

Complaint

15 F. T. C.

IN THE MATTER OF
CANADA'S PRIDE PRODUCTS CO., INC., FORMERLY
INTERNATIONAL PRODUCTS 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 1843. Complaint, June 11, 1930—Decision, May 5, 1931

Where a corporation engaged in sale of domestic malt syrups containing no Canadian ingredients, adopted the corporate name "Canada's Pride Products Co., Inc." and advertised and labeled said products as "Canada's Pride Malt Hop, Malt Syrup Hop flavored," together with map of Dominion of Canada, and statement guaranteeing use of only freshest and purest ingredients "in the manufacture of Canada's Malt Hop," and words or legend "In Canada, International Products Sales Company, Ltd., Truro, Nova Scotia; International Products Company, sole distributors, New York City, N. Y."; with capacity and tendency to mislead and deceive purchasers and prospective purchasers, and with effect of furnishing dealers with means of misleading and deceiving customers into belief that said products had been made in Canada and imported into the United States or made out of material or ingredients so produced and imported, and thus induce purchase of such products in reliance on such erroneous belief, and with capacity and tendency to divert trade to it from competitors truthfully advertising and describing their products:

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. John B. Hosty, of Hosty & Irmiger, 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, "Canada's Pride Products Co., Inc.¹, a Rhode Island corporation engaged in the sale of malt syrups, chiefly to wholesale grocers and chain stores through traveling salesmen, and with office and principal place of business in New York City, with advertising falsely or misleadingly as to source or origin and composition of products, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.

¹ International Products Co. until on or about April 1, 1930, at which time the corporate name was duly changed.

Respondent, as charged, engaged as above set forth, describes, designates, advertises and labels a product dealt in by it as above set forth, manufactured in the United States and containing no ingredients originating or produced in Canada or imported into the United States therefrom, "Canada's Pride Malthop Malt Syrup Hop Flavored" together with a map or outline suggesting the Dominion of Canada and with the legend on the labels guaranteeing use of only the freshest and purest ingredients "in the manufacture of Canada's Pride Malthop. In Canada, International Products Sales Company, Ltd., Truro, Nova Scotia; International Products Company sole distributors, New York City, N. Y."

Practices of respondent, as alleged, in offering for sale and selling its product designated or described as "Canada's Pride Malthop, Malt Syrup Hop Flavored", has had and has, and its adoption and use of the words Canada's Pride Products Co., Inc., as its corporate name, has had and has, the capacity and tendency to mislead and deceive purchasers and prospective purchasers, and has furnished dealers with the means to mislead their customers, into the belief that the products so described or designated were and are composed of ingredients produced in and imported from the Dominion of Canada, and to induce its purchase in reliance on such erroneous belief, and said acts and practices of said respondent, as charged, are all to the prejudice of the public and constitute unfair methods of competition.

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 a complaint upon Canada's Pride Products Company, Inc., formerly International Products Company, a corporation hereinafter called the respondent, charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act.

The respondent having entered its appearance, and filed its answer, a stipulation as to the facts in lieu of testimony and evidence was entered into by and between counsel for the Commission and respondent, subject to approval of the Commission, in course of a hearing duly held before the examiner theretofore duly appointed for such purpose; thereafter the proceeding regularly came on for final hearing before the Commission on such complaint, answer, stipulation, brief in support of the complaint and arguments of counsel

for the Commission and the respondent, and the Commission having duly considered the same and having approved the stipulation, now makes this its report in writing, and states its findings as to the facts and conclusion as follows, to wit:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Canada's Pride Products Company, Inc., is now, and prior to issuance of the complaint herein was, a corporation organized and existing under and by virtue of the laws of the State of Rhode Island, with its office and principal place of business in the City of New York and State of New York. It is now, and prior to issuance of complaint herein, was engaged in the business of offering for sale and selling, and when sold, transporting or causing to be transported to purchasers thereof, malt syrups, in commerce among and between the various States of the United States, chiefly to wholesale grocers and so-called chain stores situated in the various States of the United States. It travels salesmen, who solicit orders from customers in the various States of the United States. It was, prior to April, 1930, engaged in business under, by, and with the corporate name of, International Products Company, and on or about April 1, 1930, such corporate name was duly changed to Canada's Pride Products Company, Inc.

In the course and conduct of such business respondent is now, has been, and was at all times hereinafter mentioned, in competition with individuals, partnerships, and corporations similarly engaged in the sale and distribution of malt syrups in interstate commerce.

PAR. 2. In the course and conduct of its said business respondent has offered for sale and sold, and offers for sale and sells, a product which it has described and designated, and now describes and designates, in advertisements distributed among purchasers and prospective purchasers in the various States of the United States, and on labels as:

Canada's Pride

Malthop

MALT SYRUP HOP FLAVORED

There appears beneath such words in advertisements and on labels of respondent, as a base therefor, or background thereto, an apparent reproduction, representation, or illustration of the map of Canada, or an outline obviously purporting to be an indication or suggestion of the Dominion of Canada.

