

U. S. v. CENTRAL-WEST PUBLISHING CO.

IN THE DISTRICT COURT OF THE UNITED STATES FOR
THE NORTHERN DISTRICT OF ILLINOIS.

Equity No. 30888.

THE UNITED STATES OF AMERICA, PETITIONER,
VS.

CENTRAL-WEST PUBLISHING COMPANY, WESTERN NEWS-
PAPER UNION, AMERICAN PRESS ASSOCIATION, ET AL.,
DEFENDANTS.

DECREE.

This cause coming on for hearing on this 3rd day of August, A. D. 1912, before the Honorable K. M. Landis, district judge of this court, and the petitioner having appeared by its district attorney, James H. Wilkerson, and by William T. Chantland, special assistant to the Attorney General, and having moved the court for an injunction in accordance with the prayer of its petition, and it appearing to the court that the allegations of the petition state a cause of action against the defendants under the provisions of the act of July 2, 1890, known as the antitrust act, and that the court has jurisdiction of the persons and the subject matter and that the defendants have each been regularly served with proper process and have filed their answers to the petition, and that the defendants, Central-West Publishing Company, Western Newspaper Union, Western Newspaper Union of New York, George A. Joslyn, John F. Cramer, H. H. Fish, and M. H. McMillen, by their attorneys, J. H. Cowin, John J. Sullivan, and Charles

F. Harding, and the defendants, American Press Association, Courtland Smith, W. G. Brogan, and Maurice F. Germond, by their attorney, Charles A. Brodek, have given and do now give in open court their consent to the rendition and entering of the following decree:

Now, therefore, it is ordered, adjudged, and decreed:

I. That the defendants and each of them are found, and they are hereby declared to have been and to be now engaged in an attempt to monopolize interstate trade and commerce in the business of shipping ready-print papers, matrices, and stereotyped plates, and in the dissemination of news among the several States of the Union, all done and carried on in violation of the act of Congress of July 2, 1890, commonly known as the antitrust act.

II. That the defendants herein and each of them have both separately and in concert committed acts in unfair competition against mutual competitors and that these defendants and each of them as to said matters be permanently and specifically enjoined and restrained from either directly or indirectly, separately or in concert, through their agents or employees, from in any manner committing or doing any acts of unfair competition against the competitors of either of these defendants, and that specifically each be permanently enjoined from thus doing or aiding in doing any of the following acts:

(1) From underselling any competing service with the intent or purpose of injuring or destroying a competitor of either of these defendants.

(2) From sending out traveling men for the purpose or with instructions to influence the customers of such competitors of either of these defendants, so as to secure the trade of such customers, without regard to the price.

(3) From in any manner or for any length of time selling his or its service in either plate, ready print, or matrices, either separately or one service with another, at less than a fair and reasonable price, with the purpose or intent of injuring or destroying the business of any competitor of either of these defendants.

(4) From threatening any customer of a competitor with starting a competing plant unless he patronizes one or the other of these defendants.

(5) From threatening the competitors of either of these defendants that they must either cease competing with defendants or sell out to one or the other of the defendants herein, and from threatening that unless they do their industries will be destroyed by the establishment of nearby plants to actively compete with them or by any other method of unfair competition.

III. That the defendants Western Newspaper Union, Western Newspaper Union of New York, Central-West Publishing Company, George A. Joslyn, John F. Cramer, H. H. Fish, and M. H. McMillen be, and they are hereby, permanently enjoined from either directly or indirectly, by themselves or through their agents or employees, from in any manner continuing to do any acts in unfair competition against the other defendant company in this petition named, to wit, American Press Association, as alleged in divisions six and seven of this petition, and particularly that they be thus enjoined from doing any of the following acts:

(a) From combining or attempting to combine with said defendant American Press Association, either by purchase, stock ownership, or in any other manner.

(b) From holding out inducements, in the way of control or otherwise, to the said American Press Associations, or either of them, or any of their officers, agents, or employees, to induce or compel a combination between the Western Newspaper Union and its allied concerns and the American Press Associations.

(c) From selling any of their product or services at less than a fair and reasonable profit, or at cost, or less than cost, with the purpose or intent of injuring or destroying the interstate trade and commerce of the American Press Association, or of any other competitors.

(d) From in any manner, either directly or indirectly, causing any person or persons or company to purchase

stock or become interested in the American Press Association for the purpose of or with the effect of harassing the said American Press Association by unconscionable or unreasonable demands for an examination of its books or inquiry into its business methods, or the institution of suits, with such or like purpose in view.

(e) From in any manner, either directly or indirectly, instructing, causing or permitting their agents or employees or traveling salesman throughout the country, to circulate reports or to intimate or convey the impression that these defendants will put the American Press Association out of business, or that the American Press Association will not be able to continue in business against the competition of these defendants, or that the American Press Association intends to or is about to combine with the defendants or the defendants with them, or to intimate or convey the impression that unless publishers approached by such salesman deal with these defendants, they will be discriminated against as soon as the American Press Association shall be put out of business by the competition to which it is being subjected.

(f) From sending out traveling men for the purpose or with instructions to influence the customers of the other defendants hereto, so as to secure the trade of such customers, without regard to the price.

