

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Empro Corporation., U.S. District Court, S.D. New York, 1954 Trade Cases ¶67,778, (May 28, 1954)

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

United States v. Empro Corporation.

1954 Trade Cases ¶67,778. U.S. District Court, S.D. New York. Civil Action No. 93-270. Dated May 28, 1954. Case No. 1198 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Consent Decree—Types of Practices Enjoined—Importation of Foreign-Made Goods.—An American toilet goods manufacturer consented to the entry of a decree restraining it from exercising or enforcing any rights or privileges under any United States law or regulation concerning the importation of trade-marked or trade-named goods for the purpose or with the effect of barring the importation of any toilet goods manufactured, sold or distributed by a foreign affiliate of the defendant and which the defendant manufactures, sells or distributes in the United States.

Consent Decree—Specific Relief—Consent to Importation of Foreign Goods.—An American toilet goods manufacturer consented to the entry of a decree requiring it, upon application of any person, to take such steps as may be necessary to grant prompt, effective, and unconditional consent to the importation by such person into the United States of any toilet goods manufactured, sold or distributed by a foreign affiliate which bears a specified United States trade-mark or similar mark or name, and which toilet goods are manufactured, sold or distributed by the defendant under the same or similar trade-mark or name.

For the plaintiff: Stanley N. Barnes, William D. Kilgore, Jr., Richard B. O'Donnell, Worth Rowley, John D. Swartz, Vincent A. Gorman, Ralph S. Goodman, Paul D. Sapienza.

For the defendant: Veronica P. Ging.

Final Judgment

DAVID N. EDELSTEIN, District Judge [*In full text*]: Plaintiff, the United States of America, having filed its complaint herein on May 28, 1954, and the defendant herein having appeared; and plaintiff and said defendant by their 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 hereto in respect to any such issue; and the Court having considered the matter and being duly advised,

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby.

Ordered, adjudged and decreed as follows:

I

[*Jurisdiction*]

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

II

[*Definitions*]

As used in this Final Judgment:

©2018 CCH Incorporated and its affiliates and licensors. All rights reserved.

Subject to Terms & Conditions: http://researchhelp.cch.com/License_Agreement.htm

- (A) "Defendant American Lentheric" means the defendant Empro Corporation, a New York corporation with its principal place of business within the Borough of Manhattan, New York City;
- (B) "Toilet goods" means any perfume, cologne, toilet water, cosmetic, soap, powder, cream, lotion, sachet, bath preparation or other product similar thereto;
- (C) "Foreign affiliate" means Lentheric, S. A., a French corporation of Paris, France; Lentheric, Ltd., an English corporation of London, England; and Lentheric of Canada, Ltd., a Canadian corporation of Toronto, Ontario, Canada, and any other person which manufactures or distributes toilet goods outside: the United States and which is affiliated with defendant American Lentheric in that (and only so long as) (1) said corporation or person is or can be controlled by said defendant, (2) said corporation or person does or can exercise control over defendant, (3) said corporation or person and the defendant are or can be subject to the common control of some third person, or (4) there is in fact a form of control, whereby the defendant and said corporation or person constitute a single international business enterprise, or parts thereof;
- (D) "Lentheric United States trademarks" means each and every trademark or trade name owned or used by defendant American Lentheric in connection with the sale of toilet goods;
- (E) "United States" means the United States of America, its territories and possessions;
- (F) "Person" means any individual, firm, association, partnership, corporation or other legal entity.

III

[*Applicability*]

The provisions of this Final Judgment applicable to defendant American Lentheric shall apply, to such defendant, its officers, directors, agents, successors, assigns, employees and subsidiaries, and to all other persons acting or claiming to act, under, through or for said defendant.

IV

[*Importation of Foreign Goods*]

(A) Defendant American Lentheric is enjoined and restrained from exercising or enforcing any rights or privileges which may accrue to it by virtue of any United States law or regulation 'concerning the importation' of trademarked Or trade-named products for the purpose or with the effect of barring the importation into the United States of any toilet goods manufactured, sold or distributed by a foreign affiliate of said defendant and which said defendant manufactures, sells or distributes in the United States; and in the event that any such United States law or regulation is so amended as to cause defendant American Lentheric an undue hardship such defendant may move this court for modification or amendment of this subsection (A);

(B) Defendant American Lentheric is ordered and directed, upon application of any person, to take such steps as may be necessary to grant prompt, effective,, and unconditional consent, to the importation by such person into the United States of any toilet goods manufactured, sold or distributed by a foreign affiliate which bear Lentheric United States trademarks, or any mark or name similar thereto, and which toilet goods are manufactured, sold or distributed by defendant American Lentheric under the same or similar mark or name.

[*Inspection and Compliance*]

For the purpose of securing compliance with this Final Judgment, 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 on reasonable notice to defendant American Lentheric made to its principal office be permitted (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 Final Judgment; and (2) subject to the reasonable convenience of said defendant and without restraint or interference from it to interview officers or employees of said defendant, who may have counsel present, regarding any such matters.

For the purpose of securing compliance with this Final Judgment the defendant upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to its principal office, shall submit such written reports with respect to any of the matters contained in this Final Judgment as from time to time may be necessary for the purpose of enforcement of this Final Judgment. No information obtained by the means provided in this Section V shall 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, or as otherwise required by law.

VI

[*Effective Date*]

This Final Judgment shall take effect upon the expiration of 120 days after the date of its entry.

VII

[*Retention of Jurisdiction*]

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