

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Auditorium Conditioning Corporation, American Blower Corporation, Carrier Corporation, B. F. Sturtevant Company, Ross Industries Corporation, York Ice Machinery Corporation, Clark T. Morse, E. Cloud Wampler, John O. Ross, Ernest B. Freeman and Stewart E. Lauer., U.S. District Court, S.D. New York, 1944-1945 Trade Cases ¶57,428, (Dec. 28, 1945)

[Click to open document in a browser](#)

United States v. Auditorium Conditioning Corporation, American Blower Corporation, Carrier Corporation, B. F. Sturtevant Company, Ross Industries Corporation, York Ice Machinery Corporation, Clark T. Morse, E. Cloud Wampler, John O. Ross, Ernest B. Freeman and Stewart E. Lauer.

1944-1945 Trade Cases ¶57,428. U.S. District Court, S.D. New York. Civil Action No. 22-200 December 28, 1945.

A consent decree entered in an action charging violations of the Sherman Anti-Trust Act contains provisions enjoining: combinations to fix charges, restrict competition, or discriminate in the installation, manufacture, use or sale of air-conditioning equipment; and institution of suits for patent infringement or enforcement of licensing agreements. Existing agreements are cancelled, the patent holding company is to be dissolved, and the patents involved are ordered to be dedicated to the public.

For plaintiff: Lawrence S. Apsey and Ernest S. Meyers, Special Assistants to the Attorney General and Harold Lasser, Special Attorney.

For defendants: Harold L. Hertzstein, Putney, Twombly & Hall, Sullivan & Cromwell, Reynolds, Richards & McCutcheon, Robert B. Knowles and Samuel L. Chess, all of New York, N. Y.

Leibell, United States District Judge.

Final Judgment

The complainant, United States of America, having filed this complaint herein on August 19, 1943; all the defendants having appeared and severally filed their answers to such complaint denying the substantive allegations thereof; all parties hereto by their respective attorneys herein having severally consented to the entry of this final judgment without trial or adjudication of any issue of fact or law herein and without admission by any party in respect of any such issue;

NOW, THEREFORE; before any testimony has been taken herein, and without trial or adjudication of any issue of facts or law herein, and upon consent of all parties hereto, it is hereby

ORDERED AND DECREED:

I

[Jurisdiction and Cause of Action]

That this Court has jurisdiction of the subject matter and of all the parties hereto; that the complaint states a cause of action against the defendants under the Act of Congress of July 2, 1890, entitled "An Act to Protect Trade and Commerce against Unlawful Restraints and Monopolies" and acts amendatory thereof and supplemental thereto.

II

[Agreements Cancelled]

All agreements including patent licenses between and among any of the defendants relating to the creation of patent rights in Auditorium Conditioning Corporation, or the licensing of patents by or to Auditorium Conditioning

Corporation or the exercise of patent rights by, or through Auditorium Conditioning Corporation are hereby cancelled, and each of the defendants and each of its officers, directors, employees, agents, attorneys, subsidiaries, successors, and assigns, and any person acting or claiming to act under, through or for the defendants, or any of them are hereby enjoined and restrained from the further performance of any of the provisions of such agreements.

III

[Patents to Be Dedicated to Public]

Each of the defendants and each of their officers, directors, agents, employees, attorneys, assigns, successors, and subsidiaries, and all persons acting and claiming to act under, through or for them are hereby ordered and directed, within five days after the date of the entry of this judgment, to take such steps as are necessary forthwith to dedicate to the public all United States Letters Patent and patent rights owned and controlled by Auditorium Conditioning Corporation, and all rights in, to, and under the United States Letters Patent listed in Schedule A annexed hereto and made a part of this judgment, and any renewals, extensions and reissues, and are hereby ordered and directed to give notice of such dedication on the records of the United States Patent Office.

IV

[Acts Enjoined]

Each of the defendants, and each of their officers, directors, employees, agents, attorneys, subsidiaries, successors, and assigns, and any person acting or claiming to act under, through or for the defendants, or any of them, is hereby enjoined and restrained from:

(A) Instituting or threatening to institute any suit or proceeding for patent infringement, or to collect royalties, or to enforce any licensing agreement, based upon any of the United States Letters Patent, Including renewals, extensions or re-issues thereof, contained in Schedule A annexed hereto.

