FEDERAL TRADE COMMISSION

v.

ORIENT MUSIC ROLL CO.

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

Docket 304.—November 29, 1919.

SYLLABUS.

Where a corporation engaged in the manufacture of perforated paper music rolls for player pianos, purchased rolls manufactured and sold by competitors, from which it made and sold duplicates, thus avoided the greater part of the cost of the production of a musical number in the form of a perforated paper roll, namely, the cost of producing the original or "master" rolls of the different numbers published, from which master rolls duplicates in any quantity are readily manufactured; and thereby secured to itself an undue advantage over competitors by appropriating the results of their ingenuity, labor, and expense:

Held, That such acts of appropriation, 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 Orient Music Roll Co., hereinafter referred to as the respondent, has been and is 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 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, Orient Music Roll Co., is a corporation organized and doing business under and by virtue of the laws of the State of Connecticut, having its principal office in the city of Bridgeport, in said State, and

is now and for more than one year last past has been engaged in the manufacture of perforated paper music rolls for use in the operation of player pianos and in selling and shipping such music rolls to persons and corporations in other States of the United States and in the District of Columbia, in direct competition with other individuals, copartnerships, and corporations similarly engaged, and that the business of manufacturing and selling such perforated paper music rolls constitutes an important and large branch of commerce among the several States of the United States.

PAR. 2. That the method employed generally in the manufacture of perforated paper music rolls involves the production first of an original or master roll for each musical selection published, from which any number of duplicates are readily manufactured and distributed through the trade to the public for use in player pianos; that the production of such master rolls requires great musical skill and ingenuity, involves the expenditure of much labor and money, and forms the greater part of the entire cost of the publication of a musical selection in the form of a perforated paper roll.

PAR. 3. That during a period of more than one year last past the respondent, in the conduct of its business of manufacturing and selling perforated-paper music rolls in interstate commerce, as aforesaid, has been and is now engaged in the practice of purchasing the music rolls manufactured and sold by competitors, making duplicates thereof, and selling such duplicate music rolls in competition with those manufactured by competitors by the method hereinbefore described; that the effect of said practice on the part of the respondent has been and is to secure for itself an undue advantage over competitors by appropriating the results of competitors' ingenuity, labor, and expense, thus avoiding the cost of producing the aforesaid master rolls and enabling it to sell such duplicate music rolls at lower prices than those which manufacturers of the original perforated-paper music rolls are obliged to charge.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

A complaint having been issued by the Federal Trade Commission in the above-entitled proceeding, and the respondent therein named having filed its answer herein, wherein the charges of the complaint are admitted to be true, and wherein it is said by the respondent that it is its intention to cease and desist the practices charged against it if the Federal Trade Commission orders it to discontinue said practices, and wherein it is said that it has already discontinued the practices charged in the complaint in so far as such complaint charges the respondent with purchasing competitors' music rolls and making duplicates from the same, and the Commission having considered the complaint and the answer filed thereto, and now being fully advised in the premises, reports and finds as follows:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, Orient Music Roll Co., is a corporation organized and doing business under and by virtue of the laws of the State of Connecticut, having its principal office and place of business in the city of Bridgeport, in said State, and is now and for more than one year last past has been engaged in the manufacture of perforated-paper music rolls for use in the operation of player pianos and in selling and shipping such music rolls from the city of manufacture in the State of Connecticut to various persons and corporations in other States of the United States and in the District of Columbia, in direct competition with other individuals, copartnerships, and corporations similarly engaged: that the business of manufacturing and selling such perforated-paper music rolls constitutes an important and large branch of commerce among the several States of the United States in the States in which respondent is engaged in its said business.

PAR. 2. That the method employed generally in the manufacture of perforated-paper music rolls involves the production first of an original or master roll for each musical selection published, from which any number of duplicates

are readily manufactured and distributed through the trade to the public for use in player pianos; that the production of such master rolls requires great musical skill and ingenuity, involves the expenditure of much labor and money, and forms the greater part of the entire cost of the publication of a musical selection in the form of a perforated-paper roll.

PAR. 3. That the respondent, Orient Music Roll Co., in April, 1918, purchased the equipment and business of the Orient Music Co., of Bristol, Conn.; that the said Orient Music Co., of Bristol, Conn., and the respondent, Orient Music Roll Co., in the conduct of their business of manufacturing and selling perforated-paper music rolls, in the course of commerce as aforesaid, purchased music rolls manufactured and sold by competitors and made duplicates and copies thereof and sold said duplicate and copied music rolls in competition with wholesalers and retailers of music rolls similar to those from which the said duplicates and copies were made; that the respondent company on May 1, 1919, ceased manufacturing music rolls in the manner above set forth and began making its own music rolls without duplicating or copying those of its competitors; that at present the respondent manufactures its own original music rolls and sells same to its customers; that the respondent also still sells its old reproductions or duplicates made from music rolls originally purchased from its competitors, as aforesaid, but that 90 per cent of the music rolls it now sells and ships in interstate commerce have been made originally by the respondent and were not duplicates or copies of rolls purchased which were the product of a competing manufacturer; that the effect of the practice on the part of the respondent in making said duplicated or copied rolls from the original rolls of competing manufacturers and the sale of the same in interstate commerce in competition with competing manufacturers or wholesalers or retailers of the products of competing manufacturers is to secure to the respondent an undue advantage over competitors by appropriating the results of competitors' ingenuity, labor, and expense, and thus avoiding the cost of producing the aforesaid master rolls.

CONCLUSION.

That the method of competition and the business practice set forth in the foregoing findings as to the facts is, under the circumstances set forth therein, an unfair method 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, wherein it alleged that it had reason to believe that the above-named respondent, Orient Music Roll Co., has been 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 respect thereof would be to the interest of the public, and fully stating its charges in this respect, and the respondent having filed its answer, signed by its treasurer, admitting that the matters and things alleged in the said complaint are substantially true and correct in the manner and form therein set forth, and the Commission having made and filed its report containing its findings as to the facts and its conclusion that the respondent has 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 respondent, the Orient Music Roll Co., shall cease and desist from manufacturing perforated paper music rolls by making duplicates or copies of rolls made by competing manufacturers in manner as more particularly set forth in the complaint herein, or any manner similar thereto, with a similar effect upon the business of competitors, and from offering for sale or selling in inter-

state commerce any perforated paper music rolls made by it or its predecessor, the Orient Music Co., by duplicating or copying music rolls made by a competing manufacturer or made in any similar manner with a similar effect.

FEDERAL TRADE COMMISSION

v.

CARTER PAINT CO.