

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Luxene, Inc., U.S. District Court, S.D. New York, 1952-1953 Trade Cases ¶67,325, (Jul. 30, 1952)

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United States v. Luxene, Inc.

1952-1953 Trade Cases ¶67,325. U.S. District Court, S.D. New York. Civil No. 66-124. Filed July 30, 1952. Case No. 1075 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Consent Decrees-Practices Enjoined-Restrictive Designations and Sales-Plastic Artificial Dentures.-A corporation is enjoined by a consent decree from entering into any combination or conspiracy to limit or restrict the designation by such corporation of dental laboratories as "Luxene Selected Laboratories," or to limit or restrict the sale of "Luxene 44" or "Luxene" equipment to any dental laboratory; and from engaging in any plan to exclude any person from purchasing "Luxene 44" or "Luxene" equipment, or to exclude any person from manufacturing dentures made from "Luxene 44" or "Luxene" equipment.

Consent Decrees—Practices Enjoined—Seeking Information Concerning Selling Policies —Fixing Prices.—A corporation is enjoined by a consent decree from seeking information from, or consulting with, any dental laboratory relative to the prices, selling policies, or the terms or conditions of sale, employed by any other purchaser of "Luxene 44" or "Luxene" equipment; from fixing, influencing, or suggesting the price or other terms or conditions for the sale by any other person of dentures made from "Luxene 44" or "Luxene" equipment; and from entering into any understanding to fix, designate, limit, or restrict the prices or other terms or conditions upon which any denture, or dental supplies, may be sold to, or by, third persons.

For the plaintiff: Newell A. Clapp, Acting Assistant Attorney General; C. Worth Rowley, Special Assistant to the Attorney General, Acting Chief, New York Office; Marcus A. Hollabaugh and Edwin H. Pewett, Special Assistants to the Attorney General; and Robert A. Peattie and Harry N. Burgess, Trial Attorneys.

For the defendant: Thayer and Gilbert, New York, N. Y.

Final Judgment

NOONAN, District Judge [*In full text*]: Plaintiff, United States of America, having filed its complaint herein on April 27, 1951; the defendant having appeared and filed its answer to such complaint denying the substantive allegations thereof; and the parties, by their attorneys, having 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 fact or law herein, and upon consent of all parties hereto, it is hereby

Ordered, adjudged, and decreed as follows:

I

[*Sherman Antitrust Act*]

The Court has jurisdiction of the subject matter of this action and of the parties hereto, and the complaint states a cause of action against the defendant under Section 1 of the Act of Congress of July 1890, entitled "An Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies," commonly known as the Sherman Act.

II

[*Definitions*]

For the purposes of this Final Judgment, the following terms have the meanings assigned respectively to them below:

- (A) “Defendant” means the defendant Luxene, Inc.
- (B) “Person” means an individual, partnership, firm, association, corporation, or other legal entity.
- (C) “Denture” means an artificial denture containing dental plastics, but does not include artificial teeth.
- (D) “Dental laboratory” means any person engaged in manufacturing and selling dentures.
- (E) “Dental supplies” means any equipment or material used or useful in the manufacture of dentures.

III

[*Applicability of Judgment*]

The provisions of this Final Judgment shall apply to the defendant, its officers, directors, agents, employees, subsidiaries, successors, assigns, and all other persons acting under, through, or for the defendant.

IV

[*Notice of Judgment*]

The defendant is ordered and directed to give notice, within thirty (30) days after the date of the entry of this Final Judgment, to each person to whom it currently sells dental supplies, of the entry of this Final Judgment, together with a true copy thereof.

V

[*Practices Prohibited*]

The defendant is hereby enjoined and restrained from:

- (A) Entering into, adhering to or maintaining or furthering any contract, agreement, arrangement, understanding, combination or conspiracy, expressed or implied, with any other person, to limit or restrict the designation by defendant of dental laboratories as Luxene Selected Laboratories, or to limit or restrict the sale of Luxene 44 or Luxene equipment to any dental laboratory;
- (B) Engaging or participating in, maintaining or furthering any plan or program with any other person to exclude any person or persons from purchasing Luxene 44 or Luxene equipment, or to exclude any person from manufacturing dentures made from Luxene 44 or with Luxene equipment;
- (C) Seeking information from, or consulting with, any dental laboratory relative to the prices, selling policies, or the terms and conditions of sale, employed by any other purchaser or prospective purchaser of Luxene 44 or Luxene equipment;
- (D) Fixing, influencing or suggesting, directly or indirectly, the price or prices or other terms or conditions for the sale by any other person of dentures made from Luxene 44 or with Luxene equipment.

VI

The defendant is enjoined and restrained from entering into, adhering to, maintaining or furthering, or claiming any rights under, any contract, agreement or other understanding with any other person to fix, designate, limit or restrict, in any manner, directly or indirectly, the prices or other terms and conditions upon which any denture, or dental supplies, may be sold to, or by, third persons.

VII

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant, made to its principal office at New York, New York, be permitted:

(A) Access, during the regular office hours of the defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant relating to any of the matters contained in this Final Judgment;

(B) Subject to the reasonable convenience of the defendant, and without restraint or interference from it, to interview officers or employees of the defendant, who may have counsel present, regarding any such matters. Upon the written request of the Attorney General or Assistant Attorney General in charge of the Antitrust Division, the defendant shall submit such reports concerning any of the matters contained in this Final Judgment as may from time to time be reasonably necessary for the purpose of the enforcement of this Final Judgment, provided, however, that information obtained by the means permitted in this Section VII shall not be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of such Department, 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.

VIII

[Jurisdiction Retained]

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