

Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Whitin Business Equipment Corporation., U.S. District Court, D. Massachusetts, 1960 Trade Cases ¶69,672, (Mar. 30, 1960)

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United States v. Whitin Business Equipment Corporation.

1960 Trade Cases ¶69,672. U.S. District Court, D. Massachusetts. Civil Action No. 58-567-A. March 30, 1960. Case No. 1391 in the Antitrust Division of the Department of Justice.

Sherman Antitrust Act

Price Fixing—Consent Decree.—A manufacturer of rotary offset duplicating machines was prohibited by a consent decree from fixing, either singly or by agreement with others, the prices to be charged to third persons.

Allocating Markets and Customers—Consent Decree.—A manufacturer of rotary offset duplicating machines was prohibited by a consent decree from restricting, either singly or by agreement with others, the territories in which, or the customers to whom, any other person may sell such machines.

Import and Export Control—Consent Decree.—A manufacturer of rotary offset duplicating machines was prohibited by a consent decree from restricting, singly or by agreement with others, imports into the United States or exports from the United States by any other person.

For the plaintiff: Robert A. Bicks, Acting Assistant Attorney General; Lewis Bernstein, William D. Kilgore, Jr., Philip L. Roache, Jr., Joseph J. O'Malley, and Allan J. Reniche, Attorneys, Department of Justice.

For the defendant Herrick, Smith, Donald, Farley & Ketchum, by Kevin Hern.

Final Judgment

[*Consent Decree*]

GEORGE C. SWEENEY, District Judge [*In full text*]: Plaintiff, United States of America, having filed its complaint herein on May 29, 1958; defendant, Whitin Business Equipment Corporation, having appeared and filed its answer to the complaint denying the substantive allegations thereof; and the plaintiff and the defendant, by their attorneys, having severally consented to the entry of this Final Judgment without adjudication of any issue of fact or law and without admission by any party hereto in respect to any such issue;

Now, Therefore, before 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

This Court has jurisdiction of the subject matter hereof and of the parties hereto. The complaint states claims upon which relief may be granted against the defendant, Whitin Business Equipment Corporation, 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) "Defendant" means the Whitin Business Equipment Corporation, a corporation organized and existing under the laws of the State of Delaware, with its present principal place of business at Whitinsville, Massachusetts and any subsidiary thereof;

(B) "Machines" mean any rotary offset duplicating machine;

- (C) "Person" means any individual, partnership, firm, association, corporation or other business or legal entity;
- (D) "ATF" means American Type Founders Co., Inc., a corporation organized and
- (E) "Photostat" means Photostat Corporation, a corporation organized and existing under the laws of the State of Rhode Island, with its principal place of business at Providence, Rhode Island;
- (F) "Gestetner" means Gestetner, Ltd., a corporation organized and existing under the laws of Great Britain, with its principal place of business in London, England;
- (G) "Whitin" means Whitin Machine Works, a corporation organized and existing under the laws of the Commonwealth of Massachusetts, with its principal place of business in Whitinsville, Massachusetts.

III

The provisions of this Final Judgment shall apply to the defendant and to each of its subsidiaries, successors, assigns, officers, directors, servants, employees and agents, and to all persons in active concert or participation with the defendant who receive actual notice of this Final Judgment by personal service or otherwise.

IV

[*Price Fixing—Allocating Territories—Restricting Imports*]

Defendant is enjoined and restrained from, directly or indirectly, entering into, adhering to, maintaining, enforcing, or claiming any rights under, any contract, agreement, understanding, plan or program with any other person to:

- (A) Fix, establish, maintain or adhere to prices, discounts, or other terms or conditions for the sale of machines to any third person;
- (B) Restrict, limit or prevent any person from exporting machines from the United States or importing machines into the United States;
- (C) Limit, allocate or restrict the territories in which or the customers to whom any person may sell machines.

V

Defendant is enjoined and restrained from, directly or indirectly:

- (A) Fixing, restricting or suggesting, or attempting to fix, restrict or suggest the price, discount, or other terms or conditions for the sale of machines by any other person;
- (B) Limiting or restricting or attempting to limit or restrict the territories in which or the customers to whom any other person may, or shall, sell machines;
- (C) Limiting, restricting or preventing, or attempting to limit, restrict or prevent, any other person from importing machines into the United States or exporting machines from the United States.

VI

Sections IV and V of this Final Judgment shall not be construed as prohibiting defendant from exercising such lawful rights as it may have under, and pursuant to: The Miller-Tydings Act, as amended, or the patent laws of the United States.

VII

[*Compliance*]

Defendant is ordered and directed, within thirty (30) days from the entry of this Final Judgment, to mail to American Type Founders Co., Inc., Photostat Corporation, Gestetner, Ltd., and Whitin Machine Works a true and complete copy of this Final Judgment, and within sixty (60) days from the entry of this Final Judgment to file with this Court, and serve upon the plaintiff, an affidavit as to the fact and manner of its compliance with this Subsection VII.

VIII

For the purpose of securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, on 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, be permitted, subject to any legally recognized privilege:

(A) Access, during the 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 the defendant relating to any matters contained in this Final Judgment;

(B) Subject to the reasonable convenience of the defendant and without restraint or interference from the defendant, to interview officers or employees of the defendant, who may have counsel present, regarding any such matters.

Upon such written request, said defendant shall submit such reports in writing to the Department of Justice with respect to matters contained in this Final Judgment as from time to time may be necessary for the enforcement of this Final Judgment.

No information obtained by the means permitted in this Section VIII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the Plaintiff except in the course of legal proceedings in which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

IX

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