

FEDERAL TRADE COMMISSION *v.* E. P. JANES,  
S. A. PAUL, IRONCLAD TIRE CO. (INC.), QUEEN  
RUBBER CO. (INC.), OVEROAD TIRE CO. (INC.),  
AND WORTH-MORE TIRE CO. (INC.).

COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SECTION 5 OF AN ACT OF CONGRESS, APPROVED SEPTEMBER 26, 1914.

Docket No. 243.—March 26, 1919.

SYLLABUS.

Where a person owning a majority of the capital stock of various corporations and acting for himself or one or more of such corporations—

- (a) advertised automobile tires rebuilt or reconstructed from partially worn and discarded tires from which the name and brand or mark of the original maker had been obliterated, in such manner as to convey the impression that the goods were new and made of theretofore unused materials;
- (b) failed in his advertising matter clearly to disclose to purchasers that the goods were thus rebuilt or reconstructed; and
- (c) sold such tires without advising purchasers that they were not new and that they were composed in part of used or reclaimed materials:

*Held*, That such sales and advertisements, under the circumstances set forth, constituted unfair methods of competition in commerce, in violation of section 5 of the act of September 26, 1914.

COMPLAINT.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it that E. P. Janes, S. A. Paul, Ironclad Tire Co. (Inc.), Queen Rubber Co. (Inc.), Overoad Tire Co. (Inc.), and Worth-More Tire Co. (Inc.), hereinafter referred to as respondents, have been and are using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of an act of Congress, approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and, it appearing that a proceeding by it in respect thereto would be to the interest of the public, issues this complaint stating its charges in that respect on information and belief as follows:

PARAGRAPH 1. That the respondents, Ironclad Tire Co. (Inc.), Queen Rubber Co. (Inc.), Overoad Tire Co. (Inc.),

and Worth-More Tire Co. (Inc.), are corporations organized, existing, and doing business under and by virtue of the laws of the State of New York, having their principal office and place of business located at the city of New York, in said State, with branch offices in other States of the United States; S. A. Paul and E. P. Janes control a majority of the capital stock and are the dominant and controlling factors in the aforesaid corporations; that all of the said respondents are now and at all times hereinafter mentioned have been engaged in the business of selling automobile tires of the character and in the manner hereinafter mentioned in competition with manufacturers and dealers in automobile tires among the several States and Territories of the United States, the District of Columbia, and foreign countries.

PAR. 2. That in the conduct of their business respondents purchase old and discarded automobile tires in various States and Territories of the United States and transport the same through other States and Territories of the United States in and to the city of New York, State of New York, and their other branch offices located in various States, where they are made and manufactured into the finished product and sold and shipped to purchasers thereof; that after such products are so remade and manufactured they are continuously moved to, from, and among other States of the United States, the Territories thereof, and the District of Columbia, and there is continually and has been at all times herein mentioned a constant current of trade and commerce in said products between and among the various States and Territories of the United States and District of Columbia and foreign countries, and more particularly from other States and Territories of the United States and the District of Columbia to and through the city of New York in said State, and from there to and through other States of the United States and Territories thereof, the District of Columbia, and foreign countries.

PAR. 3. That the respondents are now and for more than a year last past have been engaged in purchasing old and discarded automobile tires and causing them to be repaired and coated with a thin coating of rubber or composition of

similar appearance for the purpose of enabling said tires to be offered to the public for sale in the manner hereinafter more specifically mentioned.

PAR. 4. That the respondents for more than one year last past, with the intent, purpose, and effect of stifling and suppressing competition in the manufacture and sale of automobile tires in interstate commerce, as aforesaid, purchase old and discarded automobile tires of various makes and bearing various trade names or brands, and in the process of having said tires repaired by said coating of rubber or composition, the name of the maker of such tire and the original mark or brand is caused to be removed or concealed, and caused to be remarked or restamped with new names or brands, such new names or brands depending upon the medium through which the said tires are to be offered for sale; that the remarking or restamping of said new names or brands upon old and discarded or worn tires as aforesaid, and advertising them under such new names, is calculated and designed to and does mislead and deceive purchasers and prospective purchasers to believe that said tires offered for sale by respondents are new tires manufactured by or specially for respondents.

PAR. 5. That it is the common belief and impression among dealers and consumers of automobile tires and the purchasing public generally that automobile tires having the appearance of and sold as new and unused tires are manufactured from new and unused material and in accordance with the methods and processes employed generally by manufacturers of standard automobile tires and not by the process as employed and used by respondents as described and set forth in paragraph 3 of this complaint; that for more than one year last past, with the intent, purpose, and effect of stifling and suppressing competition in interstate commerce in the manufacture and sale of automobile tires, the respondents circulated and caused to be circulated advertisements through various publications and through the mails to the trade, and among consumers generally, that respondents' automobile tires are new and have not been made over as set forth in paragraph 3, which advertisements have conveyed and do convey and are calcu-

lated and designed to convey the belief and impression that the said tires manufactured by the respondents are composed of new and unused material, and that the respondents have at all times herein mentioned concealed and wholly failed to disclose that the said tires so manufactured by respondents are in fact remade as described in paragraph 3.

