

Complaint

IN THE MATTER OF

MORRIS MASSING, TRADING UNDER THE NAME AND
STYLE OF COLUMBIA PANTS MANUFACTURING COM-
PANY

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

Docket 1590. Complaint, Mar. 29, 1929—Decision, June 29, 1929

Where an individual engaged in the sale of men's and boys' pants and shirts, and neither making the same, nor owning, interested in, controlling, or operating any plant so doing, but having the same made by independent contractors,

- (a) Falsely represented himself or his business as manufacturer and maker of said products, through use of a trade name including the word "manufacturing," and the placing thereof on his letterheads, envelopes, invoices, and other printed matter, together with such legends as "Manufacturers of Southern Brand Men's and Boys' Pants" and "Makers of Southern Brand Pants for Men and Young Men"; and
- (b) Labeled, ticketed, or tagged the aforesaid articles so dealt in by him, "Union Made," notwithstanding the fact that neither he, nor said contractors, were employers of union labor;

With the capacity and tendency to mislead and deceive retailers and consumers into believing said products to have been made by him, and a substantial portion of the purchasing public into believing the same to have been made in mills or elsewhere by such labor and to induce the purchase thereof as and for garments bought directly from the manufacturer thereof and/or made by union labor and as such preferred by that substantial proportion of the purchasing public affiliated therewith, and thereby to divert trade from manufacturing competitors in fact employing union workmen in the making of the garments concerned and truthfully advertising and describing the same:

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

Mr. James M. Brinson for the Commission.

Mr. Erwin I. Feldman, of Baltimore, Md., 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, engaged at Baltimore in the sale of men's and boys' pants and shirts to purchasers in other States, and neither employing any union labor in connection with said articles, nor owning, controlling, nor operating any mill, factory, or plant making the same, but purchasing said products from independent contractors

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who make them with nonunion labor, with using misleading trade name, misrepresenting business status, advertising falsely or misleadingly and 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.

Respondent, as charged, owning no factory or plant, as above set forth, displays the trade name Columbia Pants Manufacturing Co. in his business, conspicuously at or near the entrance to his place of business, and features the same on his letterheads, envelopes, invoices, and other printed matter, together with the words "Manufacturers of Southern Brand Men's and Boys' Pants" and "Makers of Southern Brand Pants for Men and Young Men" and further brands, labels, tickets, or tags the garments dealt in by him as above set forth "Union Made".

The use, as alleged, of the aforesaid trade name has the capacity and tendency "to mislead and deceive the public, including retailers and consumers, into the belief that the men's and boys' pants and shirts offered for sale by him in interstate commerce have been, and are, manufactured and made by the Columbia Pants Manufacturing Co., and to induce the purchase of said products in that belief," and respondent's practice of labeling his garments "Union Made" has the capacity and tendency to mislead and deceive "a substantial portion of the purchasing public, including retailers and consumers" into believing said garments to have been made by union labor and to induce the purchase in such belief and thereby divert trade from competitors truthfully advertising and describing their products;¹ all to the prejudice of the public and respondent's competitors; of whom some are engaged in the manufacture and sale of the articles in question, and so advertise and represent, and of whom some manufacture such articles with the employment of union labor, and are thereby entitled to label their products "Union Made".

¹ Referring to the use of the words "Union Made", the complaint states in part:

A substantial proportion of the purchasing public in the various States of the United States has for several years last past belonged to, or affiliated with, directly or indirectly, and now belongs to, or affiliates with, directly or indirectly, various organizations of labor embracing artisans, craftsmen and workers of all classes, usually known as unions. Such portion of the public prefers to purchase for its or their consumption, articles of wearing apparel or other articles manufactured in factories, mills or plants, employing or using artisans, craftsmen or workers belonging to, or affiliated with, some union of organized labor, or by individuals so belonging to, or affiliated with, or employing artisans, craftsmen or workers belonging to, or affiliated with, some labor union.

The words "Union Made" applied to, or appearing on, the products sold or offered for sale signify and mean, and among such portion of the purchasing public are understood to signify and mean, that the said products have been manufactured by union labor.

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 on the 29th of March, 1929, and thereafter served upon the respondent above named a complaint charging him with the use of unfair methods of competition in interstate commerce in violation of the provisions of said act. Respondent entered his appearance and filed answer to said complaint on April 11, 1929.

