

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States of America v. Kearney & Trecker Corporation, Brown & Sharpe Manufacturing Company, and The Cincinnati Milling Machine Company., U.S. District Court, N.D. Illinois, 1940-1943 Trade Cases ¶56,147, (Aug. 22, 1941)

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United States of America v. Kearney & Trecker Corporation, Brown & Sharpe Manufacturing Company, and The Cincinnati Milling Machine Company.

1940-1943 Trade Cases ¶56,147. U.S. District Court, N.D. Illinois, Eastern Division, August 22, 1941. Civil Action No. 3337.

Upon consent of all parties a final decree is entered in proceedings under the Sherman Anti-Trust Act, requiring defendant manufacturers to divest themselves of all rights in a patent covering a milling machine spindle and tool, and to transfer all rights thereunder to the public without payment of any compensation therefor.

Daniel B. Britt, Special Assistant to the Attorney General, Lyle L. Jones, Jr., and Robert Diller, Special Attorneys, J. Albert Woll, United States Attorney, and Thurman Arnold, Assistant Attorney General, Attorneys for the Plaintiff.

Lines, Spooner and Quarles, by Louis Quarles, Attorneys for Kearney & Trecker Corporation.

Swan, Keeney & Smith, by Eugene J. Phillips, Attorneys for Brown & Sharpe Manufacturing Company.

Winston, Strawn & Shaw, by Walter H. Jacobs, Attorneys for The Cincinnati Milling Machine Company.

Final Decree

SULLIVAN, J.: The plaintiff, United States of America, having filed its complaint herein on August 22, 1941, all the defendants having appeared and severally filed their answers to such complaint denying the substantive allegations thereof; all parties hereto by their respective attorneys herein having severally consented to the entry of this final decree herein without trial or adjudication of any issue of fact or law herein and without admission by any party in respect of any such issue;

Now, Therefore, before any testimony has been taken herein and without trial or adjudication of any issue of fact or law herein and upon consent of all parties hereto, it is hereby

Ordered, Adjudged and Decreed, as follows:

[Jurisdiction of Court]

I. That the Court has jurisdiction of the subject matter and of all the parties hereto; that the complaint states a cause of action against the defendants under the Act of Congress of July 2, 1890, entitled "An Act to Protect Trade and Commerce against Unlawful Restraints and Monopolies" and the acts amendatory thereof and supplemental thereto.

[Issuance of Patent]

II. United States Letters Patent No. 1,794,361 was duly issued on March 3, 1931 to the defendants, Kearney & Trecker Corporation, Brown & Sharpe Manufacturing Company, and The Cincinnati Milling Machine Company, as assignees, and covers five (5) claims on a "milling machine spindle and tool."

[Patent Rights Divested]

III. The defendants, Kearney & Trecker Corporation, Brown & Sharpe Manufacturing Company, and The Cincinnati Milling Machine Company, and each of them, their officers, managers, directors, agents and employees, and all persons acting under, through, or for them or any of them, be and they are hereby ordered

to divest them selves of all right, title and interest in and to said United States Letters Patent 1,794,361, and forthwith to take such steps as may be necessary to dedicate, transfer, and assign said Letters Patent and all rights thereunder to the public (including said defendants), without the payment of royalties or other compensation whatever therefor.

[*Inspection of Records*]

IV. For the purpose of securing compliance with this decree, and for no other purpose,' duly authorized representatives of the Department of Justice shall, on written consent of the Attorney General or an Assistant Attorney General, and on reasonable notice to the defendants made at the principal office of the defendants, be permitted, subject to any legally recognized privilege (1) access, during the office hours of the defendants, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendants, relating to any matters contained in this decree, (2) subject to the reasonable convenience of the defendants and without restraint or interference from them, to interview officers and employees of the defendants, who may have counsel present, regarding any such matters, and (3) the defendants, on such request, shall submit such reports in respect of any such matters as may from time to time be reasonably necessary for the proper enforcement of this decree; provided, how ever, that information obtained by the means, permitted in this paragraph shall not be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice except in the course of legal proceedings for the purpose of securing compliance with this decree in which the United States is a party or as otherwise required by law.

[*Jurisdiction Retained*]

V. Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this decree to apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this decree, for the modification thereof and enforcement of compliance therewith and for the punishment of violations thereof.