

[¶ 70,428] United States v. General Electric Company, Westinghouse Electric Corporation, and N. V. Philips' Gloeilampenfabrieken.

In the United States District Court for the Southern District of New York. Civil No. 140-157. Entered September 4, 1962.

Case No. 1424 in the Antitrust Division of the Department of Justice.

Sherman Act

Export Limitations—Radio and Television Sets—Consent Judgment.—A United States manufacturer of radio and television receivers was prohibited by a consent decree from agreeing, directly or through a subsidiary, to prevent or restrict any manufacturer in the United States from exporting such products from the United States to Canada. Patent license agreements or assignments were not prohibited.

See Combination, Vol. 1, ¶ 1670.30.

For the plaintiff: Lee Loevinger, William D. Kilgore, Jr., Harry G. Sklarsky, Herman Gelfand, and Gerald R. Dicker.

For the defendant: Albert A. Connelly of Cravath, Swaine & Moore, for Westinghouse Electric Corporation.

Final Judgment (Westinghouse Electric Corp.)

DAWSON, District Judge [*In full text*]: Plaintiff, United States of America, having filed its complaint herein on November 24, 1958; defendant Westinghouse Electric Corporation, having appeared and filed its answer to the complaint on January 12, 1959, denying the substantive allegations thereof; and plaintiff and said defendant by their respective attorneys having severally consented to the entry of this Final Judgment without trial or adjudication of or finding on any issues of fact or law herein and without this Final Judgment constituting evidence or an admission by either of them in respect to any such issue;

Now, therefore, before any testimony has been taken and without trial or adjudication of or finding on any issue of fact or law herein, and upon consent of the parties as aforesaid, it is hereby

Ordered, adjudged and decreed as follows:

I

This Court has jurisdiction of the subject matter herein and of the parties hereto. The complaint states a claim upon which relief may be granted against defendant Westinghouse Electric Corporation (Westinghouse) 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 Antitrust Act, as amended:

II

As used in this Final Judgment, the term "home entertainment apparatus" shall mean radio and/or television receiving sets of a type normally intended for home use and parts made therefor, manufactured in the United States (other than tubes and solid state devices, including semi-conductors); and, with reference to Westinghouse, the term "other person" shall mean any indi-

vidual, partnership, association, firm, trustee or legal entity other than Westinghouse, its subsidiaries and its or their officers, directors, employees and agents when acting in such capacity.

III

The provisions of this Final Judgment applicable to Westinghouse shall be binding upon its officers, directors, employees and agents, when acting on behalf of Westinghouse, and upon those persons in active concert or participation with Westinghouse who receive actual notice of this Final Judgment by personal service or otherwise.

IV

Westinghouse is enjoined and restrained from:

(A) Entering into, adhering to, enforcing or claiming any rights under any contract, agreement, understanding, plan or program with any other person which directly or indirectly restricts or prevents any manufacturer of home entertainment apparatus in the United States from exporting any such apparatus from the United States into Canada; and

(B) Directing or causing or entering into any agreement with a foreign subsidiary of Westinghouse to take, or actively consenting to such subsidiary taking, any action to restrict or prevent any manufacturer in the United States from exporting any home entertainment apparatus from the United States into Canada.

The provisions of this Section IV shall not be construed to prohibit, without more, patent license agreements or assignments.

V

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 Westinghouse made to its principal office, be permitted, subject to any legally recognized privilege, (i) reasonable access during the office hours of Westinghouse to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Westinghouse and within the United States relating to any matters contained in this Final Judgment, and (ii) subject to the reasonable convenience of Westinghouse and without restraint or interference from it, to interview within the United States officers or employees of Westinghouse, who may have counsel present, regarding any such matters. Upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and upon reasonable notice made to its principal office, Westinghouse shall submit such written reports with respect to any of such matters as from time to time may be necessary for the 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 for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

VI

Jurisdiction of this cause is retained for the purpose of enabling either 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 in relation to the construction of or carrying out of this Final Judgment, for the modification or termination of any of the provisions thereof, and for the purpose of the enforcement of compliance therewith and the punishment of violations thereof.