

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

MAGER & GOUGELMAN, INC.,
PAUL GOUGELMAN COMPANY,
PAUL GOUGELMAN, JR. and
STANLEY W. RYBAK

Defendants.

Civil Action
No. 49 C 1028

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on June 23, 1949; and the defendants having appeared and filed their joint answer to said complaint denying any violation of law; and the plaintiff and said defendants, by their respective attorneys, having severally consented to the entry of this Final Judgment 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 the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent as aforesaid of all the parties hereto,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

I

This court has jurisdiction of the subject matter hereof and of all parties hereto. The complaint states a cause of action against the defendants under Section 1 of the Act of Congress of July 2, 1890, entitled "An Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies", as amended.

II

As used in this judgment:

(A) "Artificial eyes" means artificial human eyes.

(B) "Stock eyes" means ready made artificial eyes available to customers on a selection basis.

(C) "Travers Patent" means Patent No. 1,993,121, issued March 5, 1935, by the United States Patent Office to James L. Travers, and which relates to the manufacture of plastic artificial eyes.

III

The provisions of this Judgment applicable to any defendant shall apply to such defendant, its successors, subsidiaries, assigns, officers, directors, agents, employees, and all other persons acting or claiming to act under, through or for such defendant.

IV

Each of the contracts, agreements, arrangements, or understandings, hereinafter described, between the defendant Paul Gougelman Company and Mager & Gougelman, Inc., a New York corporation, is hereby terminated, and each of the defendants is hereby enjoined and restrained from the further performance or enforcement of any of said contracts, agreements or understandings, and from entering into, adopting, adhering to or furthering any course of conduct for the purpose or with the effect of maintaining, reviving or reinstating any of said contracts, agreements, or understandings:

- (A) Agreement dated May 10, 1948 relating to the joint operation of a branch office in Philadelphia, Pennsylvania;
- (B) Agreement dated June 4, 1948 relating to the joint operation of a branch office in Boston, Massachusetts;
- (C) Oral agreement on or about June 1, 1946 relating to the joint operation of a branch office in Washington, D. C.

V

Each of the following agreements, copies of which are contained in Exhibits A, B, and C of the complaint herein, is hereby terminated and cancelled in its entirety; and each of the defendants is hereby enjoined and restrained from the further performance or enforcement of

any of said agreements, and from entering into, adopting, adhering to, or furthering any agreement, arrangement, or course of conduct for the purpose or with the effect of maintaining, reviving or reinstating any of said agreements:

- (A) Agreement dated July 1, 1947 between defendant Paul Gougelman Company and Clinton H. Reed;
- (B) Agreement dated September 5, 1947 between defendant Paul Gougelman Company and James W. Fitzgerald;
- (C) Agreement dated April 6, 1948 between defendant Paul Gougelman Company and Martin Gussman.

VI

Each of the defendants is ordered and directed, within ninety (90) days from the date of entry of this Final Judgment, to dispose of any shares of capital stock or other financial interest now held by it in Mager & Gougelman, Inc., a Delaware corporation, and in Mager & Gougelman, Inc., a New York corporation, to a person or persons other than a defendant herein or a stockholder, officer, director, employee, or agent of any defendant herein, and each of the defendants is enjoined and restrained from thereafter acquiring or holding any shares of capital stock or other financial interest in either of the said corporations.

VII

Each of the defendants is hereby enjoined and restrained from entering into, adhering to, maintaining, furthering, or enforcing, directly or indirectly, any combination, conspiracy, contract, agreement, understanding, plan or program with any other person engaged in the manufacture or sale of artificial eyes for the purpose or with the effect of:

- (A) Fixing, establishing or determining the prices, terms or conditions for the sale of artificial eyes;

- (B) Allocating or dividing territories or markets for the manufacture, distribution or sale of artificial eyes;
- (C) Excluding any third person from any market for artificial eyes or determining the terms or conditions to be imposed upon or required of any person for the manufacture, purchase, sale or distribution of artificial eyes;
- (D) Jointly establishing and operating, or continuing to operate jointly, any office or outlet for the sale or distribution of artificial eyes, or sharing the expenses of any office or outlet for the sale or distribution of artificial eyes;
- (E) Restricting or limiting the manufacture or sale of artificial eyes;
- (F) Requiring, directly or indirectly, that such person or any other person not sell or deal in stock eyes other than those manufactured by a defendant or by any other designated person.

VIII

(A) Defendant Mager & Gougelman, Inc., is hereby ordered and directed, 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 royalty-free, non-exclusive and unrestricted license or sublicense under the Travers Patent.

(B) Defendant Mager & Gougelman, Inc., is hereby enjoined and restrained from instituting or threatening to institute, or maintaining any action or proceeding for acts of infringement for the manufacture or sale of artificial eyes, or to collect damages, compensation or royalties alleged to have occurred or accrued prior to the date of this Final Judgment, under the Travers Patent.

IX

Each of the defendants is enjoined and restrained from acquiring any license, sublicense, grant of immunity or similar right under United States Letters Patent Nos. 2,497,872 and 2,497,873 unless such license, sublicense, grant of immunity or similar right grants to said defendant a full and unrestricted power to sublicense, which power such defendant is hereby ordered and directed to exercise by granting, to any applicant making written request therefor, a non-exclusive and unrestricted sublicense under either or both of said patents upon reasonable and non-discriminatory terms and conditions. In no event shall the royalty charged such applicant exceed that which the defendant is obligated to pay his licensor. Each defendant is further ordered and directed to notify in writing the Attorney General at Washington, D. C. within 30 days after it acquires any such license, sublicense, grant of immunity or similar right under United States Letters Patent Nos. 2,497,872 and 2,497,873.

X

Each defendant is hereby enjoined and restrained from making any disposition of the Travers Patent, or of United States Letters Patent Nos. 2,497,872 and 2,497,873, or rights with respect thereto, which deprives it of the power or authority to grant licenses as hereinbefore provided in Sections VIII and IX unless it requires, as a condition of such disposition, that the purchaser, transferee, assignee or licensee, as the case may be, shall observe the requirements of Sections VIII and IX hereof, as applicable, and such purchaser, transferee, assignee or licensee shall file with this Court, prior to the consummation of said transaction, an undertaking to be bound by said provisions of this Final Judgment.

XI

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 an Assistant Attorney General, and on reasonable notice to any defendant, made to its principal office, be permitted, subject to any legally recognized privilege, (1) access during the office hours of said defendant to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of said defendant relating to any matter contained in this Final Judgment, and (2) subject to the reasonable convenience of said defendant and without restraint or interference from it to interview officers or employees of said defendant, who may have counsel present, regarding any such matters, and (3) upon such request the defendant shall submit such reports in writing to the Department of Justice with respect to matters contained in this Final Judgment as may from time to time be necessary to the enforcement of this Final Judgment. No information obtained by the means provided in this Section XI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of such 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.

XII

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

Date:

FEB. 15, 1952

WALTER J. LA BUY
United States District Judge

We hereby consent to the entry of the foregoing judgment:

For the Plaintiff:

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