

Complaint

IN THE MATTER OF

JAMES J. BRADLEY, DOING BUSINESS UNDER THE
TRADE NAME AND STYLE OF JAMES J. BRADLEY &
COMPANY

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

Docket 1455. Complaint, Apr. 12, 1927—Decision, Jan. 21, 1928

Where toilet and bath soaps manufactured in England had long enjoyed widespread popularity, good will and demand among the consuming public throughout the United States, and had come to be considered by many as superior in quality and other desirable characteristics to the domestic product, and to be purchased by many in preference thereto; and thereafter an individual dealing in toilet and bath soaps, designated a certain soap, of uniform size and shape, manufactured for him by a domestic manufacturer, "English Tub Soap", and conspicuously so stamped each cake thereof, the individual wrappers thereof, and the containers in which packed, together with the words "Hanson-Jenks Limited London-New York", upon each cake, the words (following his trade name) "sole Agts. U. S. and Canada", upon said wrappers, and the phrase "The Original Hanson-Jenks Tub Soap", upon the said containers; with the capacity and tendency to mislead and deceive many retail dealer vendees and many of the purchasing public into believing the aforesaid soap to have been manufactured in England and imported into the United States, and into purchasing the same in such belief, and with the effect of so doing, and of placing in the hands of dealers a means of committing a fraud upon the public by so representing, offering and selling the aforesaid soap, and of diverting trade from competitors dealing in genuine English imported soaps, and rightfully and lawfully so representing the same, and competitors dealing in domestic soaps without misrepresenting the same as above set forth:

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

Mr. Alfred M. Craven for the Commission.

Schaffer & Lake, of New York City, 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 individual, engaged in the sale of toilet and bath soaps to retailers in sundry States, and with place of business in New York City, 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.

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Respondent, as alleged, for about five years last past caused a certain soap, made in the United States, but by him designated "English Tub Soap", to be conspicuously so stamped, together with the phrase "Hanson-Jenks, Limited, London—New York", caused the wrapper of each cake, stamped as above set forth, to be banded with a paper band bearing in large and conspicuous letters the words "English Tub Soap" and "James J. Bradley & Co., sole agent United States and Canada", and caused to be set forth conspicuously upon containers in which the aforesaid soap was packed the phrase "English Tub Soap".

Said stamping, banding, and packing had the effect, as alleged, of misleading and deceiving many of his retail dealer vendees, to whom said soap so stamped, banded and packed was delivered by respondent, and many of the consuming public, to whom said soap, so stamped, etc., was displayed, offered and sold by said dealers, into believing the aforesaid soap to have been manufactured in England and imported into the United States, i. e., to be an English soap, preferred and purchased by many, as superior to bath and toilet soaps made in the United States,¹ and had the capacity and tendency so to do, and the result of placing in the hands of the aforesaid dealers a means of committing a fraud upon a substantial portion of the consuming public by enabling them to represent, offer and sell said soap as and for a soap made in England, and of diverting business from and otherwise injuring and prejudicing competitors, many of whom deal in and sell bath and toilet soap there made and imported into the United States and rightfully and lawfully represented by them as such a soap, and others of whom deal in and sell domestic bath and toilet soaps, without in any manner representing said soaps as made in England; 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 its complaint upon the respondent James J. Bradley, charging him

¹ As to the foregoing, paragraph 3 of the complaint alleges:

PAR. 3. Toilet and bath soaps manufactured in England have for many years enjoyed widespread popularity, good will and demand among the consuming public throughout the United States, many of whom believe and consider that bath and toilet soaps manufactured in England are superior in quality and other desirable characteristics to bath and toilet soaps manufactured in the United States, and many of the consuming public throughout the United States purchase bath and toilet soaps manufactured in England and imported into the United States, in preference to bath and toilet soaps manufactured in the United States.

with the use of unfair methods of competition in commerce in violation of the provisions of said act.

Respondent having entered his appearance and filed his answer to said complaint, hearings were had before a trial examiner, theretofore duly appointed, and testimony was heard and evidence received in support of the charges stated in the complaint and in opposition thereto.

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

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondent, James J. Bradley, is an individual doing business under the trade name and style of James J. Bradley & Co., with his principal place of business in the city and State of New York. He is now and has been for over five years engaged in the business of selling toilet and bath soaps manufactured for him by a factory at Camden, N. J., to retail dealers throughout the United States. Respondent causes said soap when sold to be transported in interstate commerce from the place of its manufacture in New Jersey and from respondent's principal place of business in the State of New York into and through other States of the United States to his said vendees at their respective points of location. In the course and conduct of his said business respondent is in competition with other individuals, partnerships and corporations engaged in the sale of toilet and bath soaps both English and American in commerce between and among various States of the United States.

