

UNITED STATES DISTRICT COURT

DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA

v.

CIVIL ACTION  
NO. 2785

GRINNELL CORPORATION, AMERICAN  
DISTRICT TELEGRAPH COMPANY,  
HOLMES ELECTRIC PROTECTIVE COMPANY,  
and AUTOMOMATIC FIRE ALARM COMPANY  
OF DELAWARE

JUDGMENT

July 11, 1967

WYZANSKI, D. J.

This case having come on to be heard, and the Court having fully considered the evidence and briefs, the opinion rendered on June 13, 1966 by the Supreme Court of the United States in this case, such findings of fact and conclusions of law entered by this Court on November 27, 1964 as were sustained by the aforesaid opinion, and the agreements reached by the parties after the aforesaid opinion, and this Court having considered all aspects of the decree as to which the Supreme Court directed further inquiry on remand and as to which the parties had reached no agreement, it is hereby

ORDERED, ADJUDGED, and DECREED that:

I.

Grinnell Corporation and the three alarm company defendants, American District Telegraph Company, Automatic Fire Alarm Company of Delaware, and Holmes Electric Protective Company are, severally and jointly, found to have violated §1 of the Sherman Act by restraining, and continuing to restrain, trade in the national market of insurance accredited central station protective service (hereinafter called the "designated market"), and to have violated §2 of the Sherman Act by attempting to monopolize, by conspiring to

monopolize, and by monopolizing that designated market.

II.

As used in this judgment:

(A) "ADT" shall mean defendant American District Telegraph Company, a New Jersey corporation;

(B) "AFA" shall mean defendant Automatic Fire Alarm Company of Delaware, a Delaware corporation;

(C) "Holmes" shall mean defendant Holmes Electric Protective Company, a New York corporation;

(D) "Grinnell" shall mean defendant Grinnell Corporation, a Delaware corporation;

(E) "Service" shall mean central station electric protective service, i.e., the service of furnishing protection of premises against fire, burglary or other hazards by installing on the premises devices, wire or other apparatus designed to detect any such hazards and to transmit alarm and supervisory signals to central stations, located off the protected premises, which are approved by insurance inspection and rating organizations for the furnishing of such protection;

(F) "Signaling systems" shall mean all circuitry and devices installed on the subscriber's premises;

(G) "Person" shall mean any individual, partnership, firm, association, corporation or other legal entity, except that any defendant, its employees and subsidiaries shall be considered one person for purposes of this judgment;

(H) "Subsidiary" shall mean any person controlled by or more than fifty percent of whose voting stock is directly or indirectly controlled by a defendant.

III.

The provisions of this judgment applicable to any defendant shall apply also to each of its subsidiaries, successors

and assignees, and to their respective officers, directors, servants and employees, and to all other persons in active concert or participation with such defendant who shall have received actual notice of this judgment by personal service or otherwise. Each defendant is ordered and directed to take such steps as are reasonably appropriate to procure compliance by its subsidiaries, officers, directors, servants and employees with the terms of this judgment. Any person acquiring assets pursuant to Section VIII shall not be considered a successor bound by the terms of this judgment. This judgment shall not apply to service rendered outside the United States. This judgment shall be without prejudice to the claims of the plaintiff or any other person in any other proceeding.

#### IV.

Defendants are jointly and severa restrained from directly or indirectly entering into, adhering to or claiming or maintaining any right under any contract, agreement, understanding, plan or program with any other person to:

(A) Eliminate or restrain competition in the furnishing of service;

(B) Allocate or divide territories, markets, fields or customers in the furnishing of service;

(C) Fix or maintain charges, methods of charging or any terms or conditions of sale at or upon which service is to be furnished to any third person;

(D) Exchange information concerning charges, method of charging or other terms and conditions of sale at or upon which service is to be furnished to any third person;

(E) Submit noncompetitive or collusive bids or quotations for furnishing service;

(F) Refrain from bidding or quoting on furnishing service;

(G) Hinder, restrict, limit or prevent any person from obtaining service;

(H) Allocate service charges derived from the furnishing of service; or

(I) Refuse to sell any device to any third person; provided, however, that this subsection shall not prohibit any defendant from entering into otherwise lawful patent licenses.

