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Trade Regulation Reporter - Trade Cases (1932 - 1992), United States v. Hartford-Empire Co., et al., U.S. District Court, N.D. Ohio, 1978-1 Trade Cases ¶62,057, (Jun. 9, 1976)

Federal Antitrust Cases
4426
Trade Regulation Reporter - Trade Cases (1932 - 1992) ¶62,057

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United States v. Hartford-Empire Co., et al.

1978-1 Trade Cases ¶62,057. U.S. District Court, N.D. Ohio, Western Division, Civil Action No. 4426, Entered June 9, 1976, amended on June 15, 1976 by addition of final paragraph.

Case No. 469, Antitrust Division, Department of Justice.

Sherman Act

Headnote

Department of Justice Enforcement and Procedure: Modification of Consent Decree: Glass-Making Machinery Industry.–
A 1945 antitrust judgment regulating the glass-making machinery industry, which was amended in 1947 (1946-1947 TRADE CASES¶57,571), was further modified to eliminate provisions of the 1947-amended judgment which were no longer needed, end the requirement of compulsory sale of glass-making machinery and ultimately terminate the entire judgment on October 31, 1985. Under the further amended judgment, a compulsory licensing requirement shall have no application to any patent issued after October 31, 1978. The injunctive provisions of the original judgment prohibiting violations of the antitrust laws—patent monopoly, restriction of production and distribution of glass-making machinery, price fixing, allocation of markets, interlocking directorates, acquisitions—remained in effect. The decree included a dismissal of the action as to all individual defendants.
Further amending of judgment of October 31, 1945, which had been amended by 1946-1947 Trade Cases¶57,571.

For plaintiff: Thomas E. Kauper, Asst. Atty. Gen., Baddia J. Rashid, Charles F. B. McAleer, Robert R. Duncan, and John L. Wilson, Attys., Dept. of Justice. **For defendants:** Dean M. Hennessy, Gen. Counsel, and William T. Lifland, Counsel, for Emhart Corp.; William C. Ughetta, and R. Bruce MacWhorter, Counsel, for Corning Glass Works; James A. Sprunk, Gen. Counsel, and Larry L. Williams, Counsel, for Owens-Illinois, Inc.; Frank A. Bracken, Gen. Counsel, and Robert A. Hammond, III, Counsel, for Ball Corp.

Further Amended Final Judgment with Respect to Hartford-Empire Company, Corning Glass Works, Owens-Illinois Glass Company, and Ball Brothers Company

YOUNG, D. J.: The Court having retained jurisdiction of this matter pursuant to the Final Judgment dated October 31, 1945, as amended May 23, 1947; the plaintiff having consented to the dismissal of all of the individual parties defendant; plaintiff and the corporate defendants which will be subject to it having consented to the making and entry of this Further Amended Final Judgment; and the Court having been fully advised with respect to the matter and seeing no just reason why entry of this Further Amended Final Judgment should be delayed;

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Now Therefore, based upon the Court's findings that some of the obligations placed upon defendants by said Final Judgment, as amended, are no longer necessary or appropriate due to changed circumstances, and upon the determination of the Court that this Further Amended Final Judgment should now be entered, it is hereby

Ordered, Adjudged, and Decreed that the Final Judgment entered herein on October 31, 1945, as amended, is hereby further amended, insofar as it applies to individual persons and to Hartford-Empire Company (now Emhart Corporation), Corning Glass Works, Owens-Illinois Glass Company (now Owens-Illinois, Inc.), and Ball Brothers Company (now Ball Corporation), to read as follows:

[*Jurisdiction*]

1. The Court has jurisdiction of the subject matter herein and of all of the parties hereto.

[*Vacation*]

2. The provisions of the Final Judgment entered herein October 31, 1945, as amended, are hereby vacated with respect to all individual persons, and this action is hereby dismissed as to each such individual person.

[*Definitions*]

3. The following definitions shall apply in this Further Amended Final Judgment:

(A) Whenever the term“glass containers”is used herein, it shall be deemed to signify the following articles or types of articles when made of glass: narrow neck bottles used as food containers; wide mouth bottles and jars used as food containers; packers tumblers; beer bottles, other pressure and non-pressure bottles used for beverages; medicine and toilet bottles, including prescription ware; proprietary ware; perfumery ware and toilet ware; milk and cream bottles; domestic fruit jars; domestic jelly glasses; and all other types of bottles and jars used to contain miscellaneous types of products.

