

IN THE DISTRICT COURT OF THE UNITED STATES
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

THE TIMKEN ROLLER BEARING COMPANY,

Defendant.

CIVIL ACTION NO. 24214

FINAL JUDGMENT

filed February 15, 1950, as
affirmed and modified by
U. S. Supreme Court mandate
of July 3, 1951.

This cause came on for trial March 22, 1948, and the trial was completed on April 27, 1948. The Court filed its opinion on March 3, 1949, finding and adjudging the defendant to have violated Sections 1 and 3 of the Sherman Antitrust Act. By order filed June 20, 1949, the Court adopted said opinion as the findings of fact and conclusions of law herein, pursuant to Rule 52 of the Rules of Civil Procedure;

NOW, THEREFORE, after hearing plaintiff and defendant by their attorneys, it is hereby

ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

I. As used in this judgment:

- A. "Anti-friction bearings" means rotating devices for reducing friction between moving mechanical parts, wherein rollers of various shapes or balls are inserted between containers which are inserted between the moving parts; and includes ball bearings and all types of roller bearings, such as, but not limited to, straight and tapered roller bearings, and accessories and parts of such bearings.

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- B. "Tapered roller bearings" means anti-friction bearings employing conical or truncated conical rollers.
- C. "British Timken" means British Timken, Limited, a joint stock company organized and existing under the laws of the United Kingdom, with its principal office and place of business at Birmingham, England.
- D. "French Timken" means Societe Anonyme Francaise Timken, a corporation organized and existing under the laws of France, with its principal office and place of business at Aenieres, France.
- E. "United States" means the United States and its territories and possessions.
- F. "Person" means an individual, partnership, firm, association, corporation, or other business or legal entity.
- G. "British territory" means those parts of the world allocated in 1938 as production and sales territories to British Timken by the agreements referred to in Subsection A of Section IV of this judgment, including (1) the United Kingdom, Eire, and all countries other than France and Russia on the continent of Europe; (2) all dominions, colonies, mandates, and dependencies of the United Kingdom, and all other European countries, in any part of the world, except (a) those of France, (b) those located in or adjacent to North or South America, and (c) by later agreement, Hong Kong.
- H. "French territory" means those parts of the world allocated in 1938 as production and sales territories to French Timken by the agreements referred to in Subsection A of Section IV of this judgment, including France, its dominions, colonies, mandates, and dependencies in any part of the world, other than those located in or adjacent to North or South America.

- I. "Defendant's territory" means those parts of the world allocated in 1938 as production and sales territories to defendant by the agreements referred to in Subsection A of Section IV of this judgment, including (1) the United States, as herein defined, (2) Canada, Mexico, Central America, and the West Indies, (3) South America, (4) the rest of the world not allocated to British Timken or French Timken, and (5) by later agreement, Hong Kong.
- II. The provisions of this judgment applicable to defendant shall apply to the defendant, its officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of this judgment by personal service or otherwise.
- III. Defendant has violated Sections 1 and 3 of the Act of Congress of July 2, 1890, 26 Stat. 209, 15 U.S.C. Sections 1 and 3, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," commonly known as the Sherman Antitrust Act. Said violation has consisted of defendant and its co-conspirators, British Timken and French Timken, engaging in an unlawful combination and conspiracy in restraint of trade and commerce in anti-friction bearings between the United States and foreign nations; and of defendant and said co-conspirators entering into unlawful contracts, agreements and understandings, and planning and acting together to eliminate competition among themselves and with others in the production, sale and other distribution of anti-friction bearings in all markets of the world.
- IV. A. Each of the following agreements if unlawful under Sections 1 and 3 of the Sherman Antitrust Act and is hereby terminated; and defendant is hereby enjoined

and restrained from the further performance or enforcement of any of the provisions, including those involving rights or obligations upon termination, of said agreements and of any agreements amendatory thereof or supplemental thereto:

1. Agreement dated November 28, 1938 between defendant, British Timken and French Timken, entitled "Business Agreement"; and
2. Agreement dated November 29, 1938 between defendant, Michael B. U. Dewar, Esq., and British Timken, entitled "Supplemental Business Agreement."