PAR. 6. That for more than one year last past, with the intent, purpose, and effect of stifling and suppressing competition in the manufacture and sale of automobile tires in interstate commerce, respondents advertised that such tires were guaranteed to give service of 4,000 miles, and that if said tires failed to give such service respondents would furnish another tire for one-half the price quoted for such tires, thus representing and thereby creating the belief and impression among users of tires generally that said tires were calculated and expected by respondents to give service of 4,000 miles; that each of the respondents well knew that said tires have been worn and discarded before being coated with the thin film of rubber or composition, as aforesaid, and that said representations that said tires will run 4,000 miles were false, misleading, and calculated and designed to mislead and deceive purchasers and prospective purchasers.

### REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

The Federal Trade Commission, having reason to believe that the above-named respondents, E. P. Janes, S. A. Paul, Ironclad Tire Co. (Inc.), Queen Rubber Co. (Inc.), Overroad Tire Co. (Inc.), and Worth-More Tire Co. (Inc.), have been for more than one year last past using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and that a proceeding by it in that respect would be to the interest of the public and fully stating its charges in that respect; and the respondents having entered their appearance by David D. Deutsch, their attorney duly authorized and empowered to act in the premises, and having filed their answer admitting that certain of the matters and things

alleged in the said complaint are true in the manner and form therein set forth, and denying others therein contained, and thereafter having made and executed an agreed statement of facts which has been heretofore filed in which it is stipulated and agreed by the respondents that the Federal Trade Commission shall take such agreed statement of facts as evidence in this proceeding and in lieu of testimony, and shall forthwith thereupon make its report, stating its findings as to the facts, its conclusions, and its order disposing of this proceeding without the introduction of testimony or the presentation of argument; therefore, the Federal Trade Commission now makes and enters this its report, stating its findings as to the facts and its conclusions.

#### FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, E. P. Janes, owns the majority of the capital stock and has the controlling interest in the aforesaid corporations; that the respondent, S. A. Paul, has sold out his entire interest in the aforesaid corporations and is no longer connected with either or any of them; that the respondents, Ironclad Tire Co. (Inc.), Queen Rubber Co. (Inc.), Overroad Tire Co. (Inc.), and Worth-More Tire Co. (Inc.), are corporations organized, existing under the laws of New York, and formerly did business under and by virtue of the laws of the State of New York, with their principal offices and places of business located in the city of New York, State of New York.

PAR. 2. That the respondents, E. P. Janes, Ironclad Tire Co. (Inc.), Queen Rubber Co. (Inc.), Overroad Tire Co. (Inc.), and Worth-More Tire Co. (Inc.), in the conduct of their business purchased and entered into contracts of purchase for rebuilt and reconstructed tires (hereinafter more fully described) from dealers who engaged in the business of rebuilding and reconstructing automobile tires; said rebuilt tires are purchased in the different States of the United States and thence transported through various States of the United States in and to the city of New York, State of New York, and are then sold in turn by respondent corporations to purchasers in various States and Territories of the United States in competition with manufacturers and dealers in

standard automobile tires. The said tires are continually moved to, from, and among other States of the United States, and there is continually and has been at all times hereinafter mentioned, a constant current of trade and commerce in said reconstructed automobile tires between and among the various States of the United States, the Territories thereof, and the District of Columbia, and especially to and through the city of New York, State of New York, and therefrom to and through the other States of the United States, the Territories thereof, and the District of Columbia.

PAR. 3. That the said tires sold and offered for sale by respondents are rebuilt and reconstructed tires from partially used and discarded tires and are constructed substantially as follows: The fabric to a great extent used in building the tires is what is known as Egyptian duck or sea-island cotton, taken only from carefully selected partially worn standard make tires. This fabric is carefully examined, repaired, buffed, and cleaned, and is given several coats of high quality vulcanizing cement; to reinforce and strengthen the tire a reliner is then added. The cushion and tread stock, consisting of pure rubber, reclaimed rubber, and chemicals in proper proportion, are then added; to complete the reconstruction the tires are cured in large hydraulic vulcanizers.

PAR. 4. That the aforesaid partially used and discarded automobile tires were of various makes and bore various trade-marks or brands, and that in the process of having said tires rebuilt or reconstructed the name of the maker of such tires and the original mark or brand was obliterated, and the said tires were marked or stamped with other names or brands, such other names or brands depending upon the medium through which said tires were offered for sale; that respondents for more than one year last past have caused the said tires to be marked in the manner described, and advertised the said tires under such names; that the marking of such other names or brands upon the rebuilt or reconstructed tires as aforesaid, and advertising them under such other names has a tendency to mislead the purchasing public into believing that the said tires offered for sale by respondents are new tires manufactured from new and unused material.

