

UNITED STATES vs. INTERNATIONAL BUSINESS
MACHINES CORPORATION, ET AL.

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

In Equity No. 66-215.

UNITED STATES OF AMERICA, PETITIONER,

VS.

INTERNATIONAL BUSINESS MACHINES CORPORATION,
REMINGTON RAND., INC., THE TABULATING MACHINE
COMPANY AND REMINGTON RAND BUSINESS SERVICE,
INC., DEFENDANTS.

The United States of America having filed its petition
herein on March 26, 1932, and each of the defendants
having duly appeared by its solicitors,

And the defendant, International Business Machines
Corporation, having entered into a stipulation with Peti-
tioner, dated October 28, 1935, providing that the trial
and determination of the issues in this cause as against
the defendants, Remington Rand, Inc., and Remington
Rand Business Service, Inc., might be severed and trial
had separately as against defendants, Internationl Busi-
ness Machines Corporation and The Tabulating Machine
Company;

And the defendants, International Business Machines
Corporation and The Tabulating Machine Company,
having entered into a stipulation with Petitioner, dated
October 28, 1935, reciting the cancellation of the agree-
ment dated March 4, 1931, between Tabulating Machine
Company and Remington Rand, Inc. (Exhibit 1 attached
to the petition), and that a consent decree as to the
charges of violation of the Sherman Act contained in the
petition, in the form annexed thereto and identical with
paragraph 2 hereof, might be entered against them upon
the final determination of the remaining issues on the
agreed facts set forth in said stipulation, irrespective of
the outcome as to such remaining issues, and that the
remaining issues in the case as between Petitioner and

said defendants, International Business Machines Corporation and The Tabulating Machine Company, should be submitted to the Court for decision upon the pleadings and upon the agreed facts set forth in said stipulations;

And, pursuant to said stipulations, the issues remaining in this cause having been submitted to the Court upon the pleadings and the stipulation of agreed facts herein and orally argued by counsel for Petitioner and for said defendants on November 20 to 22, 1935, and this Court, having on December 2, 1935, rendered its opinion deciding said issues in favor of Petitioner and against said defendant, International Business Machines Corporation, and concluding that Petitioner's prayer in respect to its allegations in the petition of violation of Section 3 of the Clayton Act must be granted; it is

ORDERED, ADJUDGED, AND DECREED:

1. That as used herein "tabulating machines" shall include tabulators and punches, punching machines, sorters and sorting machines or other machines used or to be used in connection with tabulating machines, tabulators or tabulating cards; and "tabulating cards" or "cards" shall include cards manufactured for use in connection with such machines;

2. That the defendant, International Business Machines Corporation, its officers, directors, agents and employees and all persons acting for or on behalf of them, or any of them, be and they are hereby perpetually enjoined from making, entering into, carrying out or enforcing any agreement or understanding, express or implied, with competitors dealing in tabulating machines—

(a) prohibiting or preventing said defendant from selling tabulating machines or offering such machines for sale, or

(b) fixing the prices, rentals, terms or conditions for or under which said defendant may sell, lease, rent, or otherwise license the use of tabulating machines, or sell or dispose of tabulating cards, or

(c) requiring said defendant to sell, lease, rent or license the use of tabulating machines only on condition that the lessee or licensee shall purchase or otherwise obtain, directly or indirectly, tabulating cards from said defendant, or

(d) requiring said defendant to incorporate as a condition of any contract of sale, lease, rental or license of tabulating machines that the purchaser, lessee, or licensee shall, because it obtains tabulating cards from any person other than said defendant, pay the cost of, or any additional rental or charge for, repairs or maintenance, or

(e) restricting the freedom of said defendant to sell or encourage the sale or purchase of tabulating cards manufactured or sold by others, or

(f) restricting the freedom of said defendant to sell or dispose of its tabulating cards to users of tabulating machines other than those machines manufactured, sold, leased or licensed by itself;

3. That the "tying clauses" contained in the outstanding tabulating machine leases of defendant, International Business Machines Corporation, which require the lessees to use in connection with such machines only tabulating cards manufactured by said defendant, or which require the lessees to pay an increased rental for such machines, if other cards are used in connection with them, are illegal, null and void, and in violation of Section 3 of the Act of Congress approved October 15, 1914, known as the Clayton Act.

4. That said defendant, International Business Machines Corporation, its officers, agents, directors and employees and all persons acting on behalf of them or any of them, be and they are hereby perpetually enjoined from incorporating as conditions in any contract of sale, lease, rental or license of any tabulating machine,

(a) provisions that the purchaser, lessee or licensee use in connection therewith tabulating cards manufactured or furnished by said defendant, or

(b) provisions for a decreased rental or charge, or no charge, including service charges, on condition that the purchaser, lessee or licensee purchase tabulating cards from said defendant, or

(c) provisions for increased or additional rental or charge, including service charges, to be paid by the purchaser, lessee or licensee because of the use by such persons of cards which are not manufactured or furnished by said defendant;

5. That, within six (6) months after the entry of this decree, the defendant, International Business Machines Corporation, shall abrogate, cancel and declare to be null and void any and all provisions in every outstanding lease or license of a tabulating machine made by it which is hereby adjudged to be null and void, and shall thereupon furnish to each user of its tabulating machines a formal notice in writing of such abrogation and cancellation.

6. That jurisdiction is hereby expressly retained for the purpose of enforcing or modifying this decree on application of any party thereto.

Dated, New York, December 26, 1935.

(Sd.) WOOLSEY,
United States District Judge.