

UNITED STATES OF AMERICA, PETITIONER,

VS.

NATIONAL ENAMELING & STAMPING COMPANY, INC., DOVER STAMPING & MANUFACTURING COMPANY, INC., REPUBLIC METAL WARE COMPANY, INC., THE NEW ENGLAND ENAMELING COMPANY, INC., CENTRAL STAMPING COMPANY, INC., GEUDER, PAESCHKE & FREY COMPANY, INC., ROCHESTER STAMPING COMPANY, INC., NORTHWESTERN METALWARE COMPANY, INC., THE F. H. LAWSON COMPANY, INC., AND WHEELING CORRUGATING COMPANY, INC., DEFENDANTS.

Jurisdiction of this cause having been retained for the purpose, among others, of enabling parties to apply to the Court for modifications of the final decree made and entered herein on the 14th day of February, 1922, if it be shown to the satisfaction of the Court that the provisions thereof have become inadequate, in appropriate or unnecessary; and this Court in the exercise of such jurisdiction having heretofore modified said final decree by its order entered May 1, 1924; and all of the defendants which consented to the entry of said final decree of February 14, 1922, now having petitioned this Court for a further modification thereof; and the petitioner herein, United States of America, having filed its answer to said petition, and stated that the modifications now prayed for appear to be in accordance with recent decisions of the United States Supreme Court; and it appearing that certain provisions of said final decree as modified by said order of May 1, 1924, have now become inappropriate in view of subsequent decisions of the United States Supreme Court;

Now, THEREFORE, upon motion of counsel for said defendants, it is hereby

ORDERED, ADJUDGED AND DECREED that the final decree made and entered herein on the 14th day of February, 1922, and modified by order of this Court dated May 1, 1924, be further modified in the following manner:

AT A STATED TERM OF THE DISTRICT COURT OF THE UNITED STATES, FOR THE SOUTHERN DISTRICT OF NEW YORK, IN THE BOROUGH OF MANHATTAN, CITY OF NEW YORK, ON THE 23d DAY OF NOVEMBER, 1927.

Present: HONORABLE JOHN CLARK KNOX, *District Judge.*

In Equity No. 23-126.

(1) By striking from said final decree as heretofore modified the following two paragraphs added to the final decree by order entered May 1, 1924:

1. Provided, however, that the defendants may, through an association or corporation, receive and compile for transmission to any governmental agency such information and statistics as it may request as to the volume of production, stocks on hand, and orders shipped, including the volume of each grade, size, style and quality, but are restrained from distributing said information among themselves, except that information respecting sales may be collected annually, and used to enable the assessment of the several members for their proportionate part of the several expenses of the association, and for no other purpose.

2. Provided, however, that this decree shall not be construed as prohibiting the defendants from cooperating with the Division of Simplified Practice existing in the Department of Commerce of the United States, to obtain the elimination of obsolete or unnecessary varieties, styles, and sizes, and to that end from agreeing to such changes or modifications in the individual practices of the individual members as may be recommended from time to time for agreement and acceptance by the industry, by the said Department of Commerce of the United States. Provided however that this order shall not be taken as legalizing any specific agreement reached between the defendants, and the Department of Commerce, but only as permitting them to cooperate and agree upon changes and modifications which shall when made be lawful.

(2) By striking from Paragraph I of said final decree dated February 14, 1922, the following language:

And be and hereby are also enjoined from communicating directly or indirectly among themselves information with reference to their individual production and sales of galvanized ware and prices, quotations of price, terms and conditions of sale made or to be made by them or any of them, provided, however, that nothing

herein contained shall be construed to prohibit casual or isolated communications.

(3) By adding at the end of Paragraph II of the final decree of February 14, 1922, the following language:

But nothing in this decree shall enjoin the defendants, their officers, agents or any of them from forming, or joining, or otherwise availing themselves of any association, exchange or membership corporation established and maintained in accordance with law for objects such as are set out in the annexed Exhibit X and not employed to accomplish any unlawful purposes.

(4) By annexing to said final decree of February 14, 1922, as a part thereof, entitled "Exhibit X", the following language:

1. To consider at stated meetings, all matters which can be legally discussed, for the benefit of members and improvement of conditions in the industry, and to advance their business welfare by legitimate cooperation in matters of mutual interest.

2. To hold meetings for social intercourse and for the presentation and discussion of appropriate papers on matters of legislation, transportation, insurance, manufacturing, and other proper subjects.

3. To establish a system for the investigation of credits, and for the collection and exchange of information concerning the character and standing of purchasers.

4. To establish a Bureau of Statistics for the collection and dissemination from and to members of periodical statistical reports giving unidentified information with respect to stocks on hand, production, unfilled orders, shipments, orders received, actual prices at which orders accepted were sold and such other statistical information as may lawfully be assembled and exchanged and which shall relate entirely to past and completed transactions.

5. To cooperate with the Division of Simplified Practice existing in the Department of Commerce of the United States, to obtain the elimination of obsolete or

unnecessary varieties, styles, and sizes, under procedure involving changes or modifications in the individual practices of the individual members as may be recommended from time to time for acceptance by the industry, by the said Department of Commerce of the United States.

6. To interest members in the establishment and maintenance of correct and accurate cost systems from which the true costs of production may be determined. To hold periodical meetings of the cost accountants of member companies for the purpose of discussing cost accounting principles and establishing uniform methods for the ascertainment of costs. To collect quarterly departmental labor costs and labor efficiency ratios, such information to be tabulated in comparative form without showing company identification and disseminated to members with the view of obtaining throughout the Association the maximum productive efficiency.

7. To collect information as to closed transactions so that through a study of costs an intelligent list price for various classes of utensils may be developed which can be used by the trade generally and from which individual producers can quote whatever discounts their costs and judgment may permit.

But none of the foregoing objects shall be used for the fixing of agreed prices or for the accomplishment of any other unlawful purpose.

(Signed)      JOHN CLARK KNOX,  
*District Judge.*

November 23, 1927.