keep such list current and up to date until such time as defendants notify the plaintiff in writing that they no longer wish to avail themselves of the election specified in this subparagraph (D).

(E) Requiring, urging, or influencing their distribu-

tors or sales representatives:

(1) To refuse to sell any item of Jerrold equipment to persons using equipment manufactured or sold by persons other than Jerrold;

(2) To require, as a condition for the sale of Jerrold equipment,

(a) that the purchaser thereof subscribe to Jerrold services, or

(b) that the purchaser thereof buy any additional Jerrold equipment.

VI

The defendants are enjoined and restrained, until April 2, 1962, from acquiring, directly or indirectly, any shares of the stock or assets of, or any controlling, ownership or managerial interest in any community television antenna system already built at the time of the proposed acquisition, except (1) with the approval of the plaintiff or (2) after an affirmative showing to the satisfaction of this court, upon not less than ten (10) days' notice to the plaintiff, that the effect of such acquisition will not be substantially to lessen competition or tend to create a monopoly in the manufacture, distribution or sale of equipment.

VII

The defendants are enjoined and restrained from coercing or forcing or attempting to coerce or force any person to buy Jerrold equipment or services by threatening to build or assist others in building a competing community television antenna system or by any other threats of economic or other

reprisal.

VIII

For the purpose of securing compliance with this final judgment and for no other purpose, 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 any defendant made to its principal office, be permitted (1) access during the office hours of such defendant to those books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant which relate 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 said defendant, who may have counsel present.

Any defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, made to its principal office, shall submit such written reports with respect to any of the matters contained in this final judgment applicable to such defendant as from time to time may be necessary for 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 employee of the Executive Branch of the 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.

IX

Jurisdiction is retained for the purpose of enabling any party 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 modification of any of the provisions thereof, and for the enforcement of compliance therewith and punishment of violations thereof.

X

Judgment is entered against the defendants for all costs to be taxed in this proceeding.

October 11, 1960

/s/ Francis L. Van Dusen

J.