B. Each of the following agreements, entered into during the trial of this action, is hereby terminated; and defendant is hereby enjoined and restrained from the further performance or enforcement of any of the provisions of said agreements and of any agreements amendatory thereof or supplemental thereto;

1. Agreement dated March 22, 1948 between defendant and Michael B. U. Dewar, Esq., entitled "Agreement with respect to British Timken Limited";
2. Undated agreement between defendant, Michael B. U. Dewar, Esq., and Timken Holdings Ltd., entitled "Agreement cancelling previous Agreements and Bye-Laws of Timken Holdings Ltd. and for transfer by Mr. Dewar to the Canton Company of his shares in Timken Holdings Ltd."

C. Defendant is hereby enjoined and restrained from entering into, performing, enforcing, adopting, adhering to, maintaining or furthering, directly

Section IV B
was stricken
by the Supreme
Court

The phrase "or B"
of Section IV C
was stricken by
the Supreme Court

{ or indirectly, or claiming any rights under
{ any contract, agreement, arrangement, under-
{ standing, plan or program for the purpose of or
{ with the effect of continuing, reviving or re-
{ newing any of the agreements listed in Sub-
{ section A or B of this Section IV.

- V. Defendant is hereby enjoined and restrained from entering into, performing, adopting, adhering to, maintaining or furthering, directly or indirectly, or claiming any rights under, any combination, conspiracy, contract, agreement, arrangement, understanding, or concerted plan of action with British Timken, French Timken, or any subsidiary, successor, assign, agent, sales representative or distributor thereof:
- A. To allocate or divide territories or markets for the production, sale or distribution of anti-friction bearings;
 - B. To limit, restrain or prevent importation into or exportation from the United States of anti-friction bearings;
 - C. To refrain from, restrain or limit production, sale or other distribution of anti-friction bearings, through quotas or otherwise, or to apportion customers for anti-friction bearings, in any territory or market;
 - D. To refrain from competing or to leave any person free from competition in the production, sale or other distribution of anti-friction bearings in any territory or market;
 - E. To exclude any producer or distributor of anti-friction bearings from any territory or market, or

to interfere with or restrict any such producer or distributor in competing in any territory or market;

- F. To fix, maintain or adhere to prices or price ranges, or other terms and conditions of sale or resale of anti-friction bearings produced by defendant for sale or other distribution in any territory or market, or produced by any other person for sale or other distribution in the United States.
- G. To receive, grant, disclose, render available or exchange, in such a way as to deny any third person access thereto, any assignment, license or grant of immunity under a patent or patent application, relating to anti-friction bearings;
- H. To receive, grant, disclose, render available or exchange, in such a way as to deny any third person access thereto, (1) information, advice, assistance or rights with respect to any invention, discovery, improvement, practice, formula, pattern, device, process, method or other technical information, relating to the production of anti-friction bearings, or (2) any material or machinery used in the production of anti-friction bearings, or any information, advice, assistance or rights with respect to any such material or machinery.

VI. Defendant is hereby enjoined and restrained from:

- A. Referring any order or inquiry for anti-friction bearings to British Timken or French Timken, or any subsidiary, agent, sales representative or distributor thereof.
- B. Refusing to sell anti-friction bearings to any person at prices and on terms and conditions of sale corresponding to those regularly offered to purchasers of

the same classification for resale or other distribution in defendant's territory, as herein defined, where the reason for such refusal is that such bearings are for resale or other distribution in British territory or French territory, as herein defined;

- C. Selling or offering for sale to, or purchasing or offering to purchase from British Timken or French Timken, anti-friction bearings, at preferential prices, discounts or terms and conditions of sale;
- D. Offering or paying to, or receiving or accepting from British Timken or French Timken any commission, rebate, penalty, or other payment in connection with the sale or other distribution of anti-friction bearings to any other person in any territory or market;
- E. Appointing, designating, or employing, or continuing the appointment, designation or employment of British Timken, French Timken or subsidiaries thereof, as an agent, sales representative or distributor of defendant in connection with anti-friction bearings, or in any way selling or otherwise distributing anti-friction bearings through British Timken, French Timken or subsidiaries thereof;
- F. Acting for or representing as agent, sales representative or distributor, in connection with anti-friction bearings, British Timken, French Timken, or subsidiaries thereof;
- G. Reserving or protecting for British Timken, French Timken, or subsidiaries thereof, any market or territory for the production, sale or other distribution of anti-friction bearings.

