

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff	)	
	)	
v.	)	Civil No. 131-283
	)	Filed March 31, 1958
THE B. F. GOODRICH COMPANY AND	)	
THE DAYTON RUBBER COMPANY,	)	
	)	
Defendants.	)	

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on March 31st, 1958, the defendants having appeared and filed their answers to the complaint denying the substantive allegations thereof, and the parties hereto, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without said judgment constituting evidence or an admission by any party hereto with respect to any such issues;

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein or admission by any party hereto in respect of any issue, and upon consent of all parties hereto, it is hereby ORDERED, ADJUDGED AND DECREED, as follows:

I

This Court has jurisdiction of the subject matter of this action and of the parties hereto. The complaint states a

claim against the defendants 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," commonly known as the Sherman Act, as amended.

## II

As used in this Final Judgment:

(A) "Goodrich" means the defendant, The B.F. Goodrich Company, a New York corporation, having its principal office at Akron, Ohio;

(B) "Dayton" means defendant, The Dayton Rubber Company, an Ohio corporation, having its principal office at Dayton, Ohio;

(C) "English Group" means The Moulded Hair Company Limited of 117 Victoria Street, London, S.W.1, England, Doctor Joseph Anton Talalay of 11 Beachwood Lane, New Haven,11, Connecticut, and Joseph Arthur Howard of 117 Victoria Street, London, S.W.1, England, or any of them;

(D) "Sponge rubber" means foam rubber and foam rubber products produced by any process;

(E) "Patents" means all United States Letters Patent relating to, but only in so far as they relate to, sponge rubber produced by any process which includes the steps of freezing foamed latex and of introducing coagulant into the frozen foam;

(F) "Technology" means such technical information as is necessary for the efficient exploitation of the patents;

(G) "Person" means an individual, partnership, firm, corporation, or any other legal entity 'for the purpose of this definition a defendant, its subsidiaries, officers, directors, agents and employees shall be deemed to be one person.

### III

The provisions of this Final Judgment shall apply to the defendants Goodrich and Dayton, their officers, directors, agents, employees, successors and assigns, and to those persons in active concert or participation with any defendant who receive actual notice of this Final Judgment by personal service or otherwise,

### IV

(A) Defendants are ordered and directed to terminate and cancel, to the extent not heretofore cancelled, expired, terminated or superseded, the following agreements:

- (1) Agreement dated May 20, 1938, between The Sponge Rubber Products Company and the English Group;
- (2) Agreement dated October 27, 1944, between The Sponge Rubber Products Company and the English Group;
- (3) Agreement dated November 22, 1946, between The Sponge Rubber Products Company and the English Group;
- (4) Agreement dated April 7, 1948, between The Sponge Rubber Products Company and the English Group;
- (5) Agreement dated September 19, 1939, between Dayton and the English Group;

(6) Agreement dated June 5, 1940, between Dayton and the English Group;

(7) Agreement dated January 30, 1947, between Dayton and the English Group;

(8) Agreement dated March 10, 1947, between Dayton and the English Group.

(B) Defendants are each ordered and directed to modify within six months from the date of this Final Judgment the agreement dated May 5, 1948, between Dayton and The Sponge Rubber Products Company by terminating and cancelling any provision thereof in violation of any provision of this Final Judgment;

(C) Each of the defendants is enjoined and restrained from adhering to, performing, reviving or renewing any of the agreements or provisions thereof cancelled pursuant to subsections (A) and (B) of this Section IV, other than existing royalty and licensing obligations to Dr. Talalay, and from entering into or adhering to any other agreement, contract or understanding which contains any provision which is contrary to or inconsistent with any provision of this Final Judgment.

V

Defendants are each enjoined and restrained from combining or conspiring or from entering into, adhering to, performing, maintaining, furthering, directly or indirectly, or claiming any rights under, any contract, agreement or understanding with the English Group, its successors or assigns, or any other foreign person, to:

(A) Allocate or divide, or refrain from competing in or for fields, markets, or territories for the sale of sponge rubber;

(B) Restrict or prevent imports into or exports from the United States of sponge rubber;

(C) Fix, establish, determine or maintain prices or other terms or conditions of sale to or for third persons with respect to sponge rubber.

## VI

Defendants are enjoined and restrained from combining or conspiring or from entering into, adhering to, performing, maintaining, furthering, directly or indirectly, or claiming any rights under, any contract, agreement or understanding with each other to:

(A) Refuse to license patents or technology;

(B) Share or limit the expenditures for research to be undertaken in connection with sponge rubber;

(C) Furnish information relating to the volume of sales of sponge rubber, provided, however, that the defendants may report information as to total sales of sponge rubber which are subject to an obligation to make royalty payments, and may permit the inspection of their records by independent auditors to verify such reports.

