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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
10 SOUTHERN DIVISION

11 UNITED STATES OF AMERICA, )  
12 )  
13 Plaintiff, )  
14 vs, )  
15 SWITZER BROTHERS, INC. )  
16 GANTNER & MATTERN CO. )  
17 THE FIRELURE CORPORATION, )  
18 THE SHERWIN-WILLIAMS COMPANY, )  
19 THE SHERWIN-WILLIAMS COMPANY OF )  
20 CALIFORNIA, )  
21 ABERFOYLE MANUFACTURING COMPANY, )  
22 LAWTER CHEMICALS, INC., )  
23 ROBERT C. SWITZER, )  
24 JOSEPH L. SWITZER, )  
25 JOHN O. GANTNER, JR., )  
26 EUGENE BURNS, )  
27 GERALD D. STRATFORD, and )  
28 W. BRUCE BECKLEY, )

29 Defendants.

Civil Action  
No. 29860  
ORIGINAL  
FILED  
Oct. 22, 1953  
With Clerk, U. S. Dist. Court  
San Francisco

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32  
FINAL JUDGMENT AS TO DEFENDANT

GANTNER & MATTERN CO.

Plaintiff United States of America having filed its  
complaint herein on June 28, 1950, the consenting defendant hereto  
having filed its answer to said complaint denying the substantive

1 allegations thereof, and the plaintiff and the defendant Gantner  
2 & Mattern Co. by their respective attorneys, having consented to  
3 the entry of this Final Judgment without trial or adjudication  
4 of any issue of fact or of law herein and without admission by  
5 any party in respect to any such issue;

6 NOW THEREFORE before any testimony has been taken and  
7 without trial or adjudication of any issue of fact or law and  
8 upon consent of the parties aforesaid, and said consenting  
9 defendant still asserting its innocence of any violation,

10  
11 IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

12  
13 I.

14 As used in this Final Judgment:

15 (A) "Person" means an individual, partnership, firm,  
16 association, corporation, or other legal entity;

17 (B) "Defendant" means the defendant Gantner & Mattern  
18 Co.;

19 (C) "Switzer" means the defendant Switzer Brothers, Inc.;

20 (D) "Daylight fluorescent" means a color comprised of  
21 a predominantly reflected wave band of incident visible light  
22 and, due to visible-light response, fluorescent emitted light  
23 of substantially the same wave length as the predominantly  
24 reflected wave band, said combined reflected and emitted light  
25 having a brightness and purity of hue characterized by color  
26 distinguishability at a distance beyond the perceptibility  
27 range of any subtractive color of similar hue;

1 allegations thereof, and the plaintiff and the defendant Gantner  
2 & Mattern Co. by their respective attorneys, having consented to  
3 the entry of this Final Judgment without trial or adjudication  
4 of any issue of fact or of law herein and without admission by  
5 any party in respect to any such issue;

6 NOW THEREFORE before any testimony has been taken and  
7 without trial or adjudication of any issue of fact or law and  
8 upon consent of the parties aforesaid, and said consenting  
9 defendant still asserting its innocence of any violation,

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16 association, corporation, or other legal entity;

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18 Co.;

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21 a predominantly reflected wave band of incident visible light  
22 and, due to visible-light response, fluorescent emitted light  
23 of substantially the same wave length as the predominantly  
24 reflected wave band, said combined reflected and emitted light  
25 having a brightness and purity of hue characterized by color  
26 distinguishability at a distance beyond the perceptibility  
27 range of any subtractive color of similar hue;

1 (E) "Daylight fluorescent devices", as distinguished  
2 from daylight fluorescent materials, denotes all types and kinds  
3 of end-use products, articles, and devices, without limitation,  
4 in whose manufacture, production, or processing, daylight  
5 fluorescent materials are utilized. Included among such devices  
6 which utilize daylight fluorescent coating compositions are  
7 advertising signs, billboards, posters and displays, fishing  
8 lures and tackle, aircraft and shipboard instrument boards  
9 and panels, and novelty jewelry. Included among such devices  
10 utilizing daylight fluorescent textiles are swim suits,  
11 hosiery, caps, and other garments and articles of apparel,  
12 advertising and theatrical banners, signal flags and fishing  
13 flies and other lures;

