

IN THE MATTER OF
WHITE SILVER COMPANY

COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER,
26, 1914

Docket 1102—July 7, 1926

SYLLABUS.

Where a corporation engaged in the manufacture of silver-plated ware by the electroplating process, sold said ware with the words "Quadruple Plate" and "W. S. Co. Quadruple Plate," impressed thereon, notwithstanding the fact that said ware had not been coated or plated with silver four times and did not contain a thickness or weight of silver-plating equivalent to that formerly applied by four coatings and was not of the quality and value associated in the minds of the trade and public with the word "Quadruple" or the words "Quadruple Plate," with the effect of misleading and deceiving the public and of diverting trade from and otherwise injuring competitors dealing in and truthfully and properly describing silver-plated ware coated with silver four times or given one coating equivalent in weight and value to that formerly obtained by the four, and of the quality and value associated with the word "Quadruple" as above set forth, and competitors dealing in ware not of the aforesaid quality and value and not thus misdescribed or designated:

Held, That the sale of products branded as above set forth, constituted an unfair method of competition.

Mr. John R. Dowlan for the Commission.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent, a Massachusetts corporation engaged in the manufacture of silver-plated table ware, "made of the least costly materials procurable," and constituting "the most thinly coated or plated and least durable and lasting quality or variety of silver-plated commodities," and in the sale thereof to wholesalers, jobbers, and retailers, in various States, and with principal office and place of business at Taunton, Mass., with misbranding or mislabeling in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce, in that it stamped or impressed upon the aforesaid ware the words "Quadruple Plate" or "W. S. Co. Quadruple Plate" or other similar designations containing the word "Quadruple," and so sold the same; with the tendency and capacity to mislead substantial portions of the public

and those contemplating the purchase of such commodities for resale to the public into believing that said ware had been coated or plated with silver four times or contained a four fold thickness of silver-plating; or that it had been plated or coated with four times as much silver as some established or definite standard of thickness or weight of silver-plating, or contained four times that much silver or was "thickly and heavily plated" or of a very durable or lasting quality or of a quality superior to similar plated commodities not so stamped and marked; with the effect of creating an undue preference for the aforesaid commodities and inducing the purchase thereof by those thus misled "in preference to similar commodities manufactured and sold by respondent's competitors, practically all of whom refrain from marking or stamping their products with such words or other designations containing the word "Quadruple"; all to the prejudice of the public and competitors of respondent.

Upon the foregoing complaint, the Commission made the following

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, White Silver Co., charging it with the use of unfair methods of competition in commerce in violation of the provisions of section 5 of said act.

The respondent having entered its appearance and filed its answer herein, the chief counsel for the Federal Trade Commission and the respondent signed and filed a stipulation containing an agreed statement of facts, and also containing an agreement that the said agreed facts might be taken in lieu of testimony and other evidence in this proceeding and that the Commission might proceed thereon to make its report in this proceeding and its findings as to the facts and enter its order disposing of this proceeding without briefs or oral argument.

Thereupon this proceeding came on for decision and the Commission, having duly considered the record and being fully advised in the premises, makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent is a corporation organized and doing business under the laws of the State of Massachusetts, with its principal office and place of business in the city of Taunton in said State. It is now and has been for several years, engaged in the manufacture of silver-plated ware as hereinafter described, and the sale thereof to wholesalers and retailers located at various points in the United

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States. It causes its said products, when so sold, to be transported from its said principal place of business in the city of Taunton, Mass., into and through other States of the United States to the said purchasers. In the course and conduct of its said business respondent competes with other corporations and with partnerships and individuals also engaged in the manufacture and/or sale and transportation of silver-plated ware in interstate commerce.

PAR. 2. Respondent and its competitors use, in the manufacture of silver-plated ware, the electroplating process which consists in the covering of a form of base metal with an adherent coating of silver by the electrolysis of silver salts. The silver-plated ware thus produced varies in quality and value according to the composition of the base metal, the workmanship upon the form and the decoration, the amount and fineness of the silver deposited upon it and left upon it after the finishing process, and the protection of the surfaces exposed to wear and abrasion. There are no fixed standards for the composition of the base metal, or for the fineness or quality of silver to be applied generally or to the wearing surfaces, so that the purchasing public is obliged to depend upon the reputation of the maker of such silver-plated ware, or upon the reputation of the trade name or brand attached thereto, or upon the representations of the maker or seller thereof, in purchasing said silver-plated ware, since the quality of the ware can not be determined except by laboratory tests.

PAR. 3. In the course and conduct of its said business, respondent has sold in interstate commerce many thousands of pieces of silver-plated ware, so manufactured, upon which it has stamped or impressed the words "Quadruple Plate" and "W. S. Co. Quadruple Plate," and such ware, sold by respondent to wholesalers and retailers, was by them subsequently offered for sale and sold to the purchasing public generally, with the said marks still displayed.