(B) Whenever the term“non-container ware”is used herein, it shall be deemed to signify all glass products (other than flat glass, fiberglas, structural glass, glass brick, and products made therefrom, and glass containers as defined in subparagraph 3(A) of this judgment), including, but not limited to, the following articles or types of articles when made of glass in so far as they do not fall within the exceptions above stated: illuminating ware, including bulbs, tubing, and cane; optical ware, technical and industrial ware, including parts for electrical devices, insulators, and insulation; signal ware; vacuum ware; heat resistant ware and oven ware; lamp chimneys and lantern globes; scientific glassware, including laboratory, surgical, and hospital ware; tumblers; miscellaneous non-containers; automobile headlight lenses and other automobile signal ware; blown table glassware, including stem ware, tumblers, and kindred items; miscellaneous blown non-containers, such as ware for vending and display devices, cylinders, jars, lamp bases, lamp columns, lamp stems and parts, sacramental glassware, aquaria, seed cups, ware for coffee and tea-making devices, and other kindred groups; miscellaneous pressed non-containers, such as table ware, stem ware, tumblers, jars, bar goods, soda-fountain ware, hotel and restaurant supply ware, kitchen ware, stationers ware, and other kindred groups; marbles; and miscellaneous ware, such as novelties, specialties, and private-mold articles, and colored art glass.

(C) Whenever the term“glassware”is used herein, it shall be deemed to include both glass containers and noncontainer ware as defined in subparagraph 3(A) and 3(B) of this judgment.

(D) As used herein, the term“machinery used in the manufacture of glassware”shall be deemed to include and be limited to feeders, forming machines, suction machines, lehrs, and stackers, as defined in subparagraphs (F), (G), (H), (I), and (J) of this paragraph 3 of this judgment.

(E) The term“machinery and methods used in the manufacture of glassware”shall include all machinery used in the manufacture of glassware as defined in subparagraph (D) of this paragraph 3 and methods as defined in subparagraph (L) of this paragraph 3.

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(F)“Feeders”shall mean any and all types of apparatus for or embodying methods of feeding molten glass from furnaces to forming machines, together with all auxiliary and accessory parts of said apparatus, when designed to be used in connection with any such apparatus.

(G)“Forming machines”shall mean any and all types of apparatus for or embodying methods of forming molten or viscous glass by blowing, pressing, blowing and pressing or drawing the glass; by forming the glass into a ribbon and by causing the glass to progress continuously or intermittently in a given direction along a substantially straight line or to deviate from such straight line while transferring from one straight line to another (including, but not limited to, the 399 or ribbon machine used by defendant Corning Glass Works); together with all auxiliary and accessory parts of all of said apparatus, when designed to be used in connection with any such apparatus; provided that this definition is limited to such machines as are capable of producing glass containers as defined in subparagraph (A) of this paragraph 3 of this judgment or table ware, tumblers, stem ware, kitchen ware, oven ware, and kindred items.

(H)“Suction machines”shall mean any and all types of apparatus for or embodying methods of raising glass by suction into molds, and of forming glass, so raised, by blowing, pressing, blowing and pressing, or drawing the glass; by forming the glass so raised into a ribbon and by causing the glass so raised to progress continuously or intermittently in a given direction along a substantially straight line, or to deviate from such straight line while transferring from one straight line to another; together with all auxiliary and accessory parts of all of said apparatus, including, but not limited to, the stationary and revolving pots, when designed to be used in connection with any such apparatus; provided that this definition is limited to such machines as are capable of producing glass containers as defined in subparagraph (A) of this paragraph 3 of this judgment or table ware, tumblers, stem ware, kitchen ware, oven ware, and kindred items.

(I)“Lehrs”shall mean any and all types of apparatus for or embodying methods of annealing glassware, together with all auxiliary and accessory parts of said apparatus, when designed to be used in connection with any such apparatus.

