

Complaint

10 F. T. C.

IN THE MATTER OF
GREAT LAKES RUBBER PRODUCTS 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 1876—October 9, 1926

SYLLABUS.

Where a corporation engaged in the manufacture of a compound for use in softening rubber and rendering it more resilient, and in the sale thereof, designated, labeled, branded and advertised the same as "rubberite compound," notwithstanding the fact said product contained no rubber; with the capacity and tendency to mislead and deceive purchasers in reference to the composition thereof and thereby induce its purchase and divert trade from competitors who truthfully designated and described their products:

Held, That such practices, under the circumstances set forth, constituted unfair methods of competition.

Mr. T. B. Dixon 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, an Ohio corporation engaged in selling a compound, bought by it from the manufacturers, for use in softening and rendering rubber more resilient, to manufacturers of rubber articles in the various States, and with principal office and place of business in Cleveland, with naming product misleadingly, misbranding or mislabeling, advertising falsely or misleadingly, and misrepresenting business status, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce, in that for more than a year preceding the complaint, it labeled and branded said product as "Rubberite Compound" and so advertised the same in various pamphlets, leaflets and other literature issued to the trade offering its said product and describing the uses thereof, notwithstanding the fact that said product contained no rubber whatsoever, and in its aforesaid advertising, pamphlets and other trade literature and upon its letterheads, billheads, and other business stationery set forth false representations to the effect that it manufactured the aforesaid compound, with the capacity and tendency to mislead and deceive customers and prospective customers in respect of the composition thereof and to cause the purchase of said product by them as and for one containing rubber, and also into believing that in purchasing from it they were dealing directly with

the manufacturer and thereby obtaining an advantage in price; all to the prejudice of the public and respondent's competitors.

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, Great Lakes Rubber Products Co., charging it with the use of unfair methods of competition in commerce in violation of the provisions of section 5 of said act.

Respondent having entered its appearance, hearing was had before an examiner of the Commission theretofore duly appointed and testimony and evidence were introduced in support of the allegations of the complaint. Thereafter the examiner made his report upon the facts, no exceptions thereto having been taken by the respondent or by counsel for the Commission.

Whereupon this proceeding came on for decision, respondent waiving right to file brief or present oral argument, and the Commission having considered the record and being 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, Great Lakes Rubber Products Co., is now and has been since 1923 a corporation duly incorporated under the laws of the State of Ohio with its principal office and place of business in the city of Cleveland in said State, and since its incorporation has been and is now engaged in the business of manufacturing a compound for use in softening rubber and rendering same more resilient, and selling said product to manufacturers of rubber products located in various States of the United States. It causes its said product when so sold to be transported from its said principal place of business in the city of Cleveland, Ohio, into and through other States of the United States to purchasers at their various points of location. In the regular course and conduct of its business respondent is in competition with other corporations, partnerships and individuals engaged in the manufacture and sale of similar products for use in softening rubber.

PAR. 2. In the course and conduct of its business for more than a year last past respondent has designated and described its said product by the term "Rubberite Compound" and has labeled and branded said product "Rubberite Compound" and has published or caused to be published various pamphlets, leaflets, newspaper advertisements and other literature offering said product for sale in all of which it used the term "Rubberite Compound" to designate and describe its

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said product. The said advertising literature was circulated by respondent throughout the various States of the United States to customers and prospective customers. Respondent's said product during the times herein mentioned did not and does not now contain rubber.

PAR. 3. The designation, labeling, branding, and advertising of said product as "Rubberite Compound" by respondent as set out above has the capacity and tendency to mislead and deceive purchasers of said product by causing them to believe that the said product so designated, labeled, branded and advertised is composed of rubber and to cause them to purchase the said product in that belief, thereby diverting trade from competitors of respondent who truthfully designate and describe their products.

CONCLUSION

The practices of respondent, Great Lakes Rubber Products Co., under the circumstances set forth in the foregoing findings as to the facts are to the prejudice of the public and respondent's competitors and constitute unfair methods of competition in interstate commerce in violation 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

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and evidence offered before the trial examiner, briefs and oral argument being waived, and the Commission having made its findings as to the facts and its conclusion that the 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 ordered, That respondent, Great Lakes Rubber Products Co., its officers, servants, agents and employees do cease and desist from using the term "Rubberite Compound" as a name or brand or on labels or in pamphlets, circulars, newspaper advertisements or otherwise to designate and describe respondent's product for use in softening rubber.

It is further ordered, That respondent, Great Lakes Rubber Products Co., shall within sixty days after the service upon it of a copy of this order file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinbefore set forth.

Complaint

IN THE MATTER OF

N. B. BARDWIL, T. B. BARDWIL, M. BARDWIL, PARTNERS,
DOING BUSINESS UNDER THE TRADE NAME AND
STYLE N. B. BARDWIL & 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 1272—October 19, 1926

SYLLABUS.

Where lace made in Ireland had long enjoyed a widespread popularity, demand and reputation among manufacturers, tradesmen and the consuming public in the United States, had come to be known and generally designated as "Irish lace", and was of a higher quality and workmanship, and brought a considerably higher price, than lace made in China; and thereafter a firm engaged in the importation of said last-named lace which closely resembled "Irish lace" in pattern, design and general appearance, but was inferior thereto in value and quality, and in the sale thereof to garment manufacturers, used the word "Irish" either alone or in conjunction with other words in the trade designations under which it imported and sold the aforesaid lace, and which it placed upon its price lists, circulars, advertising matter and invoices; with the result that garments made by such manufacturers were by them represented to their retail-dealer customers and by the latter to the purchasing or consuming public as decorated and trimmed with "Irish lace", many were caused to purchase such garments in the erroneous belief thereby induced as and for garments trimmed with the more expensive lace made in Ireland, a substantial portion of the purchasing public was misled and deceived in reference to the source of the aforesaid lace, and trade was diverted from concerns dealing in lace made in Ireland and truthfully designated as "Irish lace", and with the tendency to reduce and injuriously affect the sales and business of concerns selling lace under the name of the particular country in which made:

Held, That such misleading designation of product, under the circumstances set forth, constituted an unfair method of competition.

Mr. A. R. Brindley for the Commission.

Mr. Jeremiah F. Connor, of New York City, for respondents.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondents, partners engaged in importing from China, lace there made, closely resembling in pattern, design and general appearance the long popular, more expensive and superior lace made in Ireland, and in selling the same to garment manufacturers in various States for use by them in trimming the garments made by them, and with