

UNITED STATES OF AMERICA vs. LUDOWICI-CELADON COMPANY, ET AL., DEFENDANTS.

IN THE DISTRICT COURT OF THE UNITED STATES
OF AMERICA FOR THE NORTHERN DISTRICT OF
ILLINOIS, EASTERN DIVISION.

In Equity No. 9022.

UNITED STATES OF AMERICA, PETITIONER

VS.

LUDOWICI-CELADON COMPANY, JAMES M. WILLIAMS, R. E. Sturtevant, A. N. Sorenson, Horace White, J. W. Stephens, Arthur W. Applewhite and George J. Lawler, doing business under the firm-name and style of of Applewhite and Lawler Company, George T. Stafford, F. W. Holcomb, A. B. Byrnes, A. B. Sandoz, George S. Mears, R. T. Cole, H. F. Beyer, Alfred Lo Cascio, and B. A. Campbell, defendants.

FINAL DECREE.

This cause having regularly come on to be heard at this term and the defendants having duly appeared by their counsel, Messrs. Butler, Lamb, Foster & Pope of Chicago, Illinois, and having consented in open court to the making and entry of this decree, without any testimony whatever having been taken, now on motion of George E. Q. Johnson, Esquire, United States Attorney, and Horace R. Lamb, Esquire, of counsel for the petitioner, and after due consideration, it is ordered, adjudged and decreed as follows:

DEFINITIONS

The term "roofing tile," as used herein, shall mean tile produced from either shale or clay and used as a covering for pitched roofs, cornices, and/or other exposed surfaces of buildings and/or other structures.

The term "person," as used herein, shall include individuals, co-partnerships, firms, associations, and/or corporations.

The term "corporate defendant," as used herein, shall mean the defendant Ludowici-Celadon Company.

1. That the combination and conspiracy to restrain interstate trade and commerce in roofing tile, and to monopolize, and to attempt to monopolize, such commerce, as described in the petition herein, is hereby declared illegal and in violation of the Act of Congress of July 2, 1890 (26 Stat. 209), commonly called the Sherman Act, and the Acts amendatory thereof and supplemental and additional thereto.

2. That the defendants, and each of them, and each and all of the respective officers and directors of the corporate defendant, and each and all of the respective agents, servants, employees, and all persons acting, or claiming to act, on behalf of the defendants, or any of them, be and they hereby are, perpetually enjoined and restrained from continuing to carry out, directly or indirectly, expressly or impliedly, the combination and conspiracy described in the petition herein, and from entering into, or performing, directly or indirectly, expressly or impliedly, any combination similar to that herein declared illegal.

3. That the corporate defendant, its officers, agents, servants, and employees, and all persons acting, or claiming to act, on behalf of it, or them, or any of them, be enjoined from doing any or all of the following acts:

(a) Inducing, or attempting to induce, purchasers of roofing tile from competitors of the corporate defendant to breach their contracts with such competitors by reducing bids for the sale of roofing tile below prices originally offered by the corporate defendant, or by making false and/or unfair statements relative to the quality, durability and/or workmanship of roofing tile manufactured by such competitors.

(b) Preventing, or attempting to prevent, the sale of roofing tile manufactured by competitors of the corporate defendant by means of false and/or unfair statements relative to the quality, durability and/or workmanship of roofing tile manufactured by such competitors.

(c) Requiring persons engaged in the business of buying and selling and/or of installing roofing tile, to pur-

chase, use, and/or install exclusively roofing tile manufactured by the corporate defendant, as a condition to the sale, use, and/or installation of roofing tile manufactured by the corporate defendant.

(d) Inducing, or attempting to induce, persons engaged in the business of buying and selling roofing tile and/or installing the same, to agree to refuse to sell and/or install roofing tile, manufactured by competitors of the corporate defendant, for the purpose, or with the effect, of excluding such competitors from carrying on their lawful business.

(e) Inducing, or attempting to induce, persons who are selling agents for roofing tile manufactured by competitors of the corporate defendant, to enter into any arrangement or understanding whereby such persons shall become selling agents for the corporate defendant and at the same time retain the selling agency of competitors of the corporate defendant without intending in good faith to sell roofing tile manufactured by such competitors.

(f) Adopting a policy, either generally or with respect to a particular community, of inducing, or attempting to induce, salesmen employed by, and/or sales agents of, competitors of the corporate defendant, to discontinue in the employment, or as representatives, of such competitors and to become salesmen and/or sales agents of the corporate defendant, for the purpose, or with the effect, of preventing such competitors from selling roofing tile in competition with the corporate defendant.

(g) Adopting a policy, either generally or with respect to a particular community, of selling, or offering for sale, roofing tile manufactured and/or sold by the corporate defendant at unfair or discriminatory prices, terms and/or conditions of sale with the intent to exclude competitors of the corporate defendant from carrying on the manufacture and/or sale of roofing tile in competition with the corporate defendant.

