

Complaint

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

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to be composed of onyx and to cause them to purchase such articles in said belief; to the injury and 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 (38 Stat. 717), the Federal Trade Commission issued and served a complaint upon the respondent above named on the 19th day of April, 1929, charging it with the use of unfair methods of competition in interstate commerce in violation of the provisions of said act, together with a notice that an answer should be filed within 30 days after service of the complaint and with a copy of the Rules of Practice of the Commission as to answers (Rule III).

The respondent has not filed an answer to the complaint within the time required by the rules, or at all.

Thereafter the chief counsel for the Federal Trade Commission on June 17, 1929, filed with the Commission a motion moving that respondent's failure to answer be deemed and taken to be an admission of all the allegations of the complaint, to authorize the Commission to find them to be true, to waive hearing on the charges set forth in the complaint, and that thereupon an order to cease and desist issue as prayed for in the complaint.

Thereafter the Federal Trade Commission on June 19, 1929, issued and served upon respondent said motion of the chief counsel of the Commission and notified the respondent that the Commission would hear said respondent on said motion on June 24, 1929, at 2 o'clock p. m. in the hearing room of the Federal Trade Commission Building, 2000 D Street N. W., Washington, D. C. The respondent did not appear or answer said motion on the day fixed, or at all. No answer or return of any kind whatsoever has been filed by respondent.

Thereupon this proceeding came on for decision and the Commission having duly considered the record and being now fully advised in the premises, pursuant to Rule of Practice III, subdivision 3, makes this its findings as to the facts and conclusions drawn therefrom:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. The respondent is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois with its principal place of business located in the city of Chicago in said State.

PAR. 2. The respondent is and has been for more than one year last past engaged in the sale and distribution of various articles of merchandise fashioned into lamp bases, gear shift balls, radiator cap ornaments and similar products.

PAR. 3. The respondent has sold during the times above mentioned and referred to and continues to sell its said products to various individuals, firms, and corporations located in the District of Columbia and in various States of the United States other than the State of Illinois, and has caused and still causes its said products when sold to be transported from its said place of business to, into and through said other States and the District of Columbia to the purchasers thereof located therein.

PAR. 4. During the times above mentioned and referred to other individuals, firms, and corporations located in various States of the United States have been engaged in the manufacture and sale of various articles of merchandise similar to those sold by respondent, which articles are composed of onyx, a cryptocrystalline variety of quartz, which they have sold and still sell and transport in commerce to various individuals, firms, and corporations located in the various States of the United States and in the District of Columbia. The respondent during the aforesaid times was and still is in competition in commerce in the sale of its said merchandise with said other individuals, firms and corporations.

PAR. 5. The respondent has caused and still causes various designations, statements, and representations descriptive of its said products to be printed and displayed in advertisements, catalogues, stationery, and other trade literature and upon packages or cartons containing its said products. Among such designations, statements, and representations are the words and phrases "The Crystal-Onyx Line", "Crystal-Onyx Standard Locking Radiator Cap, Equipped with 1 $\frac{3}{8}$ " Crystal-Onyx Balls", "Solid Genuine Crystal-Onyx Balls", "Crystal-Onyx Gear Shift Balls and No. 0 Gear Shift Extensions", and others. Onyx is a mineral, a cryptocrystalline variety of quartz, and is so known and understood to be by the trade and purchasing public. The articles designated and represented by respondent as above and sold by it in commerce are not made of onyx but are made of materials or a material simulating onyx in appearance.

PAR. 6. The use by respondent of the words and phrases set forth in paragraph 5 hereof upon the packages or cartons containing its said articles and in advertisements, stationery, and other trade literature has the tendency and capacity to mislead and deceive purchasers of said articles into the belief that they are composed of onyx and to cause them to purchase said articles in that belief.

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CONCLUSION

The practices of the respondent under the circumstances and conditions set forth in the foregoing findings are to the prejudice of the public and of respondent's customers and are unfair methods of competition in commerce and constitute a violation of section 5 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 and the record, 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 the respondent, Globe Specialty Co., its agents, representatives, employees, and successors cease and desist from the use of the words "Crystal-Onyx" or the word "Onyx" in the designation of or in the advertising, branding, labeling, or description of articles offered for sale or sold in interstate commerce unless said articles or the parts of said articles so designated, labeled, or described are composed of onyx.

It is further ordered, That the respondent, Globe Specialty Co., shall within 60 days after the service upon it of this order file with the Federal Trade Commission a report in writing setting forth in detail the manner and form in which it has complied with the above order to cease and desist.

Complaint

IN THE MATTER OF
JEFFERSON FURNITURE MANUFACTURING
CORPORATION

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

Docket 1605. Complaint, Apr. 22, 1929—Decision, June 29, 1929

Where a corporation engaged in the sale, at retail, of furniture, rugs, lamps, etc., to members of the public in various States, and neither a manufacturer nor jobber,

- (a) Adopted and used a corporate name including the word manufacturing, and featured said name in its advertisements and circulars, together with the slogan "Factory to Home"; and
- (b) Made such statements and representations in its aforesaid advertisements and circulars as "High Grade Furniture Direct from Factory to You"; "Manufactured at Tremendous Savings Direct to Consumer"; "Made in Our Own Factory"; "Here's What you Save: Tremendous retail profits, high freight rates, extra delivery hauling, enormous overhead expenses, and you get clean, crisp, new furniture right out of the factory direct to your home"; "Made in our own factory to sell direct to you at real wholesale"; "While we are manufacturers, we of course have a large furniture store trade, and like most manufacturers, have a regular retail list price which is 100 per cent more than our wholesale price. In other words, our discount to customers is 50 per cent off the list price"; "Manufacturers living room suites, upholstered chairs, tables—Novelty furniture—Jobbers—Bedroom and dining room furniture, cedar chests, bed springs, mattresses, breakfast suites"; "You owe it to yourself—buy wholesale—save your money. Here proves the power of the manufacturer. Mail orders are solicited"; "Do you know that its products are sold direct to the consumer at wholesale?"

With the capacity and tendency to mislead and deceive many among the consuming public into believing it to own, control, and operate a factory making the products dealt in by it and/or to be a jobber thereof, and to induce many to purchase said products in the belief that they were saving the profits of the middlemen:

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

Mr. Baldwin B. Bane 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 Alabama corporation engaged in the sale separately or in suites of dining room, bed room, parlor or living room suites, pieces of furniture, rugs, lamps, etc., at retail to members of the