

Complaint

IN THE MATTER OF

NOMA ELECTRIC CORPORATION

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

Docket 1894. Complaint, Jan. 14, 1931—Order, Apr. 27, 1931

Consent order requiring respondent to desist selling or offering Christmas tree lighting outfits at less than cost, with intent and effect of hindering, suppressing and stifling competition in such outfits and of injuring and destroying the business of its competitors, as in said order set forth.

Mr. G. Ed. Rowland for the Commission.

Mr. Marvin Farrington, of Washington, D. C., for respondent.

COMPLAINT

Acting in the public interest, 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 charges that Noma Electric Corporation, hereinafter referred to as respondent, has been and is now using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of said act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondent is a corporation organized and existing under the laws of the State of New York, with its office and principal place of business in the City of New York in said State. The officers of respondent are Joseph Block, president; Henri Sadaca, vice president; Joseph Brittle, secretary; and Henry Hyman, treasurer. It is and has been for more than one year last past engaged in the business of manufacturing and selling decorative electric goods, Christmas tree lighting outfits, and other products of a similar nature. It causes said products, when so sold, to be transported from its said place of business in the said State of New York into and through other States of the United States to the purchasers thereof located in the various States of the United States, other than the State of New York. In the course and conduct of its said business, respondent is in competition with other persons, partnerships and corporations engaged in the sale and distribution of similar articles of merchandise in commerce between and among various States of the United States.

Complaint

15 F. T. C.

PAR. 2. Christmas tree lighting outfits are of two kinds; those which have an extension device whereby other strings of lights can be added to the original string, and those which can not be added to. The former are manufactured under what is known as the Haft-Wood patent, granted in 1924, to persons other than respondent, and under which a number of companies were licensed to manufacture and sell extension tree lighting outfits by the owner or owners of the patent. In 1925, the majority of the licensees under the patent caused the respondent corporation to be organized, and became stockholders therein. Respondent corporation took a general license under the said Haft-Wood patent, and caused to be secured releases of the licenses granted the several companies which organized and were stockholders in respondent, and caused sublicenses to be granted to them. Later, Decorative Patents Corporation, all of the stock of which is owned by respondent, acquired the Haft-Wood patent.

At the time of the formation of respondent corporation the companies which organized it were in active competition with each other in manufacturing and selling extension and nonextension tree lighting outfits. Upon organization of respondent these companies, with the exception of one, immediately ceased manufacturing tree lighting outfits, and limited their efforts to the sale and distribution of tree lighting outfits, both extension and nonextension, manufactured by respondent. One company instead of transferring its manufacturing business to respondent, became the largest stockholder in said respondent, and accepted a license under the Haft-Wood patent, by the terms of which it was allowed to manufacture 20 per cent of the extension lighting outfits manufactured by respondent, and also agreed not to manufacture any nonextension outfits. At the present time all competition in the manufacture and sale of nonextension tree lighting outfits has been eliminated between respondent and the several companies holding stock in it.

As a result of the foregoing, respondent acquired and has occupied, during the times herein mentioned, a dominant position in the business of manufacturing and selling extension and nonextension tree lighting outfits.

PAR. 3. There are at the preset time a number of companies engaged in the manufacture and sale in interstate commerce of non-extension Christmas tree lighting outfits, which companies are in active competition with respondent in the manufacture and sale of said type of Christmas tree lighting outfits. In the course and conduct of its said business, and with the intent, purpose and effect of hindering, suppressing and stifling competition in the manufac-

87

Order

ture and sale of decorative Christmas tree lighting outfits in interstate commerce, and of injuring and destroying the business of the said competitors and thus restraining trade and acquiring a monopoly in said business, respondent in 1928 offered for sale and sold an 8 light nonextension Christmas tree lighting outfit, equipped with Mazda lamps, at a price of 65 cents, and an 8 light nonextension Christmas tree lighting outfit, equipped with Japanese carbon lamps, at a price of 45 cents.

Said prices of 45 cents for the nonextension tree lighting outfit equipped with Japanese carbon lamps, and 65 cents for the nonextension tree lighting outfit equipped with Mazda lamps, were less than it cost respondent to manufacture said respective tree lighting outfits.

PAR. 4. The effect and result of the said practice of respondent in selling said nonextension tree lighting outfits for less than it cost respondent to manufacture the same, under the circumstances hereinabove set forth, have been, and now are, to unduly hinder, restrain and suppress competition in the manufacture and sale in interstate commerce of said nonextension Christmas tree lighting outfits, and tend to create in respondent a monopoly of said business.

PAR. 5. The above alleged acts and practices of respondent are all to the prejudice of the public and of respondent's competitors, and constitute unfair methods of competition in commerce within the intent and meaning of section 5 of an act of Congress entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914.

ORDER TO CEASE AND DESIST

This matter coming on for consideration before the Commission on the certain written pleading filed herein by respondent, Noma Electric Corporation, wherein respondent waived hearing and refrained from contesting the complaint herein; and the Commission having accepted and considered such pleading, and being fully advised in the premises:

It is ordered, That respondent, Noma Electric Corporation, its officers, agents, representatives and employees, in connection with the manufacture and sale of decorative electric goods, Christmas tree lighting outfits, and other products of a similar nature, cease and desist from selling, or offering for sale, in interstate commerce, extension or nonextension Christmas tree lighting outfits equipped with Mazda lamps, carbon lamps, or any kind of lamps, at any price which is less than the cost to said respondent of manufacturing said Christmas tree lighting outfits, with the intent, purpose and effect

Order

15 F. T. C.

of hindering, suppressing and stifling competition in the manufacture and sale of decorative Christmas tree lighting outfits, and of injuring and destroying the business of its competitors.

It is further ordered, That respondent, within 60 days from and after the date of the service upon it of this order, shall file with the Commission a report in writing setting forth in detail the manner and form in which it is complying, and has complied with the order to cease and desist hereinabove set forth.

Complaint

IN THE MATTER OF
BEN-BURK, INCORPORATED

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

Docket 1775. Complaint, Mar. 19, 1930—Decision, May 4, 1931

Where a corporation engaged in sale at wholesale of domestic malt syrup containing only a small proportion of higher priced, foreign grown hops, long regarded as superior to the domestic, and particularly so in the case of those from Germany and the Saazer district of Czecho-Slovakia, sold aforesaid products in containers displaying such labels as "German Maid", "Dutch Maid", "Kron-Prinz" or "Meierhof", together with depictions of German, Dutch or other foreign scenes, with lids bearing a brass diamond soldered thereon, with the stamp of a German iron cross, and the words "Gott Mit Uns 1870", and "Imported hop flavor", and in cartons bearing the words "Special light 3 pounds Imp."; with capacity and tendency to mislead and deceive purchasers and prospective purchasers into believing aforesaid products to have been imported from Germany or to have been made from or flavored with foreign ingredients, and with effect of furnishing dealers and jobbers with the means of misleading and deceiving their customers into purchasing aforesaid products in reliance on said erroneous belief, and capacity and tendency to divert trade to it from competitors offering imported malt syrups or those made out of foreign or imported ingredients, or competitors selling such syrups consisting entirely of domestic materials:

Held, That such practices, under the circumstances set forth, were all to the prejudice of the public and competitors, and constituted unfair methods of competition.

Mr. James M. Brinson for the Commission.

Mr. Ellis Benjamin, of Boston, Mass., 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 Massachusetts corporation, engaged in the sale at wholesale of malt products for making home brew beverages, including malt syrups purchased from Jacob Ruppert, of New York, and with principal office in Boston, with misbranding or mislabeling as to source or origin and composition of product, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.