(h) Giving or granting any preference, priority, rebate, or any discrimination in favor of certain selected

or preferred persons engaged in purchasing and selling and/or installing roofing tile, either generally or with respect to a particular community, for the purpose, or with the effect, of excluding competitors of either such persons or of the corporate defendant from continuing to carry on their lawful business.

4. That the corporate defendant be and it hereby is enjoined, until the further order of this court, from acquiring, directly or indirectly, the ownership or control, either by acquisition of shares of capital stock or by purchase of business, property and assets, of any additional plants engaged in the manufacture and sale of roofing tile.

5. That the terms of this decree shall be binding upon, and shall extend to, each and every one of the successors in interest of any and/or all of the defendants herein, and to any and all corporations, copartnerships, and/or individuals who may acquire the ownership or control, directly or indirectly, of the shares of the capital stock, or of the property, business and assets of the corporate defendant, whether by merger, consolidation, reorganization, or otherwise.

6. That nothing contained in this decree shall be construed to prevent the corporate defendant from making discriminations in price between purchasers of roofing tile on account of differences in the grade, quality or quantity of the roofing tile sold, or on account of differences in the cost of selling or transportation, or from making discriminations in price in the same or different communities in good faith to meet competition; and that nothing contained in this decree shall prevent the corporate defendant from selecting its own customers in *bona fide* transactions and not in restraint of trade.

7. That jurisdiction of this cause be and it hereby is retained for the following purposes:

(a) Enforcing this decree,

(b) Enabling the petitioner to apply to this court for a modification or enlargement of any of the provisions

of this decree on the ground that the same is inadequate, or,

(c) Enabling the defendants, or any of them, to apply to this court for a modification of any of the provisions of this decree on the ground that it has become inappropriate or unnecessary.

8. That the petitioner recover its taxable costs.

Enter:

JAMES H. WILKERSON,
United States District Judge.

Filed, March 18, 1929.

UNITED STATES OF AMERICA vs. FOX THEATRES CORPORATION, ET AL., DEFENDANTS.

IN THE DISTRICT COURT OF THE UNITED STATES FOR
THE SOUTHERN DISTRICT OF NEW YORK.

In Equity No. 51122.

UNITED STATES OF AMERICA, PETITIONER

VS.

FOX THEATRES CORPORATION, FOX FILM CORPORATION
and William Fox, defendants.

FINAL DECREE.

The United States of America filed its petition herein on or about November 25, 1929, and each of the defendants having duly appeared by their counsel, Ralph S. Harris, Esq., the United States of America by George Z. Medalie, United States Attorney for the Southern District of New York and by Honorable John Lord O'Brian, the Assistant to the Attorney General, and John Harlan Amen, Special Assistant to the Attorney General, moved the Court for an injunction as prayed in the petition and each of the defendants consented to the entry of this decree without contest.

WHEREFORE, it is ordered, adjudged, and decreed as follows:

I. That the Court has jurisdiction of the subject matter hereof and of all persons and parties hereto and that the petition states a cause of action against the defendants under the Act of Congress of October 15, 1914, entitled "An Act to Supplement existing Laws against unlawful restraints and monopolies and for other purposes," commonly known as The Clayton Law.

II. That the acquisitions by defendants, Fox Theatres Corporation and Fox Film Corporation, of stock of Lowe's Inc., and of Metro-Goldwyn Pictures Corporation and of Metro-Goldwyn-Mayer Distributing Corporation in the manner and by the means alleged in the petition herein are hereby declared illegal and in violation of Section 7 of the said Act of Congress of October 15, 1914, commonly known as The Clayton Law.

III. That defendants, Fox Theatres Corporation and Fox Film Corporation, be required forthwith absolutely and unconditionally to divest themselves of all right, title, and interest in and to all shares of the said stock of Loew's, Inc., and of Metro-Goldwyn Pictures Corporation and of Metro-Goldwyn-Mayer Distributing Corporation.

IV. That defendants, Fox Theatres Corporation and Fox Film Corporation, their respective officers, agents, employees, and all persons and corporations acting or claiming to act on their behalf be perpetually enjoined from, directly or indirectly, acquiring, receiving, holding, voting, or in any manner acting as the owners of the whole or any substantial part of the stock or share capital of Loew's Inc., Metro-Goldwyn Pictures Corporation, or Metro-Goldwyn-Mayer Distributing Corporation.

V. That defendants, Fox Theatres Corporation and Fox Film Corporation, their respective officers, agents, employees, and all persons and corporations acting or claiming to act on their behalf be perpetually enjoined from, directly or indirectly, acquiring, receiving, holding,