

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	CIVIL ACTION
v.)	
)	No. 55 C 1481
AMERICAN LINEN SUPPLY COMPANY,)	
)	[Entered November 19, 1956]
Defendant)	[Judge Julius J. Hoffman]

FINAL JUDGMENT

The plaintiff, UNITED STATES OF AMERICA, having filed its complaint herein on May 12, 1955; the defendant having appeared by its counsel; and the parties hereto, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without any admission by any party hereto with respect to any such issue;

NOW, THEREFORE, before the taking of any testimony 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

The Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a claim against the defendant under Section I 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, entitled "An act to supplement existing laws against unlawful restraints and monopolies and for other purposes," commonly known as the Clayton Act, as amended.

II

As used in this Final Judgment:

(A) "ALSCO" means defendant American Linen Supply Company, a Nevada corporation, having its principal office at Chicago, Illinois;

(B) "Person" means any individual, partnership, firm, corporation, trustee, association or any other business or legal entity;

(C) "Towel Cabinet" means any device, mechanism, machine, or component parts thereof, including ALSCO's patented parts, used for the dispensing of continuous roll cloth or continuous roll Paper Towels;

(D) "Paper Towels" means continuous roll paper towels made or sold for use in paper Towel Cabinets;

(E) "Linen Supply Company" means any Person engaged in the business of supplying on a service basis Towel Cabinets, cloth towels, aprons, uniforms, coats, trousers, caps, tablecloths, napkins, bibs, coveralls or Paper Towels to industrial concerns, stores, restaurants, Government agencies, institutions or other ultimate consumers;

(F) "Paper Jobber" means any Person engaged in the business of leasing and/or purchasing Towel Cabinets, and buying Paper Towels for resale to industrial concerns, stores, restaurants, Government agencies, institutions and other ultimate consumers;

(G) "User licensee" means any Person holding a license from ALSCO, its subsidiaries or predecessors, permitting it to purchase and use continuous roll cloth Towel Cabinets under any Patent owned, applied for, or claimed by the defendant ALSCO, its subsidiaries or predecessors;

(H) "Jobber" means both "Linen Supply Companies" and "Paper Jobbers";

(I) "Patents" means any, some or all claims of the following United States Letters Patent on Towel Cabinets:

(1) Letters Patent owned or controlled by ALSCO on the date of entry of this Final Judgment;

(2) Letters Patent which may be granted on applications for Letters Patent which applications are on file in the United States Patent Office and owned or controlled by ALSCO on the date of entry of this Final Judgment;

(3) Letters Patent which may be granted on applications for Letters Patent which applications are filed and owned or controlled by ALSCO in the United States Patent Office

within a period of five (5) years following the date of entry of this Final Judgment;

(4) Letters Patent which may be acquired by ALSCO or under which ALSCO acquires the right to grant licenses within a period of five (5) years following the date of entry of this Final Judgment;

(5) Divisions, continuations, reissues or extensions of the Letters Patent described above in clauses (1), (2), (3) and (4).

III

The provisions of this Final Judgment applicable to ALSCO shall apply to such defendant, its subsidiaries, successors and assigns, and to each of its officers, agents, servants and employees, and to all Persons in active concert or participation with ALSCO who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

ALSCO is ordered and directed, within six (6) months from the date of entry of this Final Judgment, to terminate and cancel all such portions of each of its User Licenses and Jobber Agreements as are contrary to or inconsistent with any of the provisions of this Final Judgment, and to notify its User Licensees and Jobbers of such termination and cancellation. ALSCO is enjoined and restrained from thereafter entering into, maintaining, adhering to,

or enforcing any contract, agreement, or understanding contrary to or inconsistent with any of the provisions of this Final Judgment.

V

ALSCO is enjoined and restrained from entering into, adhering to, maintaining, enforcing or claiming any rights under, directly or indirectly, any contract, agreement or understanding, with any Person, the purpose or effect of which is to restrict or limit:

- (A) The territory within which any such Person may sell, lease or loan Paper Towels or Towel Cabinets;
- (B) Such Person from soliciting or servicing Paper Towel or Towel Cabinet customers being served by any other Person;
- (C) Such Person from replacing any Towel Cabinets previously placed with a customer by any other Person.

