

IN THE MATTER OF
THE DAISY PRODUCTS, 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 1363—October 19, 1926

SYLLABUS.

Where a corporation engaged in the manufacture of ladies' hat bags from a material which resembled patent leather in appearance, but was not leather, and in the sale of the aforesaid hat bags, designated said material as "patent leather material" and "patent leather fabric" in advertising such products in newspapers, magazines, trade papers and other periodicals of wide circulation; with the tendency and capacity to mislead and deceive the purchasing public in respect of the composition there and induce them to purchase the same in such erroneous belief:

Held, That such false and misleading advertising, under the circumstances set forth, constituted an unfair method 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, a New York corporation engaged in the manufacture of hat containers trimmed on the outside with a woven fabric, the exposed surface of which was so coated and finished as to resemble closely patent leather in appearance, and in the sale of said hat bags to retailers, and directly to consumers in various States, and with principal place of business in New York City, with advertising falsely or misleadingly 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 made statements and representations in its advertisements depicting and describing its said hat bags in newspapers, magazines and periodicals of general circulation, asserting, importing and implying that the same were made of patent leather, such as "made of patent leather material", "made of the best patent leather fabric" and "made of soft glazette (patent leather fabric)"; with the effect of causing many of the consuming public to purchase said bags or containers as and for articles composed of or covered with patent leather and of diverting business from and otherwise injuring and prejudicing competitors dealing

in and selling containers made of or covered with patent leather and rightfully and truthfully so represented by them, and competitors dealing in similar articles covered with woven fabrics not patent leather, though coated and finished in imitation thereof, and in no-wise misrepresented by them, and with the capacity and tendency to cause the aforesaid effects; 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 repondent, The Daisy Products, Incorporated, 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, The Daisy Products, Incorporated, is now and has been since 1922 a corporation duly incorporated under the laws of the State of New York with its principal office and place of business in the City of New York, State of New York, and since its incorporation has been and is now engaged in the manufacture of ladies' hat bags and the sale and distribution of same to purchasers located at various points in the different States of the United States. Respondent causes its said hat bags when so sold to be transported from its said principal place of business in the City of New York, State of New York, into and through other States of the United States to the said purchasers located throughout the various States of the United States. In the course and conduct of its said business respondent is in competition with other corporations,

Conclusion

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partnerships and individuals who are also engaged in the manufacture and sale of ladies' hat bags.

PAR. 2. In the course and conduct of its business for more than a year last past respondent caused to be published advertisements of its said hat bags in newspapers, magazines, trade papers and other periodicals all of which have a wide circulation throughout the United States. In said advertisements respondent designates the material of which the said hat bags are composed as "Patent Leather Material" and "Patent Leather Fabric". The hat bags so designated and described are made of a fabric or cloth which is coated with a black shiny surface of linseed oil, lamp black and various pigments treated with hot rollers to bring out the shiny surface and are lined with cretonne. The said hat bags are not made of leather but are made of fabric or cloth material resembling in appearance patent leather.

PAR. 3. Patent leather, as the term is commonly known and used by the trade and public alike, means the skin of an animal which has been so treated in its process of finishing that it has a shiny black surface. The use by respondent of the words "Patent Leather Fabric" and "Patent Leather Material" to designate and describe the material of the said hat bags has the tendency and capacity to mislead and deceive the purchasing public and to cause them to believe that the hat bags so advertised and described by respondent are composed of patent leather and to cause them to purchase the said hat bags in that belief.

PAR. 4. Among the corporations, partnerships and individuals referred to above who are and have been in competition with respondent are many who sell hat bags made of fabric or cloth finished to resemble patent leather and who truthfully represent and advertise their products.

• CONCLUSION

The practices of respondent, The Daisy Products, Incorporated, 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

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, The Daisy Products, Incorporated, its officers, servants, agents, and employees do cease and desist from using the words "Patent Leather", or "Patent Leather Material" or "Patent Leather Fabric" on hat bags, boxes, tags, labels, or packages or in newspapers, magazines, circulars, booklets, or otherwise in connection with the sale of respondent's fabric hat bags.

It is further ordered, That respondent, The Daisy Products, Incorporated, 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.

IN THE MATTER OF

**MILES F. GOODMAN, DOING BUSINESS UNDER THE
TRADE NAME AND STYLE KEYSTONE FURNITURE
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 1357—November 1, 1926

SYLLABUS.

Where an individual engaged in the sale of furniture at retail, in advertising the same in newspapers of general circulation and in his catalogues, circulars and other trade literature, designated and described said furniture as "Mahogany" and "Walnut", notwithstanding the fact that the articles in question did not contain the aforesaid woods; with the effect of deceiving a substantial portion of the purchasing public in reference to the composition of the furniture so advertised, offered and sold, and of inducing the purchase thereof in such erroneous belief, and of diverting business from and otherwise injuring and prejudicing competitors dealing in furniture in fact composed of mahogany or walnut and properly and rightfully represented as such, and competitors dealing in furniture resembling in color and general appearance the aforesaid woods, but neither composed thereof nor in anywise so represented:

Held. That such false and misleading advertising, under the circumstances set forth, constituted an unfair method of competition.

Mr. M. Markham Flannery for the Commission.

Mr. F. Lyman Windolph, of Lancaster, Pa., for respondent.

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 individual engaged in the sale of furniture at retail to members of the consuming public in various States, and with place of business in Lancaster, Pa., with advertising falsely or misleadingly 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 about three years preceding the complaint, respondent falsely represented certain articles of furniture so dealt in by him as made of mahogany and walnut wood, respectively, with the effect of causing many members of the consuming public to purchase said articles as and for mahogany and walnut, respectively, and of diverting business from and otherwise injuring and prejudicing competitors dealing in furniture in fact composed of the aforesaid woods and prop-