## VII

Each defendant is enjoined and restrained from affording to any other person (other than through the grant of

an exclusive license or an assignment of title) the right of approval or disapproval of the application of any third person for a patent or technology license.

## VIII

(A) For so long as defendants have joint ownership of any of the patents listed in Schedule A annexed hereto, each of the defendants is ordered and directed to grant to any applicant making written request therefor, a license under any, some or all of said patents upon at least as favorable terms as are contained in any license agreement to any third person heretofore or hereafter executed. No such license agreement shall contain any provision obligating the licensee to grant to the licensor any patent rights with respect to the subject matter of said agreement unless such grant of rights is on a non-exclusive basis.

(B) If either of the defendants obtains sole ownership of any one or more of the patents listed in said Schedule A, and if such defendant, either individually or jointly with the other defendant, licenses or has licensed any person under any of the said patents, then such defendant is ordered and directed to grant to any applicant making written request therefor, a license under any, some or all of said licensed patents upon at least as favorable terms as are contained in any license agreement issued to any third party by said defendant. No such license agreement shall contain any provision obligating the licensee to grant to the licensor any patent rights with respect to the subject matter of said agreement unless such grant of rights is on a non-exclusive basis.

(C) Each defendant is enjoined and restrained from instituting, or threatening to institute, or maintaining any action or proceeding against any person for acts of infringement

of any patent or patents owned or controlled by the defendants and required to be licensed under this Section VIII, unless such person has refused to enter into a license agreement as provided in this Section VIII of this Final Judgment within a reasonable time after a written tender of such a license agreement has been made by either of the defendants.

(D) Nothing herein shall prevent any applicant from attacking the validity or scope of any of the aforesaid patents, nor shall this Final Judgment be construed as imputing any validity or value to any of said patents.

(E) Defendants are each enjoined and restrained from making any license, sale or other disposition of any of the aforesaid patents which deprives such defendant of the power and authority to grant licenses as required by this Section VIII of this Final Judgment, unless such defendant licenses, sells, transfers or assigns such patents and requires as a condition of such license, sale, transfer, or assignment that the licensee, purchaser, transferee, or assignee, who may be the other defendant, shall observe the requirements of Section VIII of this Final Judgment with respect to the patents so acquired and the licensee, 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 said section with respect to the patents acquired.

## IX

For the purpose of securing compliance with this Final Judgment, and for no other purpose, and subject to any legally

recognized privilege, 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 Anti-trust Division, and on reasonable notice to any defendant made to its principal office, be permitted from time to time as may be necessary to the enforcement of this Final Judgment (1) access during the office hours of such 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 matter contained in this Final Judgment, and (2) subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers or employees of such defendant, who may have counsel present, regarding any such matter. Upon such request the defendants shall submit such reports in writing to the Department of Justice with respect to any of the matters contained in this Final Judgment as from time to time may be necessary to the enforcement of this Final Judgment. No information obtained by the means provided in this Section IX 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 for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

## X

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

Frederick v. P. Bryan  
UNITED STATES DISTRICT JUDGE

We hereby consent to the making and entry of the foregoing Final Judgment.

For Plaintiff:

Victor R. Hansen  
Assistant Attorney General

Philip L. Roache, Jr.

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Baddia J. Rashid

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For Defendant:

The B. F. Goodrich Company

White & Case

By Edgar Barton

For Defendant

The Dayton Rubber Company

Jerrold G. Van Cise

SCHEDULE A

United States Patents

No. 2, 265, 823	J. A. Talalay	December 9, 1941
No. 2, 290, 510	J. A. Talalay	July 21, 1942
No. 2, 314, 176	J. A. Talalay	March 16, 1943
No. 2, 432, 353	J. A. Talalay	December 9, 1947
No. 2, 604, 663	J. A. Talalay	July 29, 1952
No. 2, 615, 202	J. A. Talalay	October 28, 1952
No. 2, 671, 931	Leon Talalay	March 16, 1954
No. 2, 731, 669	J. A. Talalay	January 24, 1956
No. 2, 758, 980	J. A. Talalay Leon Talalay and T. F. Bush	August 14, 1956
No. 2, 786, 038	J. A. Talalay	March 19, 1957
No. 2, 797, 442	W. T. Wagner	July 2, 1957
No. 2, 804, 653	A. Talalay	September 3, 1957