(B) Entering into, adhering to, maintaining or furthering directly or indirectly any contract, agreement, understanding, plan or program with any manufacturer of air conditioning units or equipment (not including a corporation affiliated with such defendant through complete control and stock ownership) or with any other defendant:

(1) To determine, fix, establish, maintain or adhere to charges, royalties, or other terms or conditions to be charged or submitted to or required of or by any other person for the granting or receiving of any license or sub-license, rights or immunities under any patent or patents relating to the installation, manufacture, use or sale of air-conditioning units or equipment;

(2) To refrain from competing with any other defendant for any type or class of business in the distribution or sale of air-conditioning units or equipment except as permitted by the Act of Congress of April 10, 1918, commonly called the Webb-Pomerene Act, or by acts amendatory thereto.

(3) To exclude any other person from the manufacture, sale or installation of air-conditioning units or equipment.

(4) To discriminate in any manner, directly or indirectly, in the express or implied licensing or sub-licensing to use, manufacture or sell any process, method or combination used or useful in the construction, operation or installation of any air-conditioning unit or equipment, by Imposing as a condition of such use manufacture, or sale the purchase or use of any product, material or service distributed or sold by any defendant or by any other designated person or persons.

[Definitions]

For the purposes of this decree, the term "air-conditioning" means the controlling of temperature and humidity of air either for the comfort of persons or for the control of industrial processes by the use of coils, fans, blowers, humidifiers, dehumidifiers, washers, niters, condensers, chemicals or other equipment or devices, and the term

“air-conditioning units and equipment” shall include colls, fans, blowers, humidifiers, dehumidifiers, washers, filters, condensers, chemicals and other equipment or devices for use in air-conditioning.

V

[*Corporation to Be Dissolved*]

Each of the defendants and each of their officers, directors, agents, employees, attorneys, successors and subsidiaries, and all persons acting and claiming to act under, through or for them are hereby ordered and directed to take such steps as are necessary to forthwith terminate the activities and to liquidate the affairs of Auditorium Conditioning Corporation, to dissolve Auditorium Conditioning Corporation and to surrender its charter.

VI

[*Access of Department of Justice to Records and Interviews; Reports*]

For the purpose of securing compliance with this judgment authorized representatives of the Department of Justice shall, on written request of the Attorney General, or an Assistant Attorney General, be permitted (1) access, during the office hours of the defendants, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the defendants, relating to any matters contained in this judgment, and (2) subject to any legally recognized privilege, without restraint or interference from the defendants, to interview officers or employees of the defendants, who may have counsel present, regarding any such matters, and (3) upon any such request said defend ants shall submit such reports with respect to the disposition and licensing of patents and patent rights and with respect to the liquidation and dissolution of Auditorium Conditioning Corporation under paragraph III and V of this judgment, as may from time to time be appropriate for the purpose of enforcement of this judgment, *Provided, however,* That information obtained by the means permitted in this paragraph shall not be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice except in the course of legal proceedings for the purpose of securing compliance with this judgment in which the United States is a party or as otherwise required by law.

VII

[*Jurisdiction Retained*]

Jurisdiction of this cause is retained for the purpose of enabling any of the parties to this judgment to apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this decree, for the modification or termination of any of the provisions thereof or the enforcement of compliance therewith and for the punishment of violations thereof.

SCHEDULE A

United States Letters Patent

Patent	Number	Date Issued
Reissue	20088	Sept. 1, 1936
	1840565	Jan. 12, 1932
	1718815	June 25, 1929
	1751805	Mar. 25, 1930
	1751806	Mar. 25, 1930
	1983023	Dec. 4, 1934
	1977315	Oct. 16, 1934
	1817384	Aug. 4, 1931
	1727661	Dec. 3, 1929
	1902563	Mar. 21, 1933
	1895444	Jan. 31, 1933
	1846875	Feb. 23, 1932
	20069	Aug. 18, 1936
	1955406	Apr. 17, 1934
Reissue		

Reissue	21946	Nov. 18, 1941
Reissue	17998	Mar. 10, 1931
Reissue	18831	May 16, 1933
	1863576	June 21, 1932
	1863577	June 21, 1932
	1863578	June 21, 1932
	1863579	June 21, 1932
Reissue	20944	Dec. 13, 1938
	2009529	July 30, 1935
	2110203	Mar. 8, 1938
	2213350	Sept. 3, 1940
	2150505	Mar. 14, 1939
	2105692	Jan. 18, 1938
	2202946	June 4, 1940
	2110164	Mar. 8, 1938
	2249856	July 22, 1941
	2259780	Oct. 21, 1941
	2112685	Mar. 29, 1938
	2131725	Oct. 4, 1938