

Complaint

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IN THE MATTER OF

L. J. HOUZE CONVEX GLASS CO.

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

Docket 1674. Complaint, Sept. 20, 1929¹—Decision, Mar. 31, 1930

Where a corporation engaged in the manufacture and sale of gear shift balls resembling onyx in appearance, represented the same on the containers of the extension levers to which they pertained, as "Marblex Onyx", the fact being that said balls were made entirely of glass; with the tendency and capacity to mislead and deceive the purchasing public in respect of the composition thereof and induce their purchase in such belief:

Held, That such practice, under the conditions and circumstances set forth, was all to the prejudice of the public and competitors and constituted an unfair method of competition.

Mr. Alfred M. Craven for the Commission.

Christy, Christy & Wharton, of Pittsburgh, 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, a Pennsylvania corporation engaged in the manufacture and sale of lamps and lamp bases and breaks simulating onyx in appearance, and of gear-shift balls for automobiles, and with principal place of business at Point Marion, Pa., 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.

Respondent, as charged, engaged as above set forth, describes its said lamps, lamp bases, and breaks in advertisements, leaflets, and on the containers as "Onxglass" and/or "On-X-Glass" and its gear-shift balls as "Marblex Onyx", with tendency and capacity to mislead and deceive the purchasing public into believing said articles to be composed of onyx and into purchasing the same in such belief; all to the injury and prejudice of the public and of respondent's competitors.

¹ Amended.

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, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", the Federal Trade Commission issued and served its amended complaint upon the respondent, L. J. Houze Convex Glass Co., charging it with the use of unfair methods of competition in commerce in violation of the provisions of section 5 of said act of Congress.

The respondent having entered its appearance and filed its answer herein hearing was had and evidence was thereupon introduced on behalf of the Commission and also on behalf of the respondent before an examiner of the Federal Trade Commission theretofore duly appointed. 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 is a corporation organized under the laws of the State of Pennsylvania with its factory and principal place of business at Point Marion in said State. It is and has been for many years last past engaged in the manufacture and sale, among other things, of gear-shift balls for automobiles. It causes said articles when so sold to be transported in interstate commerce from its factory into and through numerous States of the United States other than the State of Pennsylvania to the purchasers thereof consisting to a large extent of persons conducting retail stores at their respective points of location in the various States of the United States.

In the course and conduct of its business respondent is and has been in competition with other individuals, partnerships, and corporations located and doing business in the United States engaged in the sale and distribution of gear-shift balls in interstate commerce between and among the various States of the United States.

PAR. 2. In the course and conduct of its said business respondent sells and delivers said gear-shift balls to its customers in connection with an article called an extension lever. On the carton or container of said extension lever respondent has advertised and represented, and now advertises and represents, said gear-shift balls to be made

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of "Marblex Onyx," when in truth and in fact said gear-shift balls are made entirely from glass, but resemble onyx in appearance.

PAR. 3. The description of the gear-shift balls made by the respondent as mentioned in paragraph 2 hereof is false and misleading and has the tendency and capacity to mislead and deceive the purchasing public and to lead them into the belief that the said gear-shift balls are made of onyx and to purchase the said articles in that belief.

CONCLUSION

The practices of respondent under the conditions and circumstances set forth in the foregoing findings are all to the prejudice of the public and of respondent's competitors 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 record and the Commission having made its findings as to the facts and conclusion that the respondent has violated 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",

It is now ordered, That respondent, L. J. Houze Convex Glass Co., its officers, agents, and employees do cease and desist from advertising or representing gear-shift balls or any other article sold by it in interstate commerce to be made of marblex onyx, or onyx, unless said articles be actually made from onyx.

It is further ordered, That respondent shall, within 30 days after the receipt 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.

ETHYLENE SALES CO. ET AL.

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