Thereafter the respondent on June 19, 1929, filed with the Federal Trade Commission a motion for leave to withdraw his answer so filed on April 11, 1929, for the purpose of permitting respondent to file a return and consent to the making of findings as to the facts and an entry of an order to cease and desist, pursuant to the Commission's rules of practice with respect to answer (Rule III, subdivision 2). Thereafter the Commission on 29th day of June granted respondent's said motion and accepted and filed his return and consent to the making of findings as to the facts and an entry of an order to cease and desist.

Thereupon this proceeding came on for decision upon the complaint, respondent's return and answer filed June 21, 1929, and the record herein, and the Federal Trade Commission having duly considered the same and being now fully advised in the premises, pursuant to said rule of practice III, subdivision 2, makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Morris Massing, under the name and style of Columbia Pants Manufacturing Co., for several years last past has been, and now is, engaged at Baltimore in the State of Maryland in the business of offering for sale and of selling in commerce among and between the various States of the United States, men's and boys' pants and shirts, and of transporting or causing the same to be transported, when sold, to purchasers in other States of the United States in competition with individuals, partnerships, and corporations likewise engaged in the sale and distribution of similar products in interstate commerce.

PAR. 2. In the course and conduct of said business, respondent displays in a conspicuous manner at or near the entrance to his place of business in Baltimore, State aforesaid, the name, Columbia Pants Manufacturing Co., and letterheads, envelopes, invoices and

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other printed matter used, or distributed by him, in the various States of the United States, among purchasers and prospective customers, bear the legends: "Columbia Pants Manufacturing Co., Manufacturers of Southern Brand Men's and Boys' Pants", and "The Columbia Pants Mfg. Co., Makers of Southern Brand Pants for Men and Young Men", whereby and otherwise respondent has represented and represents the Columbia Pants Manufacturing Co. as manufacturers and makers of the men's and boys' pants and other garments offered for sale and sold by respondent under and through said trade name. In truth and in fact respondent neither individually nor as Columbia Pants Manufacturing Co. or otherwise has been, or is manufacturer or maker of said men's and boys' pants or other garments offered for sale or sold as aforesaid by respondent and neither respondent nor Columbia Pants Manufacturing Co. owns, controls, operates, directs, or has any interest in or connection with any mill, factory, plant, or other place or places wherein said products have been or are manufactured or made.

PAR. 3. In the course and conduct of said business, it has been and is the practice of respondent to affix or cause to be affixed to the men's and boys' pants and shirts sold, or offered for sale, by him in commerce among the various States of the United States, labels, tickets, or tags, containing the words, "Union Made".

A substantial proportion of the purchasing public in the various States of the United States has for several years last past belonged to, or affiliated with, directly or indirectly, and now belongs to, or affiliates with, directly or indirectly, various organizations of label embracing artisans, craftsmen, and workers of all classes, usually known as unions. Such portion of the public prefers to purchase for its or their consumption, articles of wearing apparel or other articles manufactured in factories, mills, or plants, employing or using artisans, craftsmen, or workers belonging to, or affiliated with, some union of organized labor, or by individuals so belonging to, or affiliated with, or employing artisans, craftsmen, or workers belonging to, or affiliated with, some labor union.

The words, "Union Made" applied to, or appearing on, the products sold or offered for sale signify and mean, and among such portion of the purchasing public are understood to signify and mean, that the said products have been manufactured by union labor.

Respondent neither employs, nor has employed, at any time heretofore in connection with the men's and boys' pants and shirts sold or offered for sale by him so-called union labor, that is to say, mem-

bers of any labor union. Such products have been, and are, manufactured and made by independent contractors at the instance of respondent, on specified terms, none of whom employs or has employed, members of labor organizations or unions, in the manufacture of said products and none of whom has maintained or maintains so-called union shops, or is entitled to affix, or causes to be affixed the words, "Union Made", to any of the products manufactured by them, or any of them, for the respondent.