(J)“Stackers”shall mean any and all types of apparatus for or embodying methods of stacking glassware from a forming machine, suction machine, or conveyor in a lehr, together with all auxiliary and accessory parts of said apparatus, when designed to be used in connection with any such apparatus.

(K) The terms“patents”and“patent applications”shall mean United States Letters Patent and applications for United States Letters Patent, respectively.

(L) The term“methods”shall include all methods and processes directly employed in the design or operation of machinery used in the manufacture of glassware, as defined in subparagraph (D) of this paragraph 3.

(M) Except when otherwise expressly provided herein, whenever reference is made to any corporation whether or not engaged in the manufacture of glass ware or of machinery used in the manufacture of glassware, such reference shall be deemed to include corporations only in so far as they are engaged in business in the United States and its possessions and corporations which are subsidiaries, successors, parents, or subsidiaries of a parent of the corporation referred to and only in so far as they are engaged in the United States and its possessions in the manufacture of glassware or of machinery used in the manufacture of glassware.

(N) Whenever reference is made to any corporate defendant herein, such reference shall apply to and include individuals acting as its officers, directors, agents, and employees, provided, however, that the provisions of paragraphs 5, 8(B) and (C), 12, 14, and 15 of this judgment shall not apply to agreements, discussions, or other concerted action solely between a corporate defendant and its officers, directors, agents, or employees, or between the officers, directors, agents, or employees of the corporation.

(O) Whenever the term“subsidiary”is used herein, it shall be construed to refer to any corporation or association of which fifty per cent (50%) or more of the voting capital stock or equivalent voting power is held by a corporate defendant herein.

(P) The term“present inventions”shall mean (1) all United States Patents owned or controlled by defendant Hartford-Empire Company on December 31, 1946 relating to feeders, forming machines, lehrs and stackers,

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except patents covering inventions which (a) on April 30, 1947 were embodied or employed in experimental feeders, forming machines, lehrs or stackers which Hartford-Empire Company had built and which were then in existence, or which it was then building, or in feeders, forming machines, lehrs or stackers manufactured commercially at any time thereafter by or for Hartford-Empire Company and which (b) prior to December 31, 1946 had not been embodied or employed in and licensed for use in current type machines; and (2) all inventions owned or controlled by Hartford-Empire Company on April 30, 1947 and thereafter patented in so far as they were embodied or employed in and licensed for use in current type machines on or before December 31, 1946.

[*Applicability*]

4. The provisions of Paragraph 13 of the Final Judgment entered October 31, 1945, as amended May 23, 1947, shall remain in force (except insofar as they relate to Paragraph 12 of the Final Judgment entered October 31, 1945, as amended May 23, 1947, or to obligations created under said Paragraph 12) insofar as they apply to the corporate defendants Hartford-Empire Company, Corning Glass Works, Owens-Illinois Glass Company, and Ball Brothers Company; provided, however, that the Order of the Court entered October 13, 1967, Respecting Simplification and Clarification Of Procedure For Determination of Royalties And Charges Under Final Judgment, shall remain in full force and effect until the expiration of this Further Amended Final Judgment; and provided further that the provisions of said Paragraph 13 and of any instrument or instruments heretofore filed with the Clerk of this Court pursuant to said Paragraph 13 shall have no application to any patent issuing after October 31, 1978.

[*Obstruction to Furnishing New Machinery*]

5. The defendants Hartford-Empire Company, Corning Glass Works, Owens-Illinois Glass Company, and Ball Brothers Company, and each of them, be and hereby is enjoined and restrained (provided that nothing in this paragraph shall prohibit a defendant from obtaining a contract or from enforcing contractual or other rights which are not otherwise prohibited by the terms of this judgment) from directly or indirectly agreeing, conspiring or combining with any other person, firm, or corporation, or adhering to, maintaining, or furthering any such combination, conspiracy, or agreement, for the purpose of obstructing or delaying the furnishing of any machinery used in the manufacture of glassware to any customer or applicant.

