

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,  
Plaintiff,

v.

THE DAVIS COMPANY,  
W. B. DAVIS & SON, INC.,  
SCOTT & WILLIAMS, INCORPORATED  
INTERWOVEN STOCKING COMPANY,  
JAMES L. GETAZ,  
ROBERT E. DAVIS, SR. and  
CHARLES A. NOONE.

Defendants.

CIVIL ACTION  
NO. 54-357

Filed  
Dec. 24, 1952  
U.S. District Court  
S.D. of N.Y.

FINAL JUDGMENT

The plaintiff, United States of America, having filed its complaint on December 28, 1949, and the defendants above named, (hereinafter generally called the defendants), having duly filed their answers herein, and plaintiff and defendants, 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 defendants, it is hereby

ORDERED, ADJUDGED, AND DECREED as follows:

I

This Court has jurisdiction of the subject matter hereof and of all parties hereto, and the complaint states a cause of action against the defendants under Sections 1 and 2 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

As used in this Final Judgment:

(A) "Plain knit elastic top hosiery" shall mean men's, women's and children's hosiery containing elastic material incorporated into plain knit tops to make the hose self-supporting;

(B) "Plain knit elastic top hosiery machinery" shall mean any machine or device capable of producing plain knit elastic top hosiery, or any attachment to a machine or device designed to render such machine or device capable of producing plain knit elastic top hosiery;

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

(D) "Patents" shall mean letters patent, applications therefor, and continuations, reissues, divisions and extensions thereof and patents issued upon such applications;

(E) "Davis Co." shall mean defendant The Davis Company;

(F) "Patent pool" shall mean any agreement or understanding between two or more persons to combine under single, joint or common ownership or control two or more separately owned patents, relating to the incorporating of elastic thread into plain knit hosiery tops to make plain knit elastic top hosiery or to machinery for incorporating elastic thread in plain knit hosiery tops, or rights under patents, for the purpose of participating in the proceeds, profits or advantages deriving from such combination.

## III

The provisions of this Final Judgment applicable to any defendant shall apply to such defendant, its officers, directors, subsidiaries, agents, employees, successors and assigns, and to each person acting or claiming to act under, through or for such defendant.

## IV

(A) The defendants are jointly and severally enjoined and restrained from instituting, maintaining or furthering, or

threatening to institute, maintain or further, any claim, suit or proceeding to collect royalties, charges or damages, or to obtain injunctive relief for or on account of any cause of action, under any of the patents set forth in Schedule A hereto annexed which patents were dedicated to the public by Davis Co. during the pendency of this action;

(B) Davis Co. is hereby enjoined and restrained from instituting, maintaining or furthering, or threatening to institute, maintain or further, any claim of patent infringement or any patent infringement suit or proceeding for or on account of the manufacture, distribution or sale by any person of plain knit elastic top hosiery machinery.

V

(A) Davis Co. is hereby ordered and directed to issue to any person desiring the same, at non-discriminatory charges and upon non-discriminatory terms and conditions, a non-exclusive license to manufacture, use and sell plain knit elastic top hosiery under any, some or all of the patents owned or controlled by Davis Co., including those listed in Schedule B hereto attached; provided, however, that it shall not be deemed discriminatory for Davis Co. to charge a non-defendant licensee a lesser royalty as consideration or part consideration for the settlement of an existing claim or claims of such licensee to rights under any of the patents listed in said Schedule B, hereto attached;

(B) Davis Co. is enjoined and restrained from:

(1) Terminating or cancelling any license heretofore or hereafter issued under any patent except for:

(a) The failure of the licensee to pay royalties;

(b) The refusal or failure to apply its proper license number to all products

manufactured, used or sold under any  
of said patents;

(c) The refusal to permit an inspection of  
its books and records for the purpose  
of ascertaining the amount of royalties  
due; or

(2) Imposing any royalty charge under any patent  
after the expiration thereof.

