

Complaint

IN THE MATTER OF
BULOVA WATCH COMPANYCOMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2043. Complaint, June 4, 1932—Order, July 15, 1932*

Consent order requiring respondent, its agents, etc., in connection with sale in interstate commerce of its watches, to cease and desist from representing same as (1) containing a designated number of jewels, unless actually containing stated number of jewels, each and every one of which serves "a mechanical purpose as a frictional bearing"; or (2) as "adjusted" or "adj.", unless actually adjusted by it "to heat, cold, isochronism and position", as generally understood from the term in the industry and by the purchasing public.

Mr. Richard P. Whiteley for the Commission.

Mr. Richard H. Wilmer, 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 Bulova Watch Co., a 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. That the respondent, Bulova Watch Co., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal place of business located in the City of New York, State of New York, and having factories and assembling plants located at Woodside, Long Island, N.Y., at Providence, R.I., and at Bienne, Switzerland. Respondent is now and for more than two years last past has been engaged in the business of manufacturing watches and watch parts and in the sale and distribution of watches in commerce between and among various States of the United States, and has caused said products, when sold, to be shipped from its place of business in the State of New York or from its factories in the States of New York and Rhode Island to purchasers thereof located in a State or States of the United States other than the States wherein said shipments originated. In the course and conduct of its business, respondent was at all times herein referred to in competition with other corporations, firms, individuals and partnerships likewise engaged in the sale and distribution in interstate commerce of similar products.

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PAR. 2. In the course and conduct of its business as described in paragraph 1 hereof, Bulova Watch Co., respondent herein, for more than two years last past, in soliciting the sale of and selling its watches in interstate commerce between and among various States of the United States has caused and now causes the same to be advertised in circulars, catalogs, newspapers, magazines, and other publications having general circulation between and among the various States of the United States, and has also caused and now causes its watches to be advertised by means of broadcasts from a radio station located in the State of New York with hook-ups with other radio stations located in other States of the United States, in which said advertising matter respondent has represented that the said watches contained a designated number of jewels, such as "seventeen 17 jewels" or "nineteen 19 jewels" or "twenty one 21 jewels" or any other designated number of jewels, when in truth and in fact said watches did not contain the stated number of jewels, each and every one of which jewels served a mechanical purpose as a frictional bearing; and in which said advertising matter respondent has represented that the said watches are "adjusted" or "adj.", so as to import or imply that the said watches have been adjusted to heat, cold, isochronism and position, when in truth and in fact said watches or the movements thereof were not and had not been adjusted by respondent to heat, cold, isochronism and position, as the term "adjusted" or its abbreviation "adj." is generally understood in the industry and by the purchasing public.

PAR. 3. In the course and conduct of its business as described in paragraph 1 hereof, Bulova Watch Co., respondent herein, for more than two years last past, in soliciting the sale of and selling its watches in interstate commerce between and among various States of the United States has represented and now represents, upon the barrel bridges or upon other parts of the said watches so sold and distributed by it in commerce between and among the various States of the United States that the said watches contain a designated number of jewels, such as "seventeen 17 jewels" or "nineteen 19 jewels" or "twenty one 21 jewels" or any other designated number of jewels, when in truth and in fact said watches did not contain the stated number of jewels, each and every one of which jewels served a mechanical purpose as a frictional bearing; and respondent has represented and now represents, upon the barrel bridges or upon other parts of the said watches so sold and distributed by it in commerce between and among the various States of the United States that the said watches are "adjusted" or "adj.", so as to import or imply that the said watches have been adjusted to heat, cold,

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isochronism and position, when in truth and in fact said watches or the movements thereof were not and had not been adjusted by respondent to heat, cold, isochronism and position, as the term "adjusted" or its abbreviation "adj." is generally understood in the industry and by the purchasing public.

PAR. 4. The above and foregoing representations in statements of respondent by means of which it has offered for sale and sold or is selling its watches as set forth in this complaint, have had and have the capacity and tendency to mislead and deceive and have misled and deceived the purchasing public into the belief that the said representations are true, and have tended to induce, and have induced the purchase of respondent's watches in reliance upon such erroneous belief, and have tended to divert trade from, and have diverted trade from, and otherwise injured competitors of respondent.

PAR. 5. There are, among the competitors of respondent, those who are now and have been engaged for more than two years last past in the business of manufacturing watches and in the sale and distribution of the same in commerce between and among the various States of the United States, in competition with respondent, and who have not misrepresented the number of jewels contained in said watches serving a mechanical purpose as a frictional bearing, and who have not represented the watches so made as adjusted unless said watches were in fact adjusted to heat, cold, isochronism and position as the term "adjusted" is generally understood in the industry and by the purchasing public.

PAR. 6. The use by respondent of the false, misleading, and deceptive representations, statements, and assertions as hereinabove set forth, constitute practices or methods of competition which tend to and do prejudice and injure the public, unfairly divert trade from and otherwise prejudice and injure respondent's competitors, and operate as a restraint upon and a detriment to freedom of fair and legitimate competition.

PAR. 7. The above acts and things done by said respondent as aforesaid are unlawful and constitute unfair methods of competition 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 power and duties, and for other purposes", the Federal Trade Commission on the 4th day of June, 1932, issued

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its complaint against Bulova Watch 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 July 6, 1932, respondent entered its appearance in this proceeding and filed its answer to said complaint formally, stating in writing that it desired to waive hearing on the charges set forth in the complaint and not to contest the proceeding, and consented that the Commission might make, enter and serve upon it an order to cease and desist from the violations of the law alleged in the complaint and more specifically enumerated in the following order. Respondent also requested in said answer that the Commission proceed to final disposition of this proceeding upon said answer pursuant to the provisions of paragraph 2 of rule III of the Commission's Rules of Practice and without further hearings.

The said answer of respondent was duly accepted and filed by the Commission, and thereupon this proceeding came on before the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, and the Commission being now fully advised in the premises:

It is now ordered, That respondent, Bulova Watch Co., a corporation, its agents, representatives, servants, employees, and successors in business, in connection with or in the course of the sale or distribution of watches in interstate commerce do cease and desist:

(1) From representing that the watches of respondent contain a designated number of jewels, such as "seventeen 17 jewels" or "nineteen 19 jewels" or "twenty one 21 jewels" or any other designated number of jewels, unless said watches actually contain the stated number of jewels, each and every one of which jewels serve a mechanical purpose as a frictional bearing;

(2) From representing that the said watches of respondent are "adjusted" or "adj." so as to import or imply that the said watches have been adjusted to heat, cold, isochronism and position unless said watches have actually been adjusted by respondent to heat, cold, isochronism and position as the term "adjusted" or its abbreviation "adj." is generally understood in the watchmaking industry and by the purchasing public.

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