VI

ALSCO is enjoined and restrained from directly or indirectly:

- (A) Inducing or requiring any Paper Jobber or User Licensee to make restitution for Towel Cabinet or Paper Towel business taken from any other person;
- (B) Offering to sell or lease or selling or leasing paper Towel Cabinets to Paper Jobbers upon the condition or understanding that such paper Jobbers purchase Paper Towels from ALSCO or any source designated by ALSCO.

VII

ALSCO is enjoined and restrained from entering into, maintaining, adhering to, enforcing or claiming any rights under any contract, agreement or understanding, with any Person that such Person require any third Person to purchase all or any portion of his requirements of Paper Towels from ALSCO or any source designated by ALSCO.

VIII

(A) ALSCO is ordered and directed:

(1) Insofar as it now has or may acquire the power or authority to do so, to grant to any applicant, making written request therefor, a non-exclusive and unrestricted license or sublicense to use and sell Towel Cabinets for the life of the Patent, under any, some or all Patents, without any limitation or condition whatsoever except that:

(a) A reasonable and nondiscriminatory royalty may be charged and collected;

(b) Reasonable provision may be made for periodic inspection of the books and records of the licensee by an independent auditor or other Person acceptable to both the licensee and licensor, who shall report to the licensor only the amount of the royalty due and payable and no other information;

(c) The license may be nontransferable;

(d) Reasonable provision may be made for cancellation of the license upon failure of the licensee to pay the royalties or to permit the inspection of its books and records as hereinabove provided;

(e) The license must provide that the licensee may cancel the license at any time after one (1) year from the initial date thereof by giving thirty (30) days notice in writing to the licensor.

(2) Upon receipt of any written application for a license under any Patent, to advise the applicant of the royalty it deems reasonable for the Patent or Patents to which the application pertains. If ALSCO and the applicant are unable to agree upon what constitutes a reasonable royalty, ALSCO may apply to the Court for a determination of a reasonable royalty, giving notice thereof to the applicant and the Attorney General, and shall make such application forthwith upon request of the applicant. In any such proceeding, the burden of proof shall be upon ALSCO to establish the reasonableness of the royalty requested by it. Pending the completion of any such court proceeding, the applicant shall have the right to use and sell under the Patent or Patents to which its application pertains, without the payment of royalty or other compensation, but subject to the following

provisions: ALSCO may, with notice to the Attorney General, apply to the Court to fix an interim royalty rate pending final determination of what constitutes a reasonable royalty. If the Court fixes such interim royalty rate, a license shall then issue providing for the periodic payment of royalties at such interim rate from the date of the making of such application by the applicant; and whether or not such interim rate is fixed, any final order may provide for such adjustments, including retroactive royalties, as the Court may order after final determination of a reasonable and nondiscriminatory royalty, and such royalty rate shall apply to the applicant and to all other licensees under the same Patent or Patents.

(B) Nothing herein shall prevent any applicant from attacking at any time the validity or scope of any of the Patents nor shall this Final Judgment be construed as imputing any validity or value to any of said Patents;

(C) ALSCO is enjoined and restrained from making any disposition of any Patents which deprives it of the power or authority to issue the licenses required by this Final Judgment unless ALSCO requires as a condition of the sale, assignment or grant that the purchaser, assignee or licensee shall observe the provisions of this Section VIII of this Final Judgment with

respect to the Patents so acquired and that such purchaser, assignee or licensee shall file with this Court prior to the consummation of such transaction a written undertaking to be bound by the provisions of Section VIII of this Final Judgment with respect to the Patents so acquired.