PAR. 4. There are, and for several years last past have been, in competition with respondent individuals, partnerships, and corporations engaged in the manufacture and sale of men's and boys' pants and shirts in interstate commerce, and of so advertising and representing them, and also there have been and are among the competitors of respondent mentioned in paragraph 1 hereof manufacturers of men's and boys' pants and shirts employing in their mills or plants artisans and workmen belonging to, or affiliated with some labor union, and who by reason thereof have been, and are, entitled to affix or cause to be affixed to their products labels bearing the legend, "Union Made."

PAR. 5. The use by respondent of the name, Columbia Pants Manufacturing Co., as described in paragraph 2 hereof, has had, and has, the capacity and tendency to mislead and deceive the public, including retailers and consumers, into the belief that the men's and boys' pants and shirts offered for sale by him in interstate commerce have been, and are, manufactured and made by the Columbia Pants Manufacturing Co., and to induce the purchase of said products in that belief.

PAR. 6. The practice of respondent in affixing or causing to be affixed to men's and boys' pants and shirts sold by him in commerce among and between the various States of the United States, labels, tags, or tickets bearing the legend "Union Made" has had, and has, the capacity and tendency to mislead and deceive a substantial portion of the purchasing public, including retailers and consumers into the belief that the men's and boys' pants and shirts offered for sale by him in commerce among and between the various States of the United States have been, and are union made, that is, manufactured by union labor, or in mills, plants, or other places employing workmen, artisans, or others belonging to, or affiliated with, some union or branch of organized labor, and to induce their purchase in that belief and thereby to divert trade from competitors of respondent who truthfully advertise and describe their products.

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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, respondent's return and answer and the record herein, 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",

Now therefore it is ordered, That respondent Morris Massing cease and desist from:

(1) Using or trading under the name Columbia Pants Manufacturing Co., and from advertising, describing, or representing himself under or by such, or any name implying or importing that he is the manufacturer or maker of the men's and boys' pants and shirts offered for sale and sold by him in interstate commerce, unless or until he becomes, or is, actually the manufacturer and maker of said products.

(2) From advertising or in any manner representing that the men's and boys' pants and shirts sold and offered for sale by him in interstate commerce are "Union Made", and from attaching thereto any labels bearing the legend "Union Made", or otherwise signifying or indicating that such products are "Union Made" unless they have been or are made by union labor and in a shop or factory having authoritative recognition as a union shop or factory.

(3) It is further ordered that respondent Morris Massing, trading under the name Columbia Pants Manufacturing Co., shall within 60 days after the service upon him of a copy of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist hereinbefore set forth.

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IN THE MATTER OF
GLOBE SPECIALTY COMPANYCOMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914*Docket 1595. Complaint, Apr. 17, 1929—Decision, June 29, 1929*

Where a corporation dealing in lamp bases, gear shift balls, radiator cap ornaments and similar products made of a material or materials simulating the appearance of onyx and sold in competition with similar articles made thereof; in its advertisements, catalogues, stationery, and other trade literature and upon the packages or containers of its said products designated and represented the same as "The Crystal-Onyx Line", "Crystal-Onyx Standard Locking Radiator Cap, Equipped with 1 9/16" Crystal-Onyx Balls", "Solid Genuine Crystal-Onyx Balls", "Crystal-Onyx Gear Shift Balls, and No. 0 Gear Shift Extensions", with the tendency and capacity to mislead and deceive purchasers into believing said articles to be composed of onyx and to induce them to purchase the same in such belief, to the prejudice of the public and its customers:

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

Mr. William A. Sweet for the Commission.

Mr. John C. Tucker, of Chicago, Ill., 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 Illinois corporation engaged in the sale of lamp bases, gear shift balls, radiator cap ornaments and similar products, made of materials simulating onyx, a cryptocrystalline variety of quartz to purchasers in States other than Illinois, and with principal place of business in Chicago, with advertising falsely or misleadingly and 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 in its advertisements, catalogues, and other trade literature and upon packages or cartons of said products it uses such designations, statements, and representations in referring thereto as "The Crystal-Onyx Line", "Crystal-Onyx Standard Locking Radiator Cap, Equipped with 1 9/16" Crystal-Onyx Balls", "Solid Genuine Crystal-Onyx Balls", "Crystal-Onyx Gear Shift Balls and No. 0 Gear Shift Extensions"; with the tendency and capacity to mislead and deceive purchasers into believing the same