[*Prior Agreements*]

6. The defendants Hartford-Empire Company and Corning Glass Works be and they hereby are enjoined from reinstating the agreement, dated June 30, 1916, between Hartford-Fairmont Company and Empire Machine Company, or the agreement, dated October 6, 1922, between Hartford-Empire Company, Hartford-Fairmont Company, Empire Machine Company, Corning Glass Works, and others, and from making like contracts with each other in the future relating to machinery and/or methods used in the manufacture of glassware.

[*Claims*]

7(a). If any claim is made by the plaintiff or a defendant or any party to any agreement between any of the corporate defendants (whether subject to this Further Amended Final Judgment or to the Final Judgment dated October 31, 1945, as amended) or between Hartford-Empire Company and any of its licensees, relating to patented machinery and/or methods used in the manufacture of glassware, that it embodies restrictive or discriminatory provisions inconsistent with the terms of this judgment, such claim shall be passed upon by this Court on petition by the claimant, on thirty (30) days' notice to the Attorney General of the United States (if plaintiff is not the claimant) and to all defendants and contracting parties affected, and the reformation of any such agreement may be decreed by ordering the deletion of any such restrictive or discriminatory provisions found to be embodied therein.

[*Alteration*]

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(b) The defendants Hartford-Empire Company, Corning Glass Works, Owens-Illinois Glass Company, and Ball Brothers Company, and each of them, be and hereby is enjoined from altering in any respect any agreement existing on October 31, 1945, between any such defendant and any other corporate defendant (whether subject to this Further Amended Final Judgment or to the Final Judgment dated October 31, 1945, as amended), relating to patented machinery and/or methods used in the manufacture of glassware, or any such agreement thereafter made in like terms without first obtaining the approval of this Court; provided that this paragraph shall not be deemed to prevent the termination of any of said agreements by consent of the parties thereto or any change thereof which accords to the licensees more favorable terms than in the previous agreement without discrimination forbidden by paragraph 8 hereof.

[*Inaction*]

(c) Failure of the Attorney General where he is not the claimant to take any action following the receipt of any information under this judgment shall not be construed as an approval of the matter so received or informed and shall not operate as a bar to any action or proceeding that may later be brought or be pending whether pursuant to this judgment or any law of the United States based on things so received or informed.

[*Patents*]

8(A). The defendants Hartford-Empire Company, Corning Glass Works, Owens-Illinois Glass Company, and Ball Brothers Company, and each of them, be and hereby is enjoined from agreeing with any other corporate defendant (whether subject to this Further Amended Final Judgment or to the Final Judgment dated October 31, 1945, as amended) or from inserting (except at the insistence of a non-defendant licensor and after fifteen (15) days written notice to the Attorney General), enforcing, or requiring any other person, firm, or corporation to agree to any provision heretofore or hereafter entered into by it relating to machinery or methods used in the manufacture of glassware and embodying or employing patented inventions which

(a) directly or indirectly limits or restricts:

(1) the type or kind of glassware which can be produced with, upon, or by machinery and/or methods used in the manufacture of glassware and licensed under patents or patent applications now or hereafter owned or controlled by it; (2) the use of glassware so produced; (3) the character, weight, color, capacity, or composition of glassware so produced; (4) the quantity thereof so produced; (5) the market (as to territory, customers, or class of customers) to or in which the same may be sold or distributed; (6) the price or terms of sale or other disposition of glassware so produced or of machinery used in the manufacture of glassware; or (7) the use of any machinery used in the manufacture of glassware, or patented inventions embodied in, or employed by, machinery used in the manufacture of glassware and licensed by it, to use in connection with any other machinery or equipment distributed, or inventions licensed, by it, or to use in any specified plant or locality; or

(b) gives or purports to give a right to terminate any license if the use of any machinery used in the manufacture of glassware fails to conform to limitations and restrictions forbidden in (a); or

(c) expressly provides that any licensee shall not contest the validity of any patent or patents of such defendant covering inventions embodied in machinery or methods used in the manufacture of glassware; or

(d) provides that parts and equipment constituting improvements on machinery used in the manufacture of glassware, which are made by the lessee or vendee of such machinery, shall become the property of the lessor or vendor; or

(e) provides that rights to improvements, including inventions, patent applications, and patents covering licensed inventions embodied in, or employed by, machinery or methods used in the manufacture of glassware, made or acquired by the licensee, shall become the exclusive property of the lessor or vendor; or

(f) grants to any licensee, lessee, or vendee of any machinery and/or methods used in the manufacture of glassware, when such machinery and/or methods embody or employ inventions covered by patents or patent applications owned by it or under which it has the right to grant licenses, a preferential position amounting to an

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unfair discrimination, whether by means of lower rates of royalty, by different provisions of licensing, leasing, or sale, by exclusive licenses, rebates, discounts, a share in net or gross income or any part thereof, or by any other means.

