

UNITED STATES vs. IRONITE COMPANY.

IN THE DISTRICT COURT OF THE UNITED STATES, FOR
THE SOUTHERN DISTRICT OF NEW YORK.

In Equity No. 16-373.

UNITED STATES OF AMERICA, PETITIONER,

vs.

IRONITE COMPANY, THE MASTER BUILDERS COMPANY,
UNITED PRODUCTS COMPANY, EDWARD I. BUCKLIN,
SYLVESTER W. FLESHEIM, SIDNEY L. FLESHEIM, SOLO-
MON M. HEXTER, RICHARD E. BISHOP and HAROLD E.
SMITH, DEFENDANTS.

FINAL DECREE.

This cause came on to be heard at this term, and upon consideration thereof, and upon motion of the petitioner by Francis G. Caffey, United States Attorney for the Southern District of New York, its attorney, and by

Henry A. Guiler, Special Assistant to the United States Attorney, and Ryland W. Joyce, Special Assistant to the United States Attorney, of counsel, for relief in accordance with the prayer of the petition, and all the defendants therein having appeared by their attorney, Martin W. Littleton, and having consented thereto in open court;

Now, therefore, it is ORDERED, ADJUDGED and DECREED as follows, viz:

I. That the combination and conspiracy in restraint of the trade and commerce and to monopolize the same, and the restraint and monopoly attained thereby, described in the petition, be and hereby are declared illegal and in violation of the Act of Congress, approved July 2, 1890, entitled "An Act to Protect Trade and Commerce against Unlawful Restraints and Monopolies," and Acts amendatory thereof and supplemental or additional thereto.

II. That the defendants and each of them, and their officers, agents, servants and employees, and all persons acting under, through, by, or in behalf of them or either of them, or claiming so to act, be and hereby are perpetually enjoined, restrained and prohibited, directly or indirectly, from engaging in, continuing, or carrying into effect the said combination and conspiracy, and from engaging in or entering into any like combination or conspiracy, the effect of which would be to restrain or monopolize said trade or commerce in pulverized, powdered, or finely divided iron or other like metal or metal-containing material, or in the use thereof in connection with, or in the application thereof to any and all kinds of concrete construction work, among the several states of the United States, or, in the District of Columbia, and from carrying out or continuing in effect the license or other agreements, described in, or annexed to the petition, or making any express or implied agreements or arrangements together or with one another, like those hereby adjudged illegal or enjoined, or using any other means or methods, the effect of which would be to prevent the free and unrestrained flow of said trade or commerce, or, to monopolize the same.

III. That the defendants, and each of them, and their officers, agents, servants and employees, and all persons acting under, through, by, or in behalf of them or either of them, or claiming so to act, be and hereby are ordered and directed to dissolve and forever discontinue said United Products Company, a corporation, and be and hereby are perpetually enjoined, restrained and prohibited, directly or indirectly, from engaging in, forming or entering into any like company or corporation.

IV. That the defendants, and each of them, and their officers, agents, servants and employees, and all persons acting under, through, by, or in behalf of them or either of them, or claiming so to act, be and hereby are perpetually enjoined, restrained and prohibited, directly or indirectly, from transferring, selling, assigning, disposing of, using or referring to, the following patents and each of them set forth in the petition, viz., #830,003, granted to J. M. Rauhoff, September 4, 1906, for "Process of Rendering Cement Blocks Waterproof"; #1,000,944, granted to J. M. Rauhoff, assignor, August 15, 1911, for "Concrete Composition"; #1,012,832, granted to S. W. Flesheim, assignor, December 26, 1911, for "Method of Bonding Concrete"; reissue #13,598, granted to S. W. Flesheim, assignor, July 22, 1913, for "Method of Bonding Concrete"; #1,113,112, granted to S. W. Flesheim, assignor, October 6, 1914, for "Process of Hardening Concrete Structures"; #1,113,555, granted to Haldeman October 13, 1914, in any manner whatsoever or for any purpose whatsoever.

V. That the defendants, and each of them, and their officers, agents, servants and employees, and all persons acting under, through, by, or in behalf of them or either of them, or claiming so to act, be and hereby are ordered and directed to cease and forever discontinue referring to their products, or the process or method of using the same, as patented.

