IN THE

District Court of the United States

FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, *Plaintiff,* *v.* NATIONAL LEAD COMPANY, TITAN COMPANY, INC., E. I. DU PONT DE NEMOURS & COMPANY, INC., *Defendants*	Civil No. 26-258

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

I. The Origin and Nature of the Business Involved

PE 8, 3
T 2810 (Jebsen),
2696, 2699-2700 (Barton)
3144-49 (Rockwell),
138-9 (Kaegebeim)

1. Titanium is an element contained in ilmenite and other minerals. Sands and rock formations containing ilmenite are found in India, the United States, Norway, Brazil, and elsewhere throughout the world.

T 3144, 3155-60 (Rockwell)

NL 27, pp 38-55

2. Before World War II the leading American manufacturers of titanium pigments, the defendants National Lead and du Pont, obtained their supplies of ilmenite from India. Since about August 1942, however, their supplies have come mainly from a New York deposit owned, opened up, and operated by National Lead pursuant to and in accordance with a directive of Office of Production Management approved by the Attorney General of the United States.

T 2701, 2737,
2695-6, 2742 (Barton),
2821 (Jebsen)

3. In and before 1920 there was no substantial trade or commerce in, and no commercial manufacture of, titanium pigments for use in paint, paper, rubber, or other products; pigments used for such purposes were lithopone, white lead, and zinc oxide. The use of metallic titanium in alloys was under development by Titanium Alloy Manufacturing Company at Niagara Falls, N. Y., and chemists engaged in that work (principally Barton and Rossi) were aware of the possibilities of

affect United States commerce, and they are not subject to regulation under the Sherman Act.

(3) The Court will not cancel or require cancellation of the Canadian agreements for the following reasons:

(i) They involve Canadian companies not before the Court whose material interests would be adversely affected.

(ii) They relate wholly to business in a foreign country.

(iii) The parties are negotiating a revision of the agreements so as to eliminate therefrom the territorial and other restrictions and do not intend to restore the same.

X. The du Pont Agreements (1931-1941)

Comp. ¶ 6.
DP Ans. ¶ 6

43 Before 1931 United States rights under the Blumenfeld patents were held by Commercial Pigments; from 1931 to 1935 by Krebs Pigment and Color Corporation, a Delaware company owned 70% by du Pont; after 1935 by du Pont, to which manufacturing assets of Krebs were assigned in 1935. Krebs was dissolved in 1943, and since then du Pont has conducted all of its titanium pigments operations through its Pigments Department.

NL 23, 24

PE 192, p. 754
PE 172, p. 896

44. Between 1920 and 1931 sales of titanium pigments by National Lead slowly but steadily increased. In 1931 it sold 8000 tons (in terms of TiO_2 content). While sales of all pigments declined in the depression year 1932, sales of titanium pigments fell off relatively little, and sales by National Lead of titanium pigments exceeded *total* sales of white lead *by all manufacturers*. Titanium pigments were on the way to overtake zinc oxide and even lithopone. Engaged in the pigments and paint business on a large scale, du Pont saw the handwriting on the wall and set out to acquire patent rights and technical information necessary to manufacture efficiently and economically a full line of titanium pigments and thus to compete successfully in a potentially large domestic market.