(B) The defendant Hartford-Empire Company be and hereby is enjoined and restrained from directly or indirectly agreeing, conspiring, or combining with any other person, firm, or corporation, with respect to the acquisition of patent rights, for the purpose of preventing competition between manufacturers of glassware and manufacturers of competitive articles made from alternative, substitute, or replacement materials.

(C) The defendant Hartford-Empire Company be and hereby is enjoined and restrained from hereafter directly or indirectly agreeing, conspiring, or combining with any manufacturer or distributor of glassware or of machinery used in the manufacture of glassware (other than a person from whom it is proposed to acquire such patent rights or from whom it becomes necessary to obtain transfer or release of any prior interests therein) for the purpose of acquiring patent rights relating to machinery used in the manufacture of articles competitive with glassware articles, but made of alternative, substitute, or replacement materials. The injunctions contained in subparagraphs (B) and (C) hereof shall not apply to any new interests which may succeed to the ownership of all or any part of any plastic business owned by Hartford-Empire Company or any subsidiary thereof.

[*Consent*]

9. The defendants Corning Glass Works, Owens-Illinois Glass Company, and Ball Brothers Company, and each of them, is hereby enjoined from requiring, requesting, or inducing Hartford-Empire Company to seek the permission, advice, or consent of the corporate defendants (whether subject to this Further Amended Final Judgment or to the Final Judgment dated October 31, 1945, as amended) or any of them before licensing machinery used in the manufacture of glassware to newcomers in the glassware industry, or before allowing then existing licensees of Hartford-Empire Company to manufacture additional types, kinds or amounts of glassware.

[*Interlocking Directorates*]

10. The defendants Hartford-Empire Company, Corning Glass Works, Owens-Illinois Glass Company, and Ball Brothers Company, and each of them, while engaged either in the manufacture and sale of glassware or in the manufacture or distribution of machinery used in the manufacture of glassware, or both, be and hereby is enjoined from having as a director any person who is at the same time a director in any other competing corporation so engaged; provided that the provisions of this paragraph shall not restrain or preclude a corporate defendant from having as a director a person who simultaneously acts as a director of a subsidiary, parent, or subsidiary of the parent of the corporate defendant of which he is so acting as a director or of a corporation engaged solely in business outside the territorial limits of the United States of America or its possessions.

[*Acquisitions*]

11. (A) The defendants Hartford-Empire Company, Corning Glass Works, Owens-Illinois Glass Company, and Ball Brothers Company, and each of them, while engaged either in the manufacture and sale of glassware or in the manufacture or distribution of machinery used in the manufacture of glassware, or both, be and hereby is enjoined from acquiring, purchasing, holding, or controlling, directly or indirectly, or through agents, representatives, or nominees, the business or assets or capital stock or bonds of any other defendant corporation (whether subject to this Further Amended Final Judgment or to the Final Judgment dated October 31, 1945, as amended) except upon sixty (60) days prior notice to the Attorney General.

(B) The defendants Hartford-Empire Company, Corning Glass Works, Owens-Illinois Glass Company, and Ball Brothers Company, and each of them, while engaged either in the manufacture and sale of glassware or in the manufacture or distribution of machinery used in the manufacture of glassware, or both, be and hereby is enjoined from acquiring, purchasing, acquiring and holding or acquiring and controlling, directly or indirectly, or through agents, representatives, or nominees the business or assets or any measure of control over the

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business of a competing corporation, firm, or individual so engaged, except upon sixty (60) days prior notice to the Attorney General; provided, however, that this subparagraph (B) of this paragraph shall not prevent any of the corporate defendants from acquiring, purchasing, acquiring and holding or acquiring and controlling without such prior notice the business or assets or stock or bonds of its own subsidiary, as defined in subparagraph (O) of paragraph 3, or of any corporation engaged solely in business outside of the territorial limits of the United States of America and its possessions.

