

Complaint

IN THE MATTER OF

LENAPE HYDRAULIC PRESSING AND FORGING
COMPANY

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

Docket 1964. Complaint, July 10, 1931—Order, Oct. 24, 1931

Consent order requiring respondent to cease and desist from making representations in catalogues, advertisements or otherwise, through words, diagrams, etc., falsely implying that the steel nozzles offered and sold by it in interstate commerce are seamless and made in one piece; all as in said order more particularly set forth.

Mr. Harry D. Michael for the Commission.

Mr. Dwight B. Galt, 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 Lenape Hydraulic Pressing & Forging Co., a corporation, has been and is using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of the said act, and states its charges as follows:

PARAGRAPH 1. That respondent, Lenape Hydraulic Pressing & Forging Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, and has its factory and principal place of business at Lenape, in the State of Pennsylvania.

PAR. 2. That said respondent is now and has been engaged for several years last past in the manufacture of forged steel products and in the sale thereof in interstate commerce in and among the various States of the United States, and said respondent causes and has caused its said products when so sold to be transported in interstate commerce from its said place of business in Pennsylvania, to, into, and through States of the United States other than Pennsylvania to persons, firms, and corporations to whom or to which said products are or have been sold. That one of the products so manufactured, sold, and transported in interstate commerce by respondent as aforesaid is known and described by respondent as forged steel

Complaint

15 F. T. C.

nozzles. That said nozzles are used for making outlet connections for boilers and the like in which use they are subjected to great steam pressure.

PAR. 3. That during the time above mentioned other individuals, firms, and corporations in the various States of the United States are and have been engaged in the manufacture and sale of forged steel nozzles similar in kind and as to purpose of use to those manufactured and sold by respondent as stated above. That such other individuals, firms, and corporations have caused and do now cause their said products when sold by them to be transported from various States of the United States to, into, and through States other than the State of origin of the shipment thereof. That said respondent has been, during the aforesaid time, in competition in interstate commerce in the sale of its said product with said other individuals, firms, and corporations.

PAR. 4. That the respondent herein, during the time above mentioned, in soliciting the sale of and in selling its said nozzles as aforesaid, makes use of and has made use of representations which imply that its said nozzles are made of one solid piece, and which are calculated to and do create such belief among the purchasing public, when in truth and in fact said nozzles are constructed of two pieces, and are so made and constructed that the seams or places of welding are not evident on casual examination. Said representations of respondent consist of the use of the expression "forged steel nozzles," without qualification, in naming, designating, and describing its said product together with the following statements:

A solid seamless wall against steam and gasket

By adopting the LENAPE Forged Steel Nozzle you are assured
that the steam will come in contact with a

ONE-PIECE SOLID WALL

and also together with diagrams of various sizes and shapes of nozzles manufactured and sold by respondent which depict the same as being of solid construction by means of crosslining running in the same direction instead of with lines running in different directions indicating that said nozzles are welded and are in two pieces. That respondent causes and has caused such representations to be made in magazines and/or catalogues which are and have been circulated in interstate commerce to purchasers and prospective purchasers of said product.

PAR. 5. That the representations of respondent as aforesaid have had and do have the tendency and capacity to confuse, mislead, and deceive members of the public into the belief that its said nozzles are seamless and that they are made of one piece. That there are among

319

Order

the purchasers and users of such products those who believe that such nozzles constructed of one solid piece are better than those constructed of two pieces and who prefer such construction. That said representations of respondent have had and do have the capacity and tendency to induce members of the public to purchase and use the product of respondent because of the erroneous beliefs engendered as above set forth, and to divert trade to respondent from competitors engaged in the sale, in interstate commerce, of products similar in kind and as to purposes of use to those of respondent.

PAR. 6. That the above acts and things done by respondent are all to the injury and prejudice of the public and of the competitors of respondent in interstate 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

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 on the 10th day of July, 1931, issued its complaint against Lenape Hydraulic Pressing & Forging Co., a corporation, respondent herein, and caused the same to be served upon said respondent as required by law, in which complaint it is charged that respondent has been and is using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of said act.