VII. Defendant is hereby enjoined and restrained from entering into, performing, enforcing, adhering to, maintaining, furthering or renewing, directly or indirectly, any contract, agreement, combination, understanding, or arrangement with British Timken and/or French Timken, or any subsidiary, successor, assign, agent, sales representative or distributor thereof which provides for:

- A. An assignment, license or grant of immunity under any patent or patent application;
- B. The receipt, grant, disclosure, rendering available or exchange of information, advice, assistance or rights with respect to any invention, discovery, improvement, practice, formula, pattern, device, process, method or other technical information relating to the production of anti-friction bearings, or of any material or machinery used in the production of anti-friction bearings, or of any information, advice, assistance or rights with respect to any such material or machinery; or
- C. The transfer of any right or immunity under a trade mark or name, relating to the production of anti-friction bearings,

upon the condition or requirement that British Timken and/or French Timken, or any subsidiary, successor, assign, agent, sales representative or distributor thereof shall:

- 1. allocate or divide territories or markets for the production, sale or other distribution of anti-friction bearings;

2. limit, restrain or prevent importation into or exportation from the United States of anti-friction bearings;
3. refrain from, restrain or limit production, sale or other distribution of anti-friction bearings, through quotas or otherwise, or apportion customers for anti-friction bearings, in any territory or market;
4. refrain from competing or leave any person free from competition in the production, sale or other distribution of anti-friction bearings in any territory or market;
5. exclude any producer or distributor from any market for anti-friction bearings, or interfere with or restrict any producer or distributor in competing in any such market;
6. maintain or adhere to fixed prices or price ranges, or other terms and conditions of sale or resale of anti-friction bearings;
7. receive, grant, disclose, render available or exchange, in such a way as to deny any third person access thereto, any assignment, license or grant of immunity under a patent or patent application, relating to anti-friction bearings;
8. receive, grant, disclose, render available or exchange, in such a way as to deny any third person access thereto; (a) information, advice, assistance, or rights with respect to any invention, discovery, improvement, practice, formula, pattern, device, process, method, or other technical information relating to the production of anti-friction

bearings, or (b) any material or machinery used in the production of anti-friction bearings, or any information, advice, assistance or rights with respect to any such material or machinery;

9. restrict the use or disposition of any anti-friction bearings bought from defendant.

VIII.

- A. Within two years from the date of this judgment, defendant shall divest itself of all stock holdings and other financial interests, direct or indirect, in British Timken and French Timken. Within one year from the date of this judgment, defendant shall present to the Court for its approval a plan for such divestiture.
- B. Defendant is hereby enjoined and restrained, from the date of this judgment, from:
 1. Acquiring, directly or indirectly, any ownership interest in (by purchase or acquisition of assets or securities, or through the exercise of any option, or otherwise), or any control over, British Timken or French Timken, or any subsidiary, successor, or assign thereof;
 2. Exercising any influence or control over the production, sales or other business policies of British Timken or French Timken, or any subsidiary, successor, assign, agent, sales representative, or distributor thereof;
 3. Causing, authorizing or knowingly permitting any officer, director, or employee of defendant or its subsidiaries to serve as an

Section VIII was stricken in its entirety by the Supreme Court

bearings for export since July 1, 1945.

XI. Defendant is hereby ordered and directed within ninety days from the date of this judgment, to provide copies thereof to British Timken and French Timken; and to all directors, officers, subsidiaries, agents, sales representatives and distributors of defendant, British Timken and French Timken.

XII. For the purpose of securing compliance with this judgment and for no other purpose, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General, or an Assistant Attorney General and on reasonable notice to the defendant, made to its principal office, be permitted, subject to any legally recognized privilege, (1) 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 said defendant relating to any matters contained in this judgment, and (2) subject to the reasonable convenience of said defendant and without restraint or interference from it, to interview officers or employees of said defendant, who may have counsel present, regarding any such matters. 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 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 judgment or as otherwise required by law.

XIII. Jurisdiction is retained for the purpose of enabling any of the parties to this judgment to apply to this 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 of the provisions thereof, and for the purpose of the enforcement of compliance therewith and the punishment of violations thereof.

XIV. Judgment is entered against the defendant for all costs to be taxed in this proceeding.

United States District Judge

Note: No separate or additional judgment was entered by the District Court after receipt of the Supreme Court mandate, as the practice in the Northern District of Ohio, Eastern Division is merely to file the mandate with the records of the case.