14 (F) "Daylight fluorescent materials" means, for  
15 example, certain lacquers, paints, pigments, screen process  
16 inks, and other coating compositions, yarns, filaments,  
17 threads and fibers, together with cloth and fabrics woven  
18 and made therefrom, various organic felted materials, in  
19 sheet and roll form, such as papers, cardboards, and the like  
20 films and foils, all of which when properly applied, processed,  
21 and utilized, result in a daylight fluorescent effect;

22 (G) "Patents" means each and all United States Letters  
23 Patents and applications therefor, relating to daylight  
24 fluorescent materials or devices, or both;

(H) "Trademarks" means each and all trademarks and trade names, used by or registered for defendant, relating to daylight fluorescent materials or devices, or both.

## II.

The court has jurisdiction of the subject matter hereof and of the parties signatory hereto. The complaint states a cause of action against the consenting defendant under Sections 1 and 2 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", and under Section 3 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."

## III.

Defendant consenting to and entering into this Final Judgment is Gantner & Mattern Co. The provisions of this Final Judgment applicable to the said consenting defendant shall apply to such defendant and its officers, directors, agents, employees, subsidiaries, successors, and assigns, and to all other persons acting under, through or for such defendant.

## IV.

(A) Agreements between the defendant Switzer and defendant Gantner & Mattern Co., dated September 27, 1946; February 7, 1947; November 26, 1947; January 17, 1949; August 10, 1949; November 10, 1949; and October 23, 1950, having been terminated, defendant is enjoined and restrained from continuing or renewing any of said agreements.

(B) Defendant is enjoined and restrained from maintaining, adhering to, claiming any rights under, reviving, adopting, or enforcing any provisions of the agreement between defendant Switzer and defendant Gantner & Mattern Co., dated September 25, 1951, as amended, which is inconsistent with any

1 of the provisions of this Final Judgment.

2 V.

3 Defendant is enjoined and restrained from entering into,  
4 adhering to or enforcing any agreement, understanding, plan or  
5 program with any person engaged in the manufacture of daylight  
6 fluorescent materials or devices which:

7 (A) Requires the use of only daylight fluorescent  
8 materials and devices manufactured or sold by the defendant or  
9 any source approved by the defendant;

10 (B) Restricts, limits or controls the channels through  
11 which daylight fluorescent materials or devices may be sold or  
12 distributed.

13 VI.

14 Defendant is enjoined and restrained from entering into,  
15 adhering to or enforcing any agreement, understanding, plan or  
16 program with any manufacturer, distributor, or user, or any other  
17 person:

18 (A) Not to sell to or buy from others daylight  
19 fluorescent materials or devices;

20 (B) Not to use, purchase or deal in daylight  
21 fluorescent materials or devices manufactured or sold by any  
22 third person;

23 (C) Preventing any person from competing in the  
24 manufacture, processing, distribution or sale of daylight  
25 fluorescent materials or devices.

26 VII.

27 Defendant is enjoined and restrained from:

28 (A) Requiring any person to use only daylight  
29 fluorescent materials and devices manufactured or sold by the  
30 defendant, or by any source approved by the defendant;

31 (B) Conditioning the processing by defendant of day-  
32 light fluorescent materials upon any agreement or understanding

restricting or limiting the distribution, sale or use of daylight fluorescent materials or devices manufactured or owned by any person other than the defendant;

(C) Without obstructing the exercise of trade-mark rights, limiting, controlling or restricting the end use of daylight fluorescent materials or devices by purchasers thereof;

(D) Selling or processing, or offering to sell or process, or fixing the price for the sale of, daylight fluorescent materials or devices, upon the condition, agreement or understanding that the purchaser thereof shall not purchase, use or deal in the daylight fluorescent materials or devices, or ingredients or goods of any person other than defendant.

#### VIII.

Defendant is enjoined and restrained from:

(A) Granting or accepting any license or sub-license or immunity under any patents upon a condition or requirement that the other party to such transaction shall agree:

(1) To manufacture, sell or use only daylight fluorescent devices of specified kinds or types;

(2) To manufacture, sell or use only such daylight fluorescent devices as may be covered by a specified patent or patents, or which are produced by or are the result of any process covered by a specified patent or patents;

(3) To adopt and to use on daylight fluorescent devices, trade-marks or trade names owned or controlled by any person;

(4) To utilize in the manufacture or processing of the licensed daylight fluorescent devices only materials to be obtained from designated sources or only materials obtained from sources approved or in any way specified or designated by defendant.