[*Price Fixing*]

12. Each of the defendants, Hartford-Empire Company, Corning Glass Works, Owens-Illinois Glass Company, and Ball Brothers Company, be and hereby is enjoined and restrained from

(1) agreeing, combining, or conspiring with any other defendant corporation (whether subject to this Further Amended Final Judgment or to the Final Judgment dated October 31, 1945, as amended) or with any other manufacturer or seller of glassware or of machinery used in the manufacture of glassware, whether a natural person, partnership, or corporation, or adhering to, maintaining, or furthering any such combination, conspiracy, or agreement:

(a) to limit the production of glassware or of machinery used in the manufacture of glassware, or to fix, raise, maintain, or adhere to prices of glassware or of such machinery; or to coerce, intentionally persuade, cause, impel, advise, or induce any manufacturer of glassware or of such machinery to limit the production of glassware or of such machinery or to fix, raise, maintain, or adhere to prices of glassware or of such machinery;

(b) to ascertain the volume of business of a manufacturer of glassware or of machinery used in the manufacture of glassware for any period or periods, or to make forecasts of the estimated demands for different types of glassware or of such machinery, where the purpose of such ascertainment, estimate, or forecast is to coerce or intentionally persuade or agree with any manufacturer of glassware or of such machinery to limit or control production or to fix, raise, or maintain the price of glassware or of such machinery;

(c) to collect, compile, analyze, or distribute data concerning the production, sales, orders, shipments, deliveries, costs, or prices of glassware or of machinery used in the manufacture of glassware, where there is any disclosure of data concerning any particular manufacturer with the purpose or agreement to coerce or intentionally persuade any manufacturer to limit or control production or to fix, raise, or maintain the price of glassware or of such machinery;

(d) to examine or audit the records or accounts of a manufacturer of glassware or of machinery used in the manufacture of glassware, provided, however, that this subparagraph 12(1)(d) shall not prohibit a licensor of a patent from having an independent auditor examine the records and accounts of a licensee in connection with the collection of royalties where it is made a condition of the employment of such auditor that he disclose only such information to the licensor as is necessary to determine the amount of royalties payable, nor shall this subparagraph 12(1)(d) prohibit an association from having an independent auditor examine the records and accounts of members of the association where it is made a condition of the employment of such auditor that he disclose only such information to the association as is necessary to determine the amount of dues payable by the member to the association;

(e) to allocate or refrain from soliciting customers of manufacturers of glassware or of machinery used in the manufacture of glassware, or to allocate markets or marketing territories among the several manufacturers;

(2) formulating, promoting, or taking part in any plan with any other corporation for the prorating of business or the equitable sharing of available business in the distribution of glassware, or machinery used in the manufacture of glassware; or

(3) distributing data concerning the production, shipments, sales, orders, costs, or prices of any manufacturer of glassware or of machinery used in the manufacture of glassware, or presenting or discussing data dealing with sales, orders, costs, or prices at meetings, or elsewhere, or by correspondence or otherwise, pursuant to any agreement or understanding or with the purpose or intent that any manufacturer or manufacturers of

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glassware or of such machinery shall limit his or its output to any production quota or shall adhere or conform to any price; provided, however, that the provisions of this paragraph 12 and any subparagraph thereof shall not prevent any single defendant corporation in the exercise of its own independent judgment from taking any action lawful under any then applicable law authorizing establishment of or limitations on resale prices; nor shall this paragraph or any subparagraph thereof be construed to forbid normal business transactions of any of the corporate defendants with its selling agents or consignees, persons, or corporations rendering or receiving services, or customers; or to prohibit transactions with citizens or corporations of foreign nations; or to prevent any defendant from availing itself of the benefits of the Webb-Pomerene Act or (save as elsewhere in this judgment provided) of the benefit of the patent laws.