(C) The defendants are hereby enjoined and restrained  
from making any disposition of any of the patents owned or  
controlled by Davis Co., including those listed in Schedule B  
hereto attached, or rights under any such patents, which de-  
prives Davis Co. of the power or authority to issue said  
licenses required by subsection (A) of this Section V, unless  
they sell, transfer or assign said patents or rights and require,  
as a condition of such sale, transfer or assignment, that  
the purchaser, transferee or assignee thereof shall observe the  
provisions of this Section V with respect to the patents or  
rights so acquired, and the purchaser, transferee or assignee  
shall file with this Court, prior to the consummation of said  
transaction, an undertaking to be bound by the provisions of  
this Section V with respect to the patents or rights so acquired.

(D) This Final Judgment shall not be construed as importing  
or impairing the validity or value, if any, of the said patents,  
including those listed in Schedule B hereto attached, and noth-  
ing herein shall prevent any applicant not barred by the rule of  
res judicata from attacking the validity or scope of any of the  
said patents.

## VI

(A) Davis Co. is hereby enjoined and restrained from here-  
after acquiring any interest in any United States or foreign  
patents, rights under patents or patent applications;

(B) Upon expiration of the last expiring patent set forth  
in Schedule B hereto attached, the defendants shall proceed with

diligence to wind up the affairs of Davis Co. and effect its dissolution.

#### VII

Defendants are jointly and severally enjoined and restrained from entering into, participating in, or adhering to any patent pool hereafter created which has the purpose or the effect of restraining or tending to create a monopoly for the manufacture, distribution or sale of plain knit elastic top hosiery or plain knit elastic top hosiery machinery in the United States of America.

#### VIII

The Final Judgment shall not be construed to adjudicate or affect the rights or claims of any non-defendant persons in or under any of the patents set forth in Schedule B hereto attached.

#### IX

For the purpose of securing compliance with this Final Judgment and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and upon reasonable notice to any defendant herein made to the principal office of such defendant, be permitted, subject to any legally recognized privilege, (A) 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 of the matters contained in this Final Judgment, and (B) subject to the reasonable convenience of said defendant and without restraint or interference from it, to interview officers and employees of such defendant, who may have counsel present, regarding such matters. Upon written request of the Attorney General, or the Assistant Attorney General in

charge of the Antitrust Division, on reasonable notice to any defendant herein made to its principal office, such defendant shall submit such written reports as may from time to time be reasonably necessary to the enforcement of this Final Judgment. No information obtained by the means provided in this Section IX shall be divulged by 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 to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

X

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final 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 Final Judgment, for the amendment, modification or termination of any of the provisions hereof, for the enforcement of compliance therewith and for the punishment of violations thereof.

Dated: New York, New York  
December 23, 1952

/s/ Vincent L. Leibell  
United States District Judge

We hereby consent to the entry of the foregoing Final Judgment:

For the plaintiff United States of America:

/s/ Newell A. Clapp  
Acting Assistant Attorney General

/s/ W. D. Kilgore, Jr.

/s/ Edwin H. Pewett

/s/ Max Freeman

/s/ Marcus A. Hollabaugh  
Special Assistants to  
the Attorney General

/s/ Richard B. O'Donnell

/s/ Lester L. Jay

/s/ Myles J. Lane  
United States Attorney for the  
Southern District of New York

/s/ John V. Leddy  
Attorneys for the United  
States of America

For the defendants;

Herrick, Smith, Donald, Farley &  
Ketchum,  
Sullivan & Cromwell  
Attorneys for defendant Scott &  
Williams, Incorporated

Noone, Tanner and Noone,  
Robert E. Burns,  
Attorneys for defendants The  
Davis Company; W. B. Davis & Son,  
Inc.,; Interwoven Stocking Com-  
pany; James L. Getaz, Robert E.  
Davis, Sr., and Charles A. Noone.

By /s/ Donald P. Donaldson  
Judgment entered:

By /s/ Robert E. Burns  
Charles A. Noone

William V. Connell  
Dec. 23, 1952 Clerk

SCHEDULE "A"

2,306,207

2,201,716

2,161,250

2,168,869

/s/ JVL

/s/ REB

SCHEDULE "B"

2,306,246

2,344,350

2,230,402

2,183,862

2,357,506

2,054,217

2,230,403

2,191,456

2,215,286

2,223,719

/s/ JVL  
/s/ REB