

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Sperry Rand Corporation; Art Metal, Inc.; GlobeWernicke Industries, Inc.; and Estey Corporation., U.S. District Court, N.D. Illinois, 1965 Trade Cases ¶71,330, (Jan. 22, 1965)

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United States v. Sperry Rand Corporation; Art Metal, Inc.; GlobeWernicke Industries, Inc.; and Estey Corporation.

1965 Trade Cases ¶71,330. U.S. District Court, N.D. Illinois, Eastern Division. Civil Action No. 63 C 1100. Filed January 22, 1965. Case No. 1750 in the Antitrust Division of the Department of Justice.

Sherman Act

Price Fixing—Library Shelving—Consent Decree.—Four library shelving and equipment firms were barred under the terms of a consent judgment from combining or conspiring to eliminate competition, allocate territories or markets, fix prices, rig bids, refrain from competing, or exchange price information with respect to library shelving and related furniture, from exchanging price information with other manufacturers except with or after release of the information to the trade, and from urging other manufacturers to refrain from bidding, competing or selling.

For the plaintiff: William H. Orrick, Jr., Assistant Attorney General, William D. Kilgore, Jr., Gordon B. Spivack, Harry N. Burgess, John E. Sarbaugh, Francis C. Hoyt, and John J. Lannon, Attorneys, Department of Justice.

For the defendants: Bergson & Borkland, by Herbert A. Bergson, Lord, Bissell & Brook, by Richard K. Decker, for Sperry Rand Corp.; William P. Stewart and James O. Smith, for Art Metal, Inc.; Eastman, Stichter, Smith & Bergman, by Wayne E. Stichter, and Norman, Engelhardt, Zimmerman, Franke & Lauritzen, by Harold W. Norman, for Globe-Wernicke Industries, Inc.; Isham, Lincoln & Beale, by Robert F. Hanley for Estey Corporation.

Final Judgment

MAROWITZ, District Judge: Plaintiff, United States of America, having filed its complaint herein on June 20, 1963 and the 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 this final judgment constituting evidence or an admission by any party with respect to any such issue and the Court having considered the matter and being duly advised,

Now, therefore, before the taking of any testimony 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:

I

This Court has jurisdiction of the subject matter hereof and the parties hereto. The complaint states a claim 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," commonly known as the Sherman Act as amended.

II

As used in this Final Judgment, the term "library shelving or related furniture and equipment" means shelves used for storing books in public and private libraries; carrel desks: carrel tables; carrel partitions; roller shelves; document files containing drawers approximately ten inches high by five inches wide for the storage of official documents; and book trucks.

III

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant, and to each of its subsidiaries, successors, and assigns and their respective officers, directors, agents, and employees, and to all persons in active concert or participation with such defendant who receive actual notice of this Final judgment by personal service or otherwise, but shall not apply to transactions solely between such defendant and its said officers, directors, agents, employees, parent company, affiliates and subsidiaries, or any of them.

IV

Defendants are jointly and severally enjoined and restrained from, directly or indirectly, combining or conspiring, or entering into, adhering to, maintaining, enforcing or claiming any rights under, any contract, agreement, arrangement, understanding, plan or program with any other manufacturers or sellers of library shelving or related furniture and equipment to:

- (A) Eliminate or suppress unreasonably competition in the manufacture or sale: of library shelving or related furniture and equipment;
- (B) Allocate, apportion or divide territories, markets or customers for the manufacture or sale of library shelving or related furniture and equipment;
- (C) Fix or maintain prices, formulas for determining prices or any other terms or conditions for the sale of library shelving or related furniture and equipment to any third person;
- (D) Refuse to submit a bid, or to submit non-competitive, collusive or rigged bids or quotations, for the sale of library shelving or related furniture and equipment;
- (E) Refrain from competing in the sale of library shelving or related furniture and equipment in any market, territory or sale;
- (F) Exchange information concerning prices, formulas for determining prices or other terms and conditions for the sale of library shelving or related furniture and equipment to any third person.

V

Defendants are jointly and severally enjoined and restrained from:

- (A) Communicating to, exchanging or discussing with, any other manufacturer of library shelving or related furniture and equipment any price or prices or other terms or conditions for the sale of library shelving or related furniture and equipment, except with or after the release of such prices or other terms or conditions of sale to the trade generally and except in connection with any bona fide purchase or sales transaction;
- (B) Urging or influencing or attempting to urge or influence any other manufacturer or seller of library shelving or related furniture and equipment
 - (i) to refrain from submitting a bid or quotation to any other person for the sale of library shelving or related furniture and equipment;
 - (ii) to refrain from competing with such defendant in the sale of library shelving or related furniture and equipment to any other person; or
 - (iii) to refrain from selling, or offering to sell, library shelving or related furniture and equipment to any third person.

VI

For the purpose of securing compliance with this Final Judgment, and for no other purpose, and subject to any legally recognized privilege, duly authorized representatives of the Department of Justice shall, upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, upon reasonable notice to defendants made to their principal offices, be permitted:

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

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

Defendants, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to their principal offices, shall submit such written reports with respect to any of the matters contained in this Final Judgment 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 VI shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the Government, 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.

VII

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.