

Complaint.

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FEDERAL TRADE COMMISSION

v.

ALLIED GOLF COMPANY.

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

Docket 1078—February 8, 1924.

SYLLABUS.

Where a corporation engaged in the purchase of golf balls made to its order and in the sale thereof at wholesale, sold such golf balls upon which it had caused the word "Official" to be stamped and which it had caused to be placed in wrappers and containers bearing the legend "OFFICIAL GOLF BALL This ball is standard and official as required by the United States Golf Association, the Royal & Ancient Club and other governing bodies", the fact being that said balls had never been designated nor adopted as official by the aforesaid authorities, nor by any other competent, authoritative governing body; with the capacity to mislead and deceive the public into believing that said balls had been officially adopted as above indicated for use in tournaments and contests and were to be preferred to others not so marked:

Held, That such misbranding and mislabeling, under the circumstances set forth, constituted an unfair method of competition.

Mr. Morgan J. Doyle for the Commission.

Mr. George A. Chritton of Dyrenforth, Lee, Chritton & Wiles of Chicago, Ill., for respondent.

COMPLAINT.

Acting in the public interest, pursuant to the provisions 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," the Federal Trade Commission charges that Allied Golf Company, a corporation, and more particularly hereinafter described and hereinafter referred to as respondent, has been and is using unfair methods of competition in commerce in violation of the provisions of Section 5 of said Act, issues this complaint and states its charges in that respect, as follows:

PARAGRAPH 1. Allied Golf Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business in the City of Chicago, in said State. Respondent was at all times hereinafter mentioned, and still is, engaged in the business of purchasing

in wholesale quantities golf balls made to its order and specifications, from manufacturers, and in selling the same in wholesale and retail quantities in interstate commerce, throughout the United States, and causing its product when so sold to be transported from the State of Illinois, to purchasers located in other States of the United States, and there is now and was at all times hereinafter mentioned, a constant current of trade and commerce in said product sold by said respondent between and among the various States of the United States. In the course and conduct of its business, respondent was at all times hereinafter mentioned, and still is, in competition with other individuals, firms, partnerships and corporations similarly engaged in commerce among the States of the United States.

PAR. 2. That said respondent, trading as aforesaid, in the course and conduct of its business, for more than one year last past has cut or stamped, or caused to be cut or stamped on its said product, the word "official" in connection with or as a part of its trade brand or label; that at all times hereinbefore mentioned said respondent has caused its said product to be placed in paper wrappers or containers on which said wrappers or containers is printed the following:

OFFICIAL GOLF BALL

This ball is standard and official as required by the U. S. G. A., the Royal & Ancient Club and other governing bodies.

That the word "official" as cut or stamped on said product, together with the aforesaid legend as printed on the paper wrappers or containers of said product, has the capacity and tendency to mislead and deceive the public and/or does mislead and deceive the public into the belief that the said product of respondent is designated by the United States Golf Association, the governing body in matters pertaining to golf in the United States, and the Royal and Ancient Club of St. Andrew's, Scotland, the governing body in matters pertaining to golf in the British Isles, as officially adopted for use in all tournaments or contests conducted by or under the auspices of the said United States Golf Association and the said Royal & Ancient Club of St. Andrew's, Scotland, or the various clubs constituting the subordinate units of said respective associations.

PAR. 3. That the word "official" when applied to a product, particularly when used in conjunction with or appertaining to a governing body, has been well-known and understood by the public for a long period of years, to designate that particular product as adopted, authorized or approved by said governing body; that the

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said United States Golf Association and the said Royal & Ancient Club of St. Andrew's, Scotland, has not adopted, authorized, approved or designated the respondent's product as official or required the same to be used in tournaments or contests conducted by or under the auspices of the said United States Golf Association and the said Royal & Ancient Club of St. Andrew's, Scotland, or the various clubs constituting the subordinate units of said respective association.

PAR. 4. The above alleged acts and things done by respondent are all to the prejudice of the public, and of respondent's competitors, and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of an Act of Congress entitled "An Act To create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

Pursuant to the provisions of an Act of Congress approved September 26, 1914, the Federal Trade Commission issued and served a complaint upon the respondent, Allied Golf Company, charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act.

Respondent entered its appearance on the 28th day of November, 1923, and made answer in writing to said complaint and made, executed and filed an agreed statement of facts in which it is stipulated and agreed by respondent that the Federal Trade Commission shall take such agreed statement of facts as the facts in this case and in lieu of testimony, and proceed forthwith upon such agreed statement of facts to make its findings as to the facts, and such order as it may deem proper to enter therein, without the introduction of testimony, and the Federal Trade Commission being now fully advised in the premises makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Allied Golf Company is a corporation, organized and doing business under the laws of the State of Illinois, with its principal office and place of business in the City of Chicago, Illinois. Respondent has been and still is engaged in the business of purchasing in wholesale quantities, golf balls made to its order and specifications, from manufacturers, and in selling the same in wholesale quantities throughout the United States. Respondent causes its commodity, when so sold, to be transported from the State of Illi-

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nois, to purchasers located in other States of the United States. In the course and conduct of its business, respondent was, and still is, in competition with other individuals, firms, partnerships and corporations likewise engaged in the purchase, sale and distribution of golf balls among the various States of the United States.

PAR. 2. Respondent, in the course and conduct of its said business, caused to be cut or stamped upon golf balls in which it deals, the word "Official" and has caused these golf balls to be placed in paper wrappers and containers, on which said wrappers and containers is printed the following:

OFFICIAL GOLF BALL

This ball is standard and official
as required by the United States Golf Association,
the Royal & Ancient Club and other governing bodies.

The word "Official" as cut or stamped on said golf balls and the said statement printed on the paper wrappers and containers of said golf balls, have the capacity and tendency to mislead and deceive the public into the belief that said golf balls, so sold by respondent, are official, and into the further belief that said balls are designated by the United States Golf Association and the Royal & Ancient Club, as officially adopted for use in all tournaments or contests conducted by, or under the auspices of, the said United States Golf Association and the Royal & Ancient Club, and are to be preferred to other golf balls not so marked.

PAR. 3. The golf balls sold by respondents have not been adopted as official by any competent authoritative governing body, nor have said golf balls been adopted, authorized, approved, designated as official, or required to be used in tournaments or contests conducted by or under the auspices of the United States Golf Association and the Royal and Ancient Club.

CONCLUSION.

The practices of said respondent, under the conditions and circumstances described in the foregoing findings, are unfair methods of competition in commerce and constitute a violation 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."

ORDER TO CEASE AND DESIST.

This proceeding having been heard by the Federal Trade Commission, upon the complaint of the Commission, the answer of the

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respondent, and an agreed statement of facts, and the Commission having made its findings as to the facts, with its conclusion that the respondent has violated the provisions 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,"

It is now ordered, That the respondent, Allied Golf Company, a corporation organized and existing by and under the laws of the State of Illinois, its officers, agents and employees, do cease and desist from directly or indirectly marketing in commerce, among any of the States in the United States, golf balls, with the word "Official" imprinted or stamped upon such balls or upon the wrappers or containers in which such balls are wrapped or packed, unless and until such golf balls have been adopted as "Official" by some competent authority.

It is further ordered, That the respondent within sixty (60) days after date of the service upon it of a copy of this order, shall file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order of the Commission hereinbefore set forth.

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