IX

(A) ALSCO is ordered and directed:

(1) To offer to any present User Licensee a settlement of future royalties accruable under any user license agreement and, at the option of such User Licensee, to settle such future royalties accruable under any User Licensee agreement upon reasonable and nondiscriminatory prices, terms and conditions;

(2) To send, within sixty days from the date of entry of this Final Judgment, a letter to each of its User Licensees advising such User Licensee that such royalties may be settled and the price at which ALSCO will settle;

(3) After one (1) year from the date of entry of this Final Judgment, except for a good cause, to sell its cloth Towel Cabinets, with or without royalty payments at the option of the applicant, upon reasonable and non-discriminatory prices, terms and conditions to any domestic

Linen Supply Company applying in writing to purchase the same; provided, however, that ALSCO is not required to sell cloth Towel Cabinets to any Linen Supply Company not given a favorable credit rating by an independent credit rating company or to sell cloth Towel Cabinets to any Linen Supply Company which has failed to make payment to ALSCO on the date when such payment was due; and provided, further that ALSCO is not required to sell cloth Towel Cabinets of any model not in stock. Nothing in this paragraph IX shall be construed to prevent ALSCO from continuing to offer to sell its cloth Towel Cabinets with royalty payments or from continuing to sell its cloth Towel Cabinets with royalty payments.

X

ALSCO is ordered and directed:

(A) To offer to sell to any present lessee and, at the option of such lessee, to sell its paper Towel Cabinets upon reasonable and nondiscriminatory prices, terms and conditions;

(B) To send, within sixty (60) days from the date of entry of this Final Judgment, a letter to each of its lessees of paper Towel Cabinets advising such lessees (1) that such Towel Cabinets may be purchased and the price at which AlSCO will sell and (2) that such lessee is free to purchase Paper Towels for use in such Towel Cabinets from any source he selects;

(C) After one (1) year from the date of entry of this Final Judgment, except for a good cause, to lease and/or sell its paper Towel Cabinets upon reasonable and nondiscriminatory prices, terms and conditions to any domestic Paper Jobber applying in writing to purchase or lease the same; provided, however, that ALSCO is not required to lease and/or sell Paper Towel cabinets to any Paper Jobber not given a favorable credit rating by an independent credit rating company or to lease and/or sell paper Towel Cabinets to any Paper Jobber which has failed to make payment to ALSCO when such payment was due; and provided further that ALSCO is not required to lease and/or sell paper Towel Cabinets of any model not in stock. Nothing in this paragraph X shall be construed to prevent ALSCO from continuing to offer to lease and/or sell its paper Towel Cabinets or from continuing to lease and/or sell its paper Towel Cabinets.

XI

This Final Judgment is not to be construed as relating to commerce outside the United States.

XII

For the purpose of securing compliance with this Final Judgment, 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 the defendant, made to its principal office, be permitted, subject to any legally recognized privilege:

(A) Access, during the office hours of the defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of the defendant, relating to any of the matters contained in this Final Judgment; and

(B) Subject to the reasonable convenience of the defendant, and without restraint or interference from it to interview officers and employees of the defendant, who may have counsel present, regarding any such matters.

Upon such request the defendant shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as from time to time may be necessary to the enforcement of this Final Judgment. No information obtained by the means permitted in this Section XII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department except in the course of legal proceedings to which the United States is a party, for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

XIII

Jurisdiction of this cause is retained by the Court for the purpose of enabling any of the parties to this Final Judgment to

apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the construction, carrying out or modification of this Final Judgment or any of its provisions, or for the enforcement or compliance therewith and for the punishment of violations thereof.

Dated: November 19, 1956

s/ Julius J. Hoffman
United States District Judge

We hereby consent to the making and entry of the foregoing Final Judgment:

For the Plaintiff:

s/ Victor R. Hansen
VICTOR R. HANSEN
Assistant Attorney General

s/ William D. Kilgore, Jr.
WILLIAM D. KILGORE, JR.

s/ Earl A. Jinkinson
EARL A. JINKINSON

s/ Baddia J. Rashid
BADDIA J. RASHID

s/ Attorneys

s/ Harry N. Burgess
HARRY N. BURGESS

s/ Bertram M. Long
BERTRAM M. LONG

s/ Charles F. B. McAleer
CHARLES F. B. McALEER

s/ Francis C. Hoyt
FRANCIS C. HOYT

Attorneys

For the Defendant:

s/ Leo F. Tierney
LEO F. TIERNEY

s/ Roger W. Barrett
ROGER W. BARRETT

s/ Charles L. Stewart, Jr.
CHARLES L. STEWART, JR.