

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE LIQUIDOMETER CORPORATION,

Defendant.

Civil Action  
No. 34-501

FINAL JUDGMENT

/s/ (Filed June 15, 1951)

The plaintiff, United States of America, having filed its complaint on January 17, 1946 and the defendant having filed its answer on May 2, 1946, and plaintiff and defendant by their respective attorneys, 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 of the parties in respect of any such issue;

NOW THEREFORE, before any testimony has been taken herein and without trial or adjudication of any issue of fact or law herein, and upon consent of plaintiff and defendant, it is hereby

ORDERED. ADJUDGED and DECREED:

I

That this Court has jurisdiction of the subject matter hereof and of the parties hereto, and that the complaint states a cause of action against the defendant under Section 1 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", as amended.

II

1. As used in this judgment:

(a) "Liquidometer" means defendant The Liquidometer Corporation.

- (b) "French Simmonds" means Societe d'Etudes Simmonds, a corporation (or association) organized and existing under the laws of France, with a principal place of business in Paris, France.
- (c) "English Simmonds" means Simmonds Development Corporation, Limited, a corporation organized and existing under the laws of the United Kingdom with a principal place of business in London, England.
- (d) "Gauges" means instruments or devices used for the purpose of indicating or recording the quantity of liquid contained in a tank or other container.
- (e) "United States" means the United States of America and its territories and possessions.
- (f) "Patent" includes not only a patent but an application for a patent, a renewal, a reissue, a division and an extension of any patent or patent application.
- (g) "Person" means an individual, partnership, firm, association, corporation, or other business or legal entity.

2. The provisions of this judgment applicable to the defendant shall apply to the defendant, its officers, directors, agents, employees, subsidiaries, successors and assigns, and all other persons acting or claiming to act under, through or for such defendant, and upon those persons in active concert or participation with them, who receive actual notice of this judgment by personal service or otherwise.

### III

A. Each of the following agreements is hereby terminated; and defendant is hereby enjoined and restrained from the further performance or enforcement of any of the provisions of said agreements and of any agreements amendatory thereof or supplemental thereto:

1. Written agreement between defendant and French Simmonds dated October 19, 1937 as modified by further written agreement dated February 28, 1938;
2. Written agreement between defendant and English Simmonds dated October 9, 1939.

B. Defendant is hereby enjoined and restrained from entering into, performing, enforcing, adopting, adhering to, maintaining or furthering, directly or indirectly, or claiming any rights under, any contract, agreement, arrangement, understanding, plan or program for the purpose or with the effect of continuing, reviving or renewing any of the agreements listed in sub-division A of this Section III.

### IV

Defendant is hereby enjoined and restrained from entering into, performing, adopting, adhering to, maintaining or furthering, directly or indirectly, or claiming any rights under, any combination, conspiracy, contract, agreement, arrangement, understanding, or concerted plan of action with any foreign manufacturer of gauges, or any subsidiary, successor, assign, agent, sales representative or distributor thereof:

- A. To allocate or divide territories or markets for

- the production, sale or distribution of gauges;
- B. To limit, restrain or prevent importation into, or exportation from, the United States of gauges;
  - C. To refrain from production, sale or other distribution of gauges in any territory or market;
  - D. To restrain or limit production, sale or other distribution of gauges, through quotas or otherwise, in any territory or market;
  - E. To apportion customers for gauges in any territory or market;
  - F. To refrain from competing, or to leave any person free from competition, in the production, sale or other distribution of gauges in any territory or market;
  - G. To exclude any producer or distributor of gauges from any territory or market, or to interfere with or restrict any such producer or distributor in competing in any territory or market;
  - H. To fix, maintain or adhere to prices or price ranges, or other terms and conditions of sale or resale of gauges produced by defendant for sale or other distribution in any territory or market, or produced by any other person for sale or other distribution in the United States.

V

Defendant is hereby enjoined and restrained from refusing to sell gauges to any person, or discriminating as to availability, prices, terms and conditions of sale of such gauges, or failing to

provide services and assistance relating to the distribution or use of such gauges where the reason for such refusal, discrimination or failure is that such gauges are for use, resale, or other distribution, either in their original form or incorporated in another product, in some country or area other than the United States.