PAR. 2. The soap manufactured and sold by respondent is of a certain uniform size and shape and is designated by respondent "English Tub Soap". Upon each cake of said soap respondent causes to be stamped in large and conspicuous letters the phrases "English Tub Soap", and "Hanson-Jenks, Limited, London—New York". Respondent causes each cake of soap to be completely wrapped in tissue paper, and around said soap thus wrapped causes to be placed a paper band upon which is printed in large and conspicuous letters the phrases "English Tub Soap", and "James J. Bradley & Co., 1457 Broadway, New York City, sole agents United States and Canada". The soap is then packed by respondent in certain boxes holding six cakes, upon which boxes respondent causes to be printed in large and conspicuous letters the phrase, "English Tub Soap", and also the phrase "The Original Hanson-Jenks Tub

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Soap". Respondent delivers said soap so stamped, described and packed to its aforesaid vendees, and said soap thus stamped, branded and packed is by said vendees displayed, offered for sale and sold to the consuming public, either by the box or by the cake. One of the purposes of the box or container of the six cakes of soap is to provide for an attractive display of the soap on the counters of the retail dealers. Such display is accomplished merely by opening the lid of the container or box.

PAR. 3. At the date of the hearing in this proceeding, June 30, 1927, respondent was having manufactured soap, upon which was stamped on one side "English Tub Soap", and on the other side "Hanson-Jenks Co. Made in U. S. A."

PAR. 4. Toilet and bath soaps, manufactured in England have for many years enjoyed widespread popularity, good will and demand among the consuming public throughout the United States, many of whom believe and consider that bath and toilet soaps manufactured in England are superior in quality and other desirable characteristics to bath and toilet soaps manufactured in the United States, and many of the consuming public throughout the United States purchase bath and toilet soaps manufactured in England and imported into the United States, in preference to bath and toilet soaps manufactured in the United States.

PAR. 5. Respondent's use of the word "English" in the name or designation of the soap manufactured and sold by him and in stamping, packing and advertising said soap, as set forth in paragraph 2 hereof, has the capacity and tendency to and does mislead and deceive many retail dealers purchasing from him and many of the purchasing public into the belief that soap is manufactured in England and imported into the United States, and they purchase said soap in and on account of that belief. The use of said word in the designation, stamping, packing and advertising of said soap also places in the hands of dealers an instrument or means whereby dealers may commit a fraud upon the public by representing, offering for sale and selling respondent's soap as soap manufactured in England.

PAR. 6. There are among the competitors of respondent referred to in paragraph 1 hereof, many who deal in and sell bath and toilet soap manufactured in England and imported into the United States and who rightfully and lawfully represent said soap to be such. There are others of said competitors who deal in and sell bath and toilet soaps manufactured in the United States and who in no manner whatsoever represent their said soaps to be manufactured in England. The use of the word "English" by respondent in connection with the sale of his soap, as hereinbefore set forth tends to and does divert trade from said competitors.

CONCLUSION

The above and foregoing acts and practices of the respondent are to the prejudice of the public and the competitors of respondent 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 the respondent, the testimony and evidence, briefs and oral argument, 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 now ordered, That respondent James J. Bradley, his agents, servants, and employees do cease and desist from the use of the word "English" in the designation of, or in the advertising, branding, labeling, or description of soap sold and distributed by him in interstate commerce, unless said soap be manufactured in England.

It is further ordered, That the respondent shall within 60 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.

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IN THE MATTER OF

UNION WOOLEN MILLS COMPANY, RACINE, WISCONSIN,
UNION WOOLEN MILLS COMPANY, JACKSON, MICHIGAN, MAX COHEN

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

Docket 1375. Complaint, Mar. 31, 1926—Decision, Jan. 25, 1928

Where an individual engaged in the manufacture of men's made to measure suits and overcoats in one of the large cities, and in the sale thereof in that and other cities in several near-by States, both directly and through the medium of organizations and corporations owned or controlled by him, and so operated in the matter of selection and purchase of supplies, keeping and handling of accounts, credits, payment of salaries, selection of sites, filling of orders, supervision, preparation of advertising, and otherwise, as to constitute, in effect, a single business, under his control and management; and said corporations; neither owning, operating, controlling nor having any interest in any mill manufacturing cloth, though engaged in competition with manufacturers having such mills, as also with others who did not employ the term "mills" in connection with the manufacture and sale of their products, used the words "Union Woolen Mills Company" as their corporate and trade name, and on their business signs, stationery, billheads, circulars, trade literature, and in their newspaper and other advertising, and in the labels attached to their garments, and on the containers thereof, together, in some instances, with the names of the aforesaid cities; with the capacity and tendency to mislead and deceive and with the effect of misleading and deceiving the consuming public into believing that they owned and operated mills manufacturing the cloth from which the suits and overcoats sold by them were made, and their customers into believing that in purchasing of them they were buying directly from the manufacturer of the cloth and thereby saving the profits of middlemen, and with the capacity and tendency to induce, and with the effect of, inducing many of the purchasing public to deal with them in such belief:

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

Mr. E. J. Hornibrook for the Commission.

Mr. John J. Spear, of Chicago, Ill., 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 respondent Union Woolen Mills Co., of Racine, Wis., respondent Woolen Mills Co., of Jackson, Mich., Wisconsin and Michigan corporations, respectively, and respondent Max Cohen, organizer,