[*Sales Limitations*]

13. Defendant Hartford-Empire Company be and hereby is enjoined and restrained except as otherwise authorized in this judgment from recognizing, performing, or asserting any rights under any provision of any agreement between said defendant corporation and Lynch Corporation including the agreement entered into under date of August 23, 1933, as amended, which limits or restricts the terms upon which, or the customers to whom, Lynch Corporation may sell forming machines embodying or employing inventions owned by Hartford-Empire Company, or which requires purchasers of such machines from Lynch Corporation to enter into forming machine license agreements with Hartford-Empire Company.

[*Obstructive Patent Applications*]

14. The defendants Hartford-Empire Company, Corning Glass Works, Owens-Illinois Glass Company, and Ball Brothers Company, and each of them, be and hereby is enjoined from combining, conspiring, or agreeing with any other person, firm or corporation, or adhering to, maintaining, or furthering any such combination, conspiracy, or agreement, to apply for patents in the United States Patent Office covering inventions embodied in machinery or methods used in the manufacture of glassware by others primarily for the purpose of using patents issued on said applications to fence in, prevent or hinder others from using, developing, or improving their own inventions; provided, however, that this paragraph shall not be construed to prevent agreements between a patent lawyer or solicitor and his client, so long as the said lawyer or solicitor is not then also being retained by any other defendant with respect to the same general subject matter.

[*Patent Control*]

15. The defendants Hartford-Empire Company, Corning Glass Works, Owens-Illinois Glass Company, and Ball Brothers Company, and each of them be and hereby is enjoined from combining, conspiring or agreeing with any other person, firm or corporation, or adhering to, maintaining, or furthering any such combination, conspiracy, or agreement, with respect to patents or patent applications covering inventions embodied in methods or in machinery used in the manufacture of glassware,

(a) to obtain from the Patent Office dominating patents for one or more of the persons, firms or corporations so combining, conspiring or agreeing and for the purpose of giving such defendant or the combination, patent control of machinery used in the manufacture of glassware;

(b) to refrain from disclosing to the Patent Office facts within their knowledge which, if disclosed, would tend to prevent the issuance of dominating patents to one of said persons, firms or corporations so combining, conspiring or agreeing;

(c) to make any representation to the Patent Office designed to further the issuance of patents to any of the persons, firms or corporations so combining, conspiring or agreeing without fully disclosing to the Patent Office any community of interest existing among said persons, firms or corporations;

(d) to transfer conflicting claims from one patent application to another in accordance with a decision arrived at after negotiation rather than in accordance with a decision by the Patent Office or by the Courts in an interference proceeding or in accordance with a decision arrived at in genuine arbitration proceedings after the

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declaration of an interference, unless such transfer is approved by the Patent Office after a full disclosure of the facts in justification thereof, made in writing to the Patent Office and to the Attorney General at least sixty (60) days prior to the time of such transfer;

(e) to disclose regularly or periodically their patent applications, or information about the unpatented inventions they own or control, to any person, firm or corporation prior to the declaration of an interference with such other person or corporation, except in connection with the granting of a license to said other person, firm or corporation under said unpatented inventions or in furtherance of such a license, and provided that this shall not prevent the exchange of scientific information in the regular course of business;

(f) to secure information concerning pending interferences to which the person, firm or corporation securing the information is not a party; and to secure information concerning the unpatented inventions of others, except when the person, firm or corporation securing the information is entitled to obtain such information by the Rules of Practice of the United States Patent Office or by the terms of a license under such inventions; and

(g) to delay the issuance of any patent for the purpose of avoiding the adverse effect of such patents on the previously issued patents of any of the persons, firms or corporations so combining, conspiring or agreeing; provided, however, that this paragraph shall not be construed to prevent agreements or the exchange of information between a patent lawyer or solicitor and his client, so long as the said lawyer or solicitor is not then also being retained by any other defendant with respect to the same general subject matter; or to prevent the dissemination through publicly distributed scientific, trade, or other learned publications of general distribution, of information relating to inventions or patent applications.