#### VI

A. Defendant is hereby enjoined and restrained from granting any person an exclusive license, sublicense, or immunity under any, some or all patents or patent applications listed in Schedule A attached hereto.

B. Defendant is hereby ordered and directed to issue, on a non-discriminatory basis, to each applicant making a written request therefor a non-exclusive license, sublicense or immunity under any, some or all patents or patent applications listed in Schedule A under which defendant has, prior to such request, granted a similar or equivalent license, sublicense or immunity to any person.

#### VII

Defendant is hereby enjoined and restrained from instituting or threatening to institute or maintaining any suit, counterclaim or proceeding, judicial or administrative, for infringement or to realize or collect damages or compensation for any infringement alleged to have occurred or accrued prior to the date of this judgment under any patent or patent application listed in Schedule A.

#### VIII

Defendant is hereby ordered and directed within 60 days from the date of this judgment to provide copies thereof to French Simmonds and English Simmonds.

IX

The provision of this judgment shall be limited to transactions in or affecting commerce as defined in Section 1 of the Clayton Act.

X

For the purpose of securing compliance with this judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or an Assistant Attorney General and on reasonable notice to the defendant made at its principal office, be permitted, subject to any legally recognized privilege, (1) access, during the office hours of said defendant, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of said defendant, relating to any matters contained in this judgment and (2) subject to the reasonable convenience of said defendant and without restraint or interference from said defendant, to interview officers or employees of said defendant, who may have counsel present, regarding any such matters. Upon written request of the Attorney General or an Assistant Attorney General said defendant shall submit such reports in writing with respect to the matters contained in this judgment as may from time to time be reasonably necessary to the enforcement of this judgment. Information obtained by the means permitted in this Section X 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.

XI

Jurisdiction of this cause is retained by the Court 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 judgment, for the amendment, modification or termination of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

Dated: New York, N.Y.

June 15th 1951

/s/ Chas. A. Dewey  
UNITED STATES DISTRICT JUDGE

We consent to the entry of the foregoing judgment.

For the Plaintiff:

/s/ H.G. Morison  
H.G. MORISON  
Assistant Attorney General

/s/ Melville C. Williams  
MELVILLE C. WILLIAMS  
Special Assistant to the  
Attorney General

/s/ Sigmund Timberg  
SIGMUND TIMBERG  
Special Assistant to the  
Attorney General

/s/ John V. Leddy  
JOHN V. LEDDY  
Trial Attorney

/s/ Marcus A. Hollabaugh  
MARCUS A. HOLLABAUGH  
Special Assistant to the  
Attorney General

For the Defendant:

/s/ Allan D. Emil  
ALLAN D. EMIL

/s/ Irving H. Saypol  
IRVING H. SAYPOL  
United States Attorney

/s/ Judgment entered:

William V. Connell,  
Clerk,  
Jun. 15, 1951

S C H E D U L E   A

Patent Number

Date of Issue

2,104,898

January 11, 1938

2,154,066

April 11, 1939

2,168,397

August 8, 1939

2,177,058

October 24, 1939

2,195,813

April 2, 1940

2,174,872

October 3, 1939

2,221,372

November 12, 1940

2,345,464

March 28, 1944

2,382,695

August 14, 1945

2,405,689

August 13, 1946

2,369,027

February 6, 1945

2,391,057

December 18, 1945

2,469,105

May 3, 1949

2,442,630

June 1, 1948

2,483,266

September 27, 1949

2,013,138

September 3, 1935

2,256,473

September 23, 1941

2,355,149

August 8, 1944

2,417,546

March 18, 1947

2,450,330

September 28, 1948

2,463,681

March 8, 1949

2,496,339

February 7, 1950

2,450,331

September 28, 1948

Application Serial Number

Dated Filed

637,047

December 22, 1945

628,844

November 15, 1945



CIV. 34-501

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

---

UNITED STATES OF AMERICA,

Plaintiff,

vs.

THE LIQUIDOMETER CORPORATION,

Defendant.

---

FINAL JUDGMENT

---

MELVILLE C. WILLIAMS,  
Special Assistant to the Attorney  
General  
233 U.S. Court House  
Foley Square,  
New York 7, N.Y.

(FILED JUN 15, 1951  
11 A.M.  
U.S. DISTRICT COURT  
S.D. OF N.Y.)