(B) Granting or accepting any license under any trade-mark

1 upon a condition or requirement that the other party to such  
2 transaction shall agree:

3 (1) To manufacture, sell, or use only such daylight  
4 fluorescent devices or materials as may be covered by a  
5 specified patent or patents, or which are produced by or are  
6 the result of any process covered by a specified patent or  
7 patents;

8 (2) To utilize in the manufacture of the licensed  
9 daylight fluorescent devices or materials only materials  
10 manufactured or processed by manufacturers or processors  
11 approved or in any way specified or designated by defendant.

12 (C) Granting any trade-mark license to any manufacturer,  
13 seller, or user of daylight fluorescent materials or devices  
14 which:

15 (1) Does not permit the trade-mark licensee to cancel  
16 the license, with or without reason or cause, upon thirty  
17 (30) days' notice to the licensor;

18 (2) Requires the licensee to use the licensed trade-  
19 mark on daylight fluorescent materials or devices of any  
20 given type or kind to the exclusion of other trade-marks.

21 IX.

22 Nothing in this Final Judgment shall be deemed to  
23 prohibit defendant:

24 (A) From issuing or maintaining a trade-mark license  
25 which requires the use of materials designated by name or manu-  
26 facturer in cases where it is not possible to use any other  
27 designation and the licensee is in fact free to obtain equivalent  
28 materials from other sources;

29 (B) From issuing a patent license in connection with a  
30 trade-mark license; provided, the licensee, at his option, may  
31 take either a patent license or a trade-mark license;  
32

1 (C) From issuing patent licenses describing the scope  
2 of the grant therein.

3 X.

4 For the purpose of securing compliance with this Final  
5 Judgment and for no other purpose, duly authorized representatives  
6 of the Department of Justice shall, upon written request of the  
7 Attorney General or the Assistant Attorney General in charge of  
8 the Antitrust Division, and upon reasonable notice to defendant,  
9 be permitted, subject to any legally recognized privilege, (a)  
0 access, during the office hours of defendant, to all books,  
1 papers, ledgers, accounts, correspondence, memoranda and other  
2 records and documents in the possession of or under the control  
3 of defendant relating to any of the matters contained in this  
4 Final Judgment; and (b) subject to the reasonable convenience of  
5 defendant, to interview officers and employees of defendant, who  
6 may have counsel present, regarding such matters. Upon written  
7 request of the Attorney General, or the Assistant Attorney General  
8 in charge of the Antitrust Division, on reasonable notice to  
9 defendant, defendant shall submit such written reports as may from  
0 time to time be reasonably necessary to the enforcement of this  
1 Final Judgment. No information obtained by the means provided  
2 in this Section X shall be divulged by the Department of Justice  
3 to any person other than a duly authorized representative of the  
4 Department of Justice except in the course of legal proceedings to  
5 which the United States is a party for the purpose of securing  
6 compliance with this Final Judgment or as otherwise provided by  
7 law.

8 XI.

9 Jurisdiction is retained by this Court for the purpose  
0 of enabling any of the parties to this Final Judgment to apply  
1 to this Court at any time for such further orders and directions  
2 as may be necessary or appropriate for the construction or carrying

1 out of this Final Judgment, for the amendment, modification, or  
2 termination of any of the provisions thereof, for the enforcement of  
3 compliance therewith and for the punishment of violations thereof.

4 San Francisco, California

5 DATED: October 22, 1953

6 LOUIS E. GOODMAN  
7 United States District Judge

8 We hereby consent to the entry of the foregoing Final Judgment.

9 STANLEY N. BARNES  
Assistant Attorney General

W. D. KILGORE, JR.

10 MARCUS A. HOLLABAUGH

MAX FREEMAN

11 LYLE L. JONES

DON H. BANKS

12 Trial Attorneys

Trial Attorneys

13 Attorneys for Plaintiff

14 BOYKEN, MOHLER & BECKLEY

15 By W. BRUCE BECKLEY  
16 W. Bruce Beckley

17 Attorneys for Defendant