[*Hindrance of Patent Applicants*]

16. The defendants Hartford-Empire Company, Corning Glass Works, Owens-Illinois Glass Company, and Ball Brothers Company, and each of them, be and hereby is enjoined from combining, conspiring or agreeing with any other person, firm or corporation, or adhering to, maintaining, or furthering any such combination, conspiracy, or agreement with respect to patent applications covering inventions embodied in methods or machinery used in the manufacture of glassware, to obstruct, hinder, harass or delay any other applicant in the Patent Office by

(a) simultaneously prosecuting in any interference in the Patent Office a plurality of applications owned or controlled by parties having a common interest therein;

(b) delaying the recordation in the Patent Office of the assignment to any of the persons so combining, conspiring, or agreeing of acquired applications in order to retain record title to such applications in diverse hands to permit the prosecution of a plurality of such applications in a single interference;

(c) filing any“trap”application for the purpose of provoking an interference between the party filing the application and some other applicant in the Patent Office; and

(d) conducting or prolonging friendly interferences not for the purpose of genuinely litigating the issues therein involved but only for the purpose of retaining in the Patent Office the applications in interference as a means of provoking interference with other applications.

[*Inspection and Compliance*]

17. For the purpose of securing compliance with this judgment, and for no other purpose, duly authorized representatives of the Department of Justice shall, on written request of the Attorney General or an Assistant Attorney General, and on reasonable notice to any one of the defendant corporations made to the principal office of such defendant corporation, be permitted, subject to any legally recognized privilege, (1) access, during the office hours of such defendant corporation, to all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant corporation relating to any matters contained in this judgment, and (2) subject to the reasonable convenience of such defendant corporation and without restraint or interference from the defendants to interview officers or employees of such

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defendant corporation, who may have counsel present, regarding any such matters; provided, however, that such information obtained by the means permitted in this paragraph shall not be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice except in the course of legal proceedings for the purpose of securing compliance with this decree in which the United States is a party or as is otherwise required by law.

[*Notice*]

18. Any notice to be given to the Court pursuant to this judgment shall be addressed to the United States District Court, United States Customs and Court Building, Toledo, Ohio 43624; any notice to be given to the Attorney General pursuant to this judgment shall be addressed to The Attorney General, Department of Justice, Washington, D. C. 20530; and any notice to be given to any of the defendants, pursuant to this judgment, shall be addressed to the principal place of business of the respective defendant corporation.

[*Retention of Jurisdiction*]

19. (A) Jurisdiction of this cause is retained for the purposes heretofore set forth, as well as for the purpose of enabling any of the parties to this judgment or their successors to apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this judgment, for the modification thereof, the lifting of obligations or limitations now placed upon any defendant in the event conditions change and these obligations or limitations are then inappropriate, unnecessary or unduly harsh, for the enforcement of compliance therewith and for the punishment of violations thereof; and the Attorney General may at any time, and from time to time, apply to the Court for a modification of this judgment to provide for further relief against or for the dissolution of Hartford-Empire Company, or for modification of this judgment in any other manner, if it should appear that the operation of its terms is failing to bring about a correction of the violations of the federal antitrust laws which are the basis of this judgment.

(B) Except where applications to this Court are elsewhere herein provided to be upon notice to the Attorney General or other specified parties, any application by any party hereto, under the provisions of this paragraph alone or in combination with any other paragraph, shall be made upon notice to all of the parties hereto.

This Further Amended Final Judgment supersedes from the date hereof as to each of the parties hereto the Final Judgment entered by the Court on October 31, 1945, as amended May 23, 1947; but this Further Amended Final Judgment shall not be construed to make proper or lawful any acts which occurred prior to the date hereof which were enjoined, restrained or prohibited, or the non-performance of any acts prior to the date hereof which were ordered or directed to be done, by said Final Judgment of October 31, 1945, as amended May 23, 1947.

It is Further Ordered, Adjudged and Decreed that the obligations of the defendants created by any and all instruments heretofore filed with the Clerk of this Court pursuant to Paragraph 12 of the Final Judgment dated October 31, 1945, as amended, shall terminate upon entry of this Order; Provided that this shall in no way affect any license or agreement entered into between any such defendant and any other corporation, firm or individual prior to the date of the entry of this Order.

This Further Amended Final Judgment shall expire October 31, 1985.

Patent licenses required to be issued pursuant to Section 4 of this Further Amended Final Judgment shall be for the full life of the patent being licensed.

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Dec 12, 2019 from Cheetah™