(g) From in any manner threatening or intimating that they will start competing papers at points where customers of the American Press Association or other competitors refuse to deal with them, either in plate or ready print matter or both.

(h) From in any manner promising or intimating to any publisher or other person who is a customer of the American Press Association, or any other competitor, that they will protect such customer against expenses and costs in any suit that may arise by reason of the repudiation of any contract between such competitor and such customer.

(i) From in any manner retaining or permitting the retention by their agents or employees of plate metal or

other property belonging to the American Press Association, or other competitor of said defendants.

(j) From in any manner offering bonuses of paper or plate service free or at a nominal price with the purpose and intent of inducing or enabling customers of the American Press Association or any other competitor to temporarily change to home-print papers and thus to assist them in breaking contracts with the said American Press Association with lessened chance of liability for breach of contract; and furthermore from offering in connection with such bonus to sell their service at less than the usual price to such customer of such competitor, and from offering as a part of such plan the continued use of free plate for the home-print side of the papers of such customers.

(k) From purchasing or acquiring stock in any other corporation, or interest in any other concern, engaged in the manufacture or sale of plate matter or ready prints, and not a party hereto; and from acquiring the property and business of any such company, unless application be made to and permission to make such purchase be granted by this court.

(l) From in any manner unfairly criticizing and abusing the method of the said American Press Association with reference to advertising, or from doing any of said things through its weekly house organs, known as the Publishers' Auxiliary and the Western Publisher, and particularly from misrepresenting through said means the business and business methods of the American Press Association, with the intent and for the purpose of taking away the customers of the said American Press Association, or otherwise injuring its business.

(m) From in any manner continuing or participating in unfair attacks upon the said American Press Association, with the purpose of injuring or depreciating or destroying the value of the property and securities of the said American Press Association.

(n) From maintaining any auxiliary plant in any cities of the United States apparently independent, but in fact

the property of the Western Newspaper Union, or its officers and stockholders, for the purpose and with the intent of making the newspaper trade generally believe such institutions to be independent.

IV. That the defendants American Press Association, Courtland Smith, W. G. Brogan, and Maurice F. Germond be perpetually enjoined from in any manner, either personally or as officers, or through their agents or employees, from continuing to commit or assisting in the commission of any acts of unfair competition directed against the defendants Central-West Publishing Company, Western Newspaper Union, or any other of these named defendants' competitors, and that they be permanently enjoined particularly from in any manner doing or committing any of the following acts:

(a) From selling its adless ready-print or plate service for less than a fair and reasonable price, or at cost, or below cost, with the purpose or intent of injuring the business of these named defendants or other competitors of the said American Press Association.

(b) From in any manner unfairly criticizing and abusing the method of the said Western Newspaper Union with reference to advertising through these defendants' circulars relating to its bureau of foreign advertising, or from doing any of said things through its weekly house organ, known as the American Press, and particularly from misrepresenting through said means the business and business methods of the Western Newspaper Union, with the intent and for the purpose of taking away the customers of the said Western Newspaper Union, or otherwise injuring its business.

(c) From in any manner continuing or participating in unfair attacks upon the said Western Newspaper Union with the purpose of injuring or depreciating or destroying the value of the property and securities of the said Western Newspaper Union.

(d) From maintaining any auxiliary plant in any cities of the United States apparently independent but in fact

the property of the American Press Association, or its officers and stockholders, for the purpose and with the intent of making the newspaper trade generally believe such institutions to be independent.

(e) From sending out traveling men for the purpose or with instructions to influence the customers of the other defendants hereto, so as to secure the trade of such customers, without regard to the price.

(f) From in any manner retaining, or permitting the retention by their agents or employees, of plate metal or other property belonging to the Western Newspaper Union, or other competitor of said defendants.

(g) From in any manner offering bonuses of paper or plate service, free or at a nominal price, with the purpose and intent of inducing or enabling customers of the Western Newspaper Union or any other competitor to temporarily change to home print papers and thus to assist them in breaking contracts with the said Western Newspaper Union with lessened chances of liability for breach of contract; and furthermore from offering in connection with such bonus to sell their service at less than the usual price to such customer of such competitor, and from offering as part of such plan the continued use of free plate for the home print side of the papers of such customer.

(h) From purchasing or acquiring stock in any other corporation or interest in any other concern engaged in the manufacture or sale of plate matter or ready prints and not a party hereto; and from acquiring the property and business of any such company, unless application be made to and permission to make such purchase be granted by this court.

V. That each of the defendants named in this petition be specifically and permanently enjoined and restrained from combining or joining in any acts—

(a) Of unfair competition either against another or against any mutual competitor;

(b) Looking toward a combination between any of these defendants;

(c) Any acts done with the intent or purpose of driving out of the industries in which they are now engaged of either of these defendants, or of any of their competitors;

And as to each of the above acts defendants, and each of them, and their officers and agents, are enjoined from doing them, either separately or in concert or conjunction with either of the other defendants.

It is further ordered that the defendants, Western Newspaper Union and the American Press Association, each pay one-half of the cost of this suit, to be taxed.

When in this decree the American Press Association is mentioned, reference is had to both the American Press Association organized under the laws of New York and the American Press Association organized under the laws of West Virginia, or if such portion of the decree is not appropriate to both, the one is intended to which it is appropriate.

KENESAW M. LANDIS, *Judge.*