The labels on containers in which respondent has offered and offers for sale and sells its product also carry the following:

We guarantee that only the freshest and purest ingredients have been used in the manufacture of Canada's Pride Malthop. In Canada, International Products Sales Company, Ltd., Truro, Nova Scotia; International Products Company, sole distributors, New York City, N. Y.

In truth and in fact the product so described and designated as "Canada's Pride Malthop" offered for sale and sold in commerce by respondent either under the name Canada's Pride Products Company, Inc., or International Products Company, is manufactured in the United States for respondent by the Jacob Ruppert Company, formerly known as Jacob Ruppert Brewery Company, located in the City of New York and State of New York, and none of its ingredients has originated or been produced in Canada, or imported into the United States therefrom.

PAR. 3. The adoption and use by respondent of the words "Canada's Pride Products Company Inc.," for its corporate name as described in paragraph 1 hereof, has had, and has, and the acts and practices of respondent described in paragraph 2 hereof, have had, and have, and each of them has had, and has the capacity and tendency to mislead and deceive purchasers and prospective purchasers, and each of said acts and practices, including the use of the words "Canada's Pride Products Company, Inc.," as a corporate name has furnished and furnishes dealers with the means to mislead and deceive their customers, into the belief that the products offered for sale and sold by respondent, particularly those described or designated as "Canada's Pride Malthop", "Malt Syrup Hop Flavored", were, and are manufactured in Canada and imported into the United States therefrom, or manufactured from or out of material or ingredients produced in the Dominion of Canada and imported into the United States, and to induce purchase of such products in reliance on such erroneous belief; and said acts and practices have had and have the capacity and tendency to divert trade to respondent from competitors truthfully advertising and describing their products.

CONCLUSION

The above and forgoing 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 proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, answer of respondent and a stipulation as to the facts, by and between counsel for the Commission and for respondent, in lieu of testimony and evidence, briefs and arguments of counsel and the Commission having made its findings as to the facts and its conclusion drawn therefrom, 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 Canada's Pride Products Co., Inc., its officers, agents and employees do cease and desist from:

(1) Using the corporate name, Canada's Pride Products Co., Inc., in connection with advertising, offering for sale, or selling in interstate commerce any malt syrup or malt syrup product which has not been manufactured in Canada and imported into the United States therefrom, or which has not been manufactured from or out of ingredients or originating or produced in Canada, or any corporate name including the word Canada or Canada's, or any map, outline or other representation or illustration of Canada, unless accompanied by apt and adequate words in immediate conjunction therewith and equally conspicuous, clearly showing that such products have not been manufactured in Canada or from or out of ingredients originating or produced in Canada.

(2) Using the words, Canada's Pride Malthop, or any other word or words including the word Canada or Canada's as a trade mark for or to describe or designate, in connection with advertising, offering for sale or selling in interstate commerce any malt syrup or malt syrup product which has not been manufactured in Canada and imported into the United States therefrom, or which has not been manufactured from or out of ingredients originating or produced in Canada unless accompanied by apt and adequate words in immediate conjunction therewith and equally conspicuous, clearly showing that such products have not been manufactured in Canada or from or out of ingredients originating or produced in Canada.

It is further ordered, That respondent within 60 days from and after service of this order file with the Commission a report in writing setting forth in detail the method and form in which it has complied with the order.

Modified order

IN THE MATTER OF

NATHANIEL L. BLAUSTON, AN INDIVIDUAL DOING
BUSINESS UNDER THE NAMES AND STYLES OF
MARIE ANTOINETTE PERLE COMPANY AND BRISTOL
GIFT SHOP

MODIFIED ORDER TO CEASE AND DESIST

Docket 1479. Order, May 11, 1931

Order modifying order in 12 F. T. C. 11 et seq., so as to remove from the prohibitions thereof that relating to the use of the words "Nickel Silver" or either of them, to describe articles of merchandise not composed in whole or in part of the metals known as silver and nickel.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard upon the complaint of the Commission and the answer of the respondent, filed pursuant to Rule III of the Rules of Practice of the Commission, in which answer it is set forth that respondent refrains from contesting the proceeding instituted by the Commission, and the Commission having made its findings as to the facts, with its conclusion that the respondent has been and is using unfair methods of competition in commerce in violation of the provisions 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"; and the Commission, on November 15, 1930, having served due notice upon the respondent that it proposed to modify the order to cease and desist theretofore issued herein on, to wit, the 6th day of February, 1928, and the respondent having failed to appear in response to said notice, and having failed to make any objection to the entry of the order as proposed to be modified,

It is ordered, That respondent, Nathaniel L. Blauston, his agents, employees and successors, cease and desist from:

(a) Using the words "Gold Plate" or "Gold Plated", or either of them, to advertise or describe watch cases which have a plating of gold less than three one-thousandths of an inch in thickness on the outside, and one one-thousandth of an inch in thickness on the inside; and using the words "life guaranteed" to indicate the length of time such watch cases will last or wear.

(b) Using the words "Silver Finished" or "Silvered", or either of them, to advertise or describe watch or clock dials which contain no silver metal; or the words "Gold Finish" to advertise or describe