PAR. 4. For many years during the development of the electroplating process, large quantities of high grade and excellent quality silver-plated ware, which had been coated or plated four times before the desired thickness or weight of silver-plate was obtained, was marketed throughout the United States under the brand and designation of "Quadruple," this word being in some instances accompanied by the name of the maker or seller, and the word "Quadruple" when used in connection with silver-plated ware became associated in the minds of the trade and the purchasing public with a high grade and excellent quality of silver-plated ware which had been coated or plated four times. For a number of years last past, the electroplating process has been perfected so that the desired thickness and weight of silver-plating can now be obtained with

one coating or plating, by which process a thickness of silver and a quality of plated ware similar to that formerly obtained by the use of four coatings can be and is produced. This fact has become generally known to the trade and the purchasing public, so that the word "Quadruple" has come to mean and now means a thickness of plating and a quality of ware similar to that formerly obtained by the use of four coatings of silver.

PAR. 5. The silver-plated ware sold by respondent as described in paragraph 1 hereof, and marked with the words "Quadruple Plate" and "W. S. Co. Quadruple Plate," as set out in paragraph 3 hereof, is not ware which has been coated or plated with silver four times, and does not contain a thickness or weight of silver-plating equivalent to that which was formerly applied by four coatings, and is not of the quality and value associated in the minds of the trade and the public with the word "Quadruple" or the words "Quadruple Plate" as applied to silver-plated ware.

PAR. 6. The use by respondent of the words "Quadruple Plate" and "W. S. Co. Quadruple Plate" as a brand or designation of silver-plated ware, all as set out in paragraphs 3 and 5 herein, is false and misleading and has a tendency and a capacity to, and does, mislead and deceive the public generally by causing them to believe that the silver-plated ware so designated and described has been coated or plated with silver four times, or has been given a single coating of silver equivalent in weight and value to that which was formerly applied by four coatings and is of the quality and value associated with the word "Quadruple" as aforesaid.

PAR. 7. There are competitors of respondent referred to in paragraph 1 hereof who sell silver-plated ware which has been coated with silver four times or has been given a single coating of silver equivalent in thickness to that which was formerly applied by four platings, and is of the quality and value commonly associated in the minds of the trade and the public with the word "Quadruple," and who truthfully and properly describe their products. There are others among said competitors who sell silver-plated ware which is not of the quality and value associated with the word "Quadruple" and who do not use the said word to designate and describe their said ware. The practices of respondent as set out in paragraph 3 herein tend to, and do, divert trade from and otherwise injure both classes of these competitors.

CONCLUSION

The practices of said respondent, under the conditions and circumstances described in the foregoing findings, are to the injury and

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prejudice of the public and respondent's competitors and 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 amended complaint of the Commission, the answer of the respondent, and the stipulation entered into by counsel for the Commission and the respondent, White Silver Co., and the Commission having made its findings as to the facts and its conclusion that respondent has violated 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,"

It is now ordered, That respondent, White Silver Co., its agents, servants, employees, and representatives do cease and desist from employing or using in connection with the sale of silver-plated ware which has not been coated or plated with silver four times, or has not been given a single coating of silver equivalent in amount and quality to the amount and quality formerly obtained by the application of four coatings, the word "Quadruple," alone or in combination with any other word or words, sign, symbol, or device to describe or designate such silver-plated ware, either by stamping or impressing the word "Quadruple" thereon or in any other manner.

It is further ordered, That respondent shall within thirty days from notice thereof file with the Commission a report setting out in detail the manner and form in which it has complied with the order of the Commission herein set forth.

Complaint

IN THE MATTER OF

HEMILL SILVERWARE, INCORPORATED

COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914

Docket 1156—July 7, 1926

SYLLABUS.

Where it had been long known that the city of Sheffield, England, and its vicinity constituted that country's largest producing area of silverware and silver-plated ware and the center of its silver industry, and such products there made had come to be highly regarded by the trade and public, and the words "Sheffield Plate," and "Sheffield Silver-plated Ware," had come to denote to a substantial portion of the public that the products so designated had been manufactured in Sheffield, England, and were of the quality or nature which had become associated with that name and industry; and thereafter an American manufacturer of silver-plated ware made by the electroplating process first manufactured and sold said ware with the words "Sheffield Plate," and other combinations of words including the word "Sheffield," impressed thereon and after the sale of its stock of ware so marked, replated and sold the same at reduced prices, when returned to it by customers with the word "Sheffield" still stamped thereon, notwithstanding the fact that the ware so stamped was not manufactured in Sheffield, but was of domestic origin and not of that quality associated with the term "Sheffield" as above set forth; with the effect of inducing the purchase of the aforesaid ware thus misrepresented as to origin and quality, by a substantial portion of the trade and public in preference to the product of competitors dealing in silver-plated ware manufactured in Sheffield, England, and of competitors dealing in the products not there manufactured and not thus misrepresented including concerns which, in the absence of any fixed standards for the ware in question, fairly and truthfully represented and identified their products by a firm or house name or nondescriptive trade name, the standard for which they severally fixed and determined or in unison agreed upon and maintained, and to the prejudice and serious injury of the aforesaid competitors from whom trade was thereby diverted:

Held, That the sale of products branded, as above set forth, constituted an unfair method of competition.

Mr. John R. Dowlan for the Commission.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent, a New York corporation, engaged in the manufacture of silver-plated ware, and in the sale thereof to wholesale and retail dealers in various States, and with principal office and place of busi-