PAR. 5. That it is the common belief and impression among dealers and consumers of automobile tires and the purchasing public generally that automobile tires having the appearance of, and sold as new and unused tires are manufactured from new and unused material and in accordance with the methods and processes employed generally by manufacturers of standard automobile tires and not by the processes as employed and used by respondents as described and set forth in paragraph 3; that for more than one year last past respondents circulated and caused to be circulated advertisements through various publications and through the medium of the mails to the trade and among consumers generally, wherein they did not state that the said tires were rebuilt or reconstructed in the manner set forth in paragraph 3 hereof, that such advertisements may tend to convey the belief and impression that the said tires manufactured by respondents are composed of new and unused material.

PAR. 6. That for more than one year last past respondents have circulated or caused to be circulated advertisements through various publications and through the medium of the mails to the trade and among consumers generally, that said advertisements contained a representation substantially to the effect that if a tire failed to give service of 4,000 miles, such tire would be replaced at one-half the price paid; that each of the respondents well knew that the said tires have been rebuilt and reconstructed from partially used and discarded automobile tires, and that such advertisements may tend to create the belief and impression among users of tires that said rebuilt and reconstructed tires sold by respondents would give service of 4,000 miles.

#### CONCLUSIONS.

That the methods of competition set forth in the foregoing findings as to the facts under the circumstances therein set forth are unfair methods of competition in interstate commerce in violation of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

## ORDER TO CEASE AND DESIST.

The Federal Trade Commission having issued and served its complaint herein, and the respondents, E. P. Janes, S. A. Paul, Ironclad Tire Co. (Inc.), Queen Rubber Co. (Inc.), Overroad Tire Co. (Inc.), and Worth-More Tire Co. (Inc.), having entered their appearance by David D. Deutsch, Esq., their attorney duly authorized and empowered to act in the premises, and having filed their answer and thereafter having made, executed, and filed an agreed statement of facts in which they stipulated and agreed that the Federal Trade Commission should take such agreed statement of facts as the evidence in this proceeding and in lieu of testimony, and proceed forthwith upon the same, and to make and enter its report stating its findings as to the facts, its conclusions, and its order without the introduction of testimony, and waiving therein any and all right to require the introduction of testimony or the presentation of argument in support of the same, and the Federal Trade Commission having made and entered its report stating its findings as to the facts and its conclusions that the respondents have violated section 5 of an act of Congress approved September 26, 1914, entitled, "An act to create a Federal Trade Commission to define its powers and duties, and for other purposes," which said report is hereby referred to and made a part hereof: Now, therefore,

*It is ordered:* That the respondents, their officers, agents, representatives, servants, and employees cease and desist from directly or indirectly—

Circulating and causing to be circulated advertisements which are calculated and designed to create the belief and impression among consumers of automobile tires that rebuilt and reconstructed tires, restamped with new names and brands, are new tires manufactured from new and unused material, unless it is clearly, definitely, distinctly, and unmistakably shown in said advertising matter to consumers of automobile tires generally that the said tires so sold by respondents are not composed of new and unused material and not manufactured in accordance with the methods and processes employed generally by manufacturers of standard automobile tires.

**FEDERAL TRADE COMMISSION v. WARD BAKING COMPANY.**

COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SECTION 5 OF THE ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket No. 21—April 8, 1919. Order modified September 2, 1919.

**SYLLABUS.**

Where a corporation engaged on a large scale in the manufacture and sale of bread and cake gave and offered to give bread free of cost to purchasers and prospective purchasers, with the tendency and effect of stifling and suppressing competition in the manufacture and sale of bread:

*Held*, That such gifts and offers to give, under the circumstances set forth, constituted an unfair method of competition in violation of section 5 of the act of September 26, 1914.

**COMPLAINT.**

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it, that the Ward Baking Co. of New York, hereinafter referred to as respondent, has been and is using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of the act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and it appearing that a proceeding by it in respect thereof would be to the interest of the public, issues this complaint stating its charges in that respect on information and belief as follows:

PARAGRAPH 1. That the respondent, Ward Baking Co., of New York, is now, and was at all times hereinafter mentioned, a corporation organized and existing under and by virtue of the laws of the State of New York, having its principal office and place of business in the city of New York, in said State, and is now, and for two years last past has been engaged in the manufacture, shipment, and sale of bread and cake in commerce among the several States of the United States.

PAR. 2. That with the intent, purpose, and effect of stifling and suppressing competition in the manufacture and