

APPENDIX B:

UNITED STATES v. H.S. CROCKER CO., ET AL.

CIVIL NO. C-74-0560 CBR

SUPERSEDING JUDGMENT IN PART: ENTERED NOV. 25, 1975

CORRECTED JUDGMENT

FILED

NOV 25 1975

WILLIAM L. WHITTAKER, CLERK

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

H. S. CROCKER CO., INC.;
STECHER-TRAUNG-SCHMIDT CORPORATION;
DIAMOND INTERNATIONAL CORPORATION;
INTERNATIONAL PAPER COMPANY;
FORT DEARBORN LITHOGRAPH CO.;
MICHIGAN LITHOGRAPHING CO.;
PIEDMONT LABEL COMPANY;
H. M. SMYTH CO., INC. ; and
LITTON BUSINESS SYSTEMS, INC.,

Defendants.

Civil Action
No. C-74-0560 CBR

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on March 12, 1974, and the Plaintiff and the Defendants, by their respective attorneys, having 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 any evidence against or admission by any party with respect to any issue of fact or law herein:

NOW, THEREFORE, without any testimony being taken herein, and without trial or adjudication of any issue of fact or law herein, and upon the consent of all parties hereto, it is hereby ORDERED, ADJUDGED AND DECREED:

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I

This Court has jurisdiction of the subject matter herein and of the parties hereto. The Complaint states a claim upon which relief may be granted against the Defendants under Section 1 of the Act of Congress of July 2, 1890, 15 U.S.C. Section 1, entitled "an Act to protect trade and commerce against unlawful restraints and monopolies," as amended, commonly known as the Sherman Act.

II

As used in this Final Judgment:

(A) "Person" shall mean any individual, corporation, partnership, firm, association or other business or legal entity;

(B) "Paper label" shall mean any label made, in whole or in part, of paper;

(C) "Defendants" and "Defendant" as used herein shall not include any party named as a defendant herein which has not consented to the entry of this Final Judgment.

III

The provisions of this Final Judgment are applicable to all Defendants herein and shall also apply to each of said Defendants' officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them, who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each Defendant is enjoined and restrained from:

(A) Entering into, directly or indirectly, any contract, agreement, understanding, plan, program, combination or conspiracy with any other manufacturer or

1 seller of paper labels to (1) allocate or divide customers,
2 territories or markets for the sale of any paper label or
3 (2) raise, fix, stabilize or maintain the price, discount,
4 markup or any other term or condition for the sale of any
5 paper label to any third person;

6 (B) Expressly or implicitly furnishing to or requesting
7 from any other manufacturer or seller of any paper label any
8 price, term or condition, or warehousing charge or engraving
9 charge with respect to the sale of any paper label, unless
10 the information in question has been made generally available
11 to users of paper labels;

12 (C) Belonging to, or participating in, or contributing
13 anything of value to any trade association or other group
14 with knowledge that the activities thereof are contrary to
15 or inconsistent with the provisions of this Final Judgment.

16 V

17 Nothing contained in this Final Judgment shall apply
18 to any negotiation or communication between a Defendant and
19 any other Defendant or any other manufacturer or seller of
20 paper labels or any of their agents, brokers, distributors
21 or representatives, whose sole purpose is a proposed or
22 actual bona fide purchase or sale.

23 VI

24 Each Defendant shall require, as a condition of the
25 sale or other disposition of all, or substantially all,
26 of the assets used by it in the design, printing, sale and
27 distribution of paper labels, that the acquiring party
28 agree to be bound by the provisions of this Final Judgment.
29 The acquiring party shall file with the Court, and serve
30 upon the Plaintiff, its consent to be bound by this Final
31 Judgment.

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VII

1
2 Each Defendant shall take affirmative steps (including
3 written directives setting forth corporate compliance
4 policies, distribution of this Final Judgment, and meetings
5 to review its terms and the obligations it imposes), to
6 advise each of its officers, directors, managing agents and
7 employees who has responsibility for or authority over the
8 establishment of prices or bids by which said Defendant
9 sells or proposes to sell any paper labels, and all paper
10 label salesmen and saleswomen of its and their obligations
11 under this Final Judgment and of the criminal penalties for
12 violation of Section IV of this Final Judgment. In addition,
13 each Defendant shall, for so long as it remains in the
14 business of selling any paper labels, cause a copy of this
15 Final Judgment to be distributed at least once each year to
16 each of its officers responsible for the conduct of such
17 business and all paper label salesmen and saleswomen.

VIII

18
19 For a period of 10 years from the date of entry of this
20 Final Judgment, each Defendant shall file with this Court
21 and with Plaintiff, on the anniversary date of this Final
22 Judgment, a sworn statement by a responsible officer,
23 designated by that Defendant to perform such duties, setting
24 forth all steps it has taken during the preceding year to
25 discharge its obligations under Paragraph VII above. Said
26 report shall be accompanied by copies of all written
27 directives issued by said Defendant during the prior year
28 with respect to compliance with the terms of this Final
29 Judgment. In addition, a responsible officer of Defendants,
30 H. S. Crocker, Stecher-Traung-Schmidt, Diamond International
31 and International Paper, shall appear annually during said

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1 period before this Court to give sworn testimony on the
2 manner of compliance with Paragraph VII of this Final
3 Judgment.

4 IX

5 (A) For the purpose of determining or securing
6 compliance with this Final Judgment and for no other
7 purpose, Defendants shall permit duly authorized repre-
8 sentatives of the Department of Justice, on written request
9 of the Attorney General or of the Assistant Attorney General
10 in charge of the Antitrust Division, and on reasonable
11 notice, subject to any legally recognized privilege:

12 (1) Access during the business hours of
13 Defendants, who may have counsel present, to those
14 books, ledgers, accounts, correspondence, memoranda,
15 and other records and documents in the possession
16 or under the control of Defendants which relate to
17 any matters contained in this Final Judgment;

18 (2) Subject to the reasonable convenience of
19 Defendants and without restraint or interference
20 from them, to interview individuals who are officers
21 or employees of Defendants, any of whom may have
22 counsel present, regarding any matters contained in
23 this Final Judgment.

24 (B) For the purpose of determining or securing
25 compliance with this Final Judgment and for no other
26 purpose, upon written request of the Attorney General, or
27 of the Assistant Attorney General in charge of the Antitrust
28 Division, Defendants shall submit such reports in writing,
29 with respect to the matters contained in this Final Judgment
30 as may from time to time be requested.

31 (C) No information obtained by the means provided in
32 this Section IX of this Final Judgment shall be divulged by a

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1 representative of the Department of Justice to any person
2 other than a duly authorized representative of the Executive
3 Branch of the Plaintiff except in the course of legal
4 proceedings to which the United States is a party for the
5 purpose of securing compliance with this Final Judgment,
6 or as otherwise required by law.

7 X

8 To the extent any Defendant was bound by the decree
9 entered in United States v. Schmidt Lithograph Company,
10 et al., Civil No. 2424-BH in the United States District Court
11 for the Central District of California that decree shall be
12 superseded by the terms of this Final Judgment as to paper
13 labels.

14 XI

15 Jurisdiction is retained by this Court for the purpose
16 of enabling any of the parties to this Final Judgment to
17 apply to this Court at any time for such further orders and
18 directions as may be necessary or appropriate for the
19 construction or modification of any of the provisions
20 thereof, for the enforcement of compliance therewith, and
21 for the punishment of violations thereof.

22 XII

23 Entry of this Final Judgment is in the public interest.

24
25 Dated: *November 25, 1975*

26
27 *Charles B. Rogers*
28 UNITED STATES DISTRICT JUDGE