On September 1, 1931, respondent filed herein a formal written answer to said complaint. On October 14, 1931, said respondent filed herein a petition to withdraw its said answer and asking that a new answer therewith submitted be filed in lieu thereof, which said petition was granted by the Commission and said new answer was accordingly filed. By said new answer respondent elected to refrain from contesting this proceeding and consented to the issuance of an order to cease and desist as to the practices set forth in the complaint herein; and the Commission having considered said new answer and being fully advised in the premises:

It is ordered, That respondent, Lenape Hydraulic Pressing & Forging Co., a corporation, its agents, employees, or successors do cease and desist from making representations in catalogues, advertisements, or otherwise by use of words, diagrams, pictures, or otherwise, in connection with the sale or offering for sale of its steel nozzles in interstate commerce, which imply that such nozzles are seamless and

Order

15 F. T. C.

made in one piece unless such nozzles are in fact seamless and made in one piece.

It is further ordered, That said respondent in describing its said product, in the connection aforesaid, do cease and desist from using the following expressions, to wit:

A solid seamless wall against steam and gasket

By adopting the LENAPE Forged Steel Nozzle you are assured

that the steam will come in contact

with a ONE-PIECE SOLID WALL

or other similar expressions as well as diagrams of said nozzles with all cross-hatching running in the same direction, or other method of illustrating solid construction, unless its said nozzles are in fact made in one piece or unless such representations are used in connection with such general context or with such explanatory matter that the purchasing public is fully informed therefrom that said respondent's nozzles are constructed in two pieces instead of being seamless forgings made in one piece.

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 with the order to cease and desist hereinabove set forth.

Syllabus

IN THE MATTER OF

JOHN G. HOMAN, TRADING UNDER THE FIRM NAME AND
STYLE OF NEW SCIENCE INSTITUTE

COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914

Docket 1677. Complaint, May 31, 1929—Decision, Oct. 26, 1931

Where an individual engaged in the sale of appliances or devices for the treatment of hernia or rupture; in his advertisements in magazines, newspapers, leaflets, letters, etc.,

- (a) Represented that methods, trusses and appliances other than his own were old-fashioned, cruel, unclean, generally unscientific and actually productive of serious injury, and made such statements in describing his own device or devices as "No unclean bulky leg-strap", "No cruel springs", "No more huge ham-like pads", facts being that the consensus of professional, expert, and informed opinion in the medical and surgical professions, and elsewhere was that the truss constituted the correct palliative treatment for rupture, might in some cases of reducible hernia lead to permanent relief, depending upon youth of patient or other factors, and had long been prescribed by physicians and surgeons generally, and offered and sold as a part of the regular stock of ordinary drug and surgical supply stores throughout the United States, and was neither old-fashioned, barbarous, torturous, cruel, unclean, obsolete, nor unscientific;
- (b) Offered his appliances and devices as and for appliances other than trusses and featured said devices under the trade name Magic-Dot as a new discovery revolutionizing the so-called old-fashioned methods, representing that his appliances "seal" the rupture, avoid the alleged "harsh pressure" involved in other methods and devices, allow free circulation, are unique because devices "for human beings" by means of which "an Ohio scientist is helping nature to rescue thousands of ruptured victims from the eternal horrors of many dangerous, cumbersome trusses and other torturous harness-like contraptions," and constitute latest development of science for treatment of hernia, facts being his said appliances and devices were in fact trusses, Magic-Dot device was patented for use in connection therewith, and his said devices were neither development of, nor approved by science nor useful for treatment of rupture in its advanced or serious stages;
- (c) Represented that wearer or user might easily bend, cough, jump, or sleep in any position without fear of having appliance slip and that thousands of sufferers had been cured through its agency, and set forth depictions of people engaged in athletic exercises or physical movements requiring and indicating strength, agility, muscular control, normal abdominal walls and conditions, especially in localities where hernias or ruptures usually occur, together with such captions as "Ruptured 38 years ago. Is this a miracle?" and such descriptive statements as, "A sudden strain at the age of 12. Thirty-eight years of pain and discomfort. Now at 50 relief at last", and others of similar tenor, attributing the purported remarkable recovery and advance in health and prosperity to abandonment of the so-called horrible