V.

Defendants are jointly and severally enjoined and restrained from:

(A) Taking any action designed to exclude or foreclose any person from engaging in the business of furnishing service;

(B) Discriminating in the furnishing of service by furnishing any service at unreasonably low charges, for the purpose of destroying competition or eliminating a competitor.

(C) Acquiring the stock, assets or business of any enterprise engaged in furnishing service;

(D) Entering into new contracts or any renewal of any existing contracts with any customer in a city where a defendant is the only source of such service at a rate in excess of the annual average of that charged by defendant for such contracts in the preceding fiscal year for the same type of service and comparable installation in all of the cities where there is another source for such service, except that rates in excess of such average may be charged for a period of two years from the date of commencement of service in such city, and until the defendant's annual service revenue volume therein exceeds \$125,000;

(E) Enforcing, entering into or claiming any rights under any contract, agreement or understanding that any person will not engage in furnishing service;

(F) Tying or conditioning the furnishing of service from one central station to or upon the furnishing of service to the same customer from another central station;

(G) Bidding for the furnishing of service to any governmental body or agency thereof, where the defendant has participated in the preparation of the specifications for the job and such specifications are so drawn as to effectively preclude all other persons furnishing service, except such defendant;

(H) Refusing to sell, for purposes of repair and replacement of equipment installed by such defendant, on request of any person engaged in furnishing service (upon nondiscriminatory terms and conditions, with reasonable warranty limitations) any equipment manufactured by such defendant in the normal course of business for use in furnishing service;

(I) Paying any commission or other remunerations to any agent or representative of any insurance company, or to another company engaged in the installation of automatic sprinkler systems, for leads or information as to prospective customers for service, except to meet in good faith such practice by a competitor.

## VI.

(A) If they have not already done so by the date of entry of this Judgment, Grinnell, ADT and AFA are ordered to cancel all agreements under the terms of which they or Rhode Island Electric Protective Company jointly furnish equipment and/or service to subscribers or participate in revenues from service contracts;

(B) If they have not already done so by the date of entry of this Judgment, Grinnell, ADT and AFA are ordered to cancel the Device Sale Agreements between them dated February 18, 1954; provided, however, that nothing contained herein shall be deemed to prohibit the parties from agreeing to commute payments thereunder to a definite dollar amount, payable in installments at the option of the parties;

(C) Defendants are jointly and severally enjoined and restrained from renewing, adhering to or maintaining any contract or agreement cancelled as referred to above or entering into any like or similar contract or agreement with each other.

~~VII.~~

(A) Each defendant at the termination of service under each of its existing service contracts shall transfer, without charge, to the then subscriber upon his request all right, title, and interest to and in every wire, conduit, conductor, foil or other non-recoverable part of the signaling system which if removed would have salvage value primarily as scrap;

(B) Hereafter if a defendant installs a signaling system upon a subscriber's premises, that defendant may make an advance service or installation charge with respect to only such parts of the signaling system as the defendant shall agree to transfer without additional charge at the termination of service and/or the labor to install the signaling system;

(C) To give to each customer who shall have been a subscriber under a service contract for a period of two (2) years on the effective date of this Judgment the right to terminate such contract without penalty on any anniversary date of the commencement of

service thereunder upon giving 30 days written notice, except the customer shall pay any unpaid balance of the agreed upon advance service charge or installation charge;

(D) To limit all contracts entered into with service customers after the effective date of this Judgment to two (2) years on the initial contract with contract renewals thereafter limited to one year. Contracts for longer periods may be executed with service customers provided such customers have the right, after the initial two years, to terminate the contract on any anniversary date of the commencement of service, without penalty, upon 30 days notice and paying any unpaid balance of the agreed upon advance service charge or installation charge;

(E) To refrain from soliciting service contracts where the solicitation is made outside the sales district and is made outside the metropolitan area in which the premises to be protected is located, except upon notification to the prospective customers of the existence, if any, of competitors in the area where service is to be rendered;

(F) On request of the first five responsible persons desiring to furnish service to others in any city where the defendant, as of the effective date of this Judgment is, and continues thereafter, to be the only source of service, to permit (on reasonable terms and conditions, and for a period of up to two years) signals from the premises of subscribers of such persons to be transmitted to the central station of the defendant and, further, to advise such persons promptly of any hazard-indicating signals received from such premises.