VI. That the defendants, and each of them, and their officers, agents, servants and employees, and all persons acting under, through, by or in behalf of them or either

of them, or claiming so to act, be and hereby are ordered and directed to withdraw and forever discontinue all suits against alleged infringers based upon said patents or any of them set forth in the petition, and forever refrain from bringing any like suits based upon said patents or any of them.

VII. That the defendants, and each of them, and their officers, agents, servants and employees, and all persons acting under, through, by, or in behalf of them or either of them, or claiming so to act, be and hereby are ordered and directed to forever withdraw and cancel of record in the Court wherein the same was entered, the consent decree obtained by said Ironite Company against The Master Builders Company and the City of Rockford purporting to sustain the validity or infringement of said patent #830,003 granted September 4, 1906, to J. M. Rauhoff or any other patent in said decree; to withdraw, dismiss and forever discontinue the suit of Ironite Co. vs. The Master Builders Co. and the City of Rockford in the United States District Court, Northern District of Illinois and Eastern Division thereof in Equity #30,992, and to cease and forever discontinue representing directly or indirectly that said suit or decree, in any way, adjudged or sustained the validity or infringement of said patent #830,003, granted September 4, 1906, to J. M. Rauhoff, or any other patent in said decree and to cease and forever discontinue carrying out or enforcing any of the provisions of said decree.

VIII. That the defendants and each of them, their officers, agents, servants, employees, and all persons acting under, through, by, or in behalf of them, or any of them, or claiming so to act be and hereby are perpetually enjoined, restrained and prohibited, directly or indirectly, from,

(a) Agreeing to, fixing or establishing in any manner whatsoever among themselves or with others the prices to be charged for said pulverized, powdered, or finely divided iron or other like metal or metal-containing ma-

terial, or maintaining the said prices therefor after they are so agreed to, fixed or established.

(b) Agreeing among themselves or with others to establish or adopt the terms, conditions or policies which should obtain with respect to the use, sale, resale or disposal of said pulverized, powdered, or finely divided iron or other like metal or metal-containing material.

(c) Agreeing among themselves or with others to fix the prices at which said pulverized, powdered, or finely divided iron or other like metal or metal-containing material should be sold or resold by jobbers, dealers, or others, or individually or collectively fixing, suggesting, or in any manner whatsoever indicating the prices at which said pulverized, powdered, or finely divided iron or other like metal or metal-containing material should or may be sold or resold by jobbers, dealers, or others.

(d) Agreeing among themselves or with others in any manner whatsoever, to charge purchasers of said pulverized, powdered, or finely divided iron or other like metal or metal-containing material, uniform prices, or doing any act which will, or may be calculated to result in uniform prices.

(e) Discriminating, individually or collectively, against any purchaser, prospective or otherwise, of pulverized, powdered, or finely divided iron or other like metal or metal-containing material, because of his refusal or failure to adopt, maintain or adhere to any prices, terms, conditions or policies fixed, suggested or indicated by them or any of them, with reference to the sale or resale of such pulverized, powdered, or finely divided iron or other like metal or metal-containing material.

(f) Intimidating, coercing or compelling, in any way, purchasers or prospective purchasers of said pulverized, powdered, or finely divided iron or other like metal or metal-containing material, or others to cease or discontinue the purchase or use of the product of competitors.

(g) Issuing or circulating through the mails or otherwise, letters, circulars, or advertising matter containing any reference to the patents hereinbefore specified or

using or permitting the use of in any manner whatsoever advertising matter now in their possession containing reference to the aforesaid patents or any of them set forth in the petition.

(h) Apportioning, defining or limiting, individually or collectively, the particular place or territory in which jobbers, dealers or others may sell or resell said pulverized, powdered, or finely divided iron or other like metal or metal-containing material.

(i) Aiding, abetting or assisting, individually or collectively, others to do all or any of the matters or things hereinbefore set forth.

IX. It is further ordered, adjudged and decreed that the petitioner have and recover of the defendants the costs in this behalf expended, for which let execution issue.

Dated, New York, March 20th, 1920.

AUGUSTUS N. HAND,
United States District Judge.