VIII.

Lefendant ADT shall, as specified in Appendices A and B, and contingently, as described in Appendix C, sell and transfer to any responsible person, not affiliated in any manner with any defendant, service contracts together with the equipment in place on subscriber's premises, in the amounts specified. Defendant ADT shall advise plaintiff 30 days in advance of sale and transfer the name of each purchaser. The types of service contracts so sold or transferred shall be substantially in the same proportion as the types of service contracts held by ADT in the city involved, and shall only be sold or transferred with the written consent of the subscriber, which ADT shall use its best efforts to obtain. Except as to Appendix C, which states its own conditions, the action and transactions required by this section shall be completed within four years from the effective date of this Judgment; 20 percent of the cities in the first two years, 30 percent more of the cities by the end of the third year, and 50 percent more of the cities by the end of the fourth year.

If ADT can prove that the periods specified for such divestiture are not feasible they may be extended by the Court.

IX.

Defendant Grinnell is ordered and directed to dispose of all of its stock in each of the alarm company defendants as set forth in Grinnell's plan of divestiture filed July 8, 1966, as amended, which is hereby incorporated herein, and made a part hereof.

X.

For the purpose of securing compliance with this 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 any defendant, made to its principal office, be permitted, subject to any legally recognized privilege:

(A) Access during the office hours of said 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 matters contained in this Judgment; and

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

Upon such written request, the defendant shall submit reports in writing in respect to any such matters as may from time to time be reasonably necessary to the enforcement of this Judgment. No information obtained by the means provided in this Section 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 for the purpose of securing compliance with this Judgment, or as otherwise required by law.

#### XI.

Jurisdiction is retained for the purpose of enabling any of the parties to this Judgment 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 or termination of any provision thereof, for the enforcement of compliance therewith, or for punishment of violation thereof.

Defendants shall pay all taxable costs herein.

XII.

The effective date of this Judgment shall be November 1,  
1967.

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United States District Judge

APPENDIX A

CITY	<u>AMOUNT OF DIVESTITURE</u>
Atlanta, Georgia	\$ 200,000
Baltimore, Maryland	\$ 125,000
Bridgeport, Connecticut	\$ 125,000
Buffalo, New York	\$ 200,000
Hartford, Connecticut	\$ 150,000
Memphis, Tennessee	\$ 175,000
Miami, Florida	\$ 175,000
New Brunswick, New Jersey	\$ 125,000
New Orleans, Louisiana	\$ 200,000
Omaha, Nebraska	\$ 125,000
Portland, Oregon	\$ 150,000
Richmond, Virginia	\$ 125,000
Sacramento, California	\$ 125,000
San Jose, California	\$ 125,000
Seattle, Washington	\$ 200,000
Springfield, Massachusetts	\$ 125,000
Syracuse, New York	\$ 125,000
Toledo, Ohio	\$ 125,000
Trenton, New Jersey	\$ 125,000
White Plains, New York	\$ 125,000
Winston-Salem, North Carolina	\$ 125,000

## APPENDIX B

Offer each competitor in these cities \$100,000 of service contracts and if such competitor does not purchase, offer service contracts having an annual revenue of \$125,000 to another person.

### CITY

Columbus, Ohio

Louisville, Kentucky

New Haven, Connecticut

Rochester, New York

In Kansas City, Missouri, offer service contracts sufficient to bring each of the three existing competitors up to a total of \$125,000 annual service charges.

### APPENDIX C

If at the end of four years from the date of entry of this Judgment, no other person in a listed city is furnishing service, and there is a person connecting alarms as permitted by Section VII, defendant ADT shall offer to each such person connecting to sell and transfer contracts in amounts necessary to bring his total up to \$125,000 annual service charges. Such sale and transfer need be made to only one such person in each city.

Akron, Ohio

Birmingham, Alabama

Chattanooga, Tennessee

Grand Rapids, Michigan

Jacksonville, Florida

Nashville, Tennessee

Salt Lake City, Utah

San Antonio, Texas

Worcester, Massachusetts