

IN THE MATTER OF
SAM GILMAN, DOING BUSINESS UNDER THE TRADE
NAME AND STYLE OF GILMAN HAT COMPANY

COMPLAINTS, FINDINGS, AND ORDERS IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 6 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 1895. Complaint, Jan. 19, 1931—Decision, June 17, 1933

Where an individual engaged in the purchase of used and discarded men's felt hats and in the cleaning, renovation, and reequipment thereof, with new hat ribbons, sweatbands, and linings, with typical designs and words or legends thereon, under a process and treatment which gave said hats the appearance of new,

Sold the same with nothing thereon to advise the uninformed as to their made over character, through wholesale dealers and agents, whose retail dealer customers (1) included such establishments as customarily deal in new hats and/or other merchandise, (2) made no particular, if any, revealing, distinction in their display and sale of the new, as compared with the cheaper, less durable, and inferior renovated article, and (3) offered and sold the latter to the ultimate consumer, making the customary demand for a "hat", in ignorance of the comparatively new and rapidly growing business in hats renovated as above set forth, and their marketing through retail channels theretofore associated in the public mind with sale of new hats exclusively, without, ordinarily, advising him as to the true nature of the article being sold him;

With the result that wholesale and retail dealers were enabled to sell said hats as and for new, and the ultimate purchaser or consumer was deceived and misled into buying as and for a new and unused hat, one discarded and renovated, as above set forth, notwithstanding the prejudice or distaste frequently or customarily felt for such a purchase, and trade was diverted from wholesale and retail dealers in, and manufacturers of, the necessarily more costly new felt and wool hats, and from the "dry shop" hat body manufacturers or finishers, who were variously unable to meet the competition of the renovated article misleadingly sold as above set forth, and whose business was seriously injured or destroyed thereby, to their prejudice and injury, and that of the industry and purchasing public:

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

Mr. G. Ed. Rowland for the Commission.

Mr. Samuel L. Miller, of New York City, for respondent.

Mr. John Knight Holbrook, Jr., of New York City, for Hat Institute, Inc., *Amicus Curiae*.

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 Sam Gilman, doing business under the trade name and style of Gilman Hat Co., hereinafter referred to as respondent, has been and now is 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, Sam Gilman is an individual doing business under the trade name and style of Gilman Hat Co., having his office and principal place of business at 197 Greene Street, in the City of New York, State of New York, where he has been for more than one year last past engaged in the business of selling and distributing men's felt hats of the character and in the manner hereinafter mentioned to jobbers and wholesale dealers located at points in the various States of the United States and the District of Columbia. Respondent causes said hats, when so sold, to be transported from the City of New York, State of New York, through and into other States of the United States and the District of Columbia, to the said jobbers and wholesale dealers thereof at their respective points of location. In the course and conduct of its said business as aforesaid, respondent is in direct and active competition with various other persons, partnerships, firms, and corporations engaged in the manufacture, sale, and distribution of men's felt hats in interstate commerce among the various States of the United States and the District of Columbia.

PAR. 2. In the course and conduct of its aforesaid business respondent buys second-hand, old, used, and discarded men's felt hats, which hats are in some instances sold by respondent to jobbers and wholesale dealers in the same condition they were in when bought, and in other cases are renovated and sold by respondent to said jobbers and wholesale dealers. All hats which are renovated by respondent are first sent to a dry-cleaning establishment, where they are thoroughly dry-cleaned and returned to respondent. Said hats are then steamed, ironed and shaped by respondent at its place of business. The poorer grade of hats are sold by respondent to its customers without being further treated. The higher quality hats are relined and fitted with new ribbon bands, sweatbands and size labels, and then sold by respondent to jobbers and wholesale dealers, who resell them to retail dealers. Said new relinings and sweatbands are purchased by respondent from the manufacturers thereof, and bear various trade names, designs, devices, and descriptive wording.

PAR. 3. The aforesaid old, used, discarded, and second-hand hats, after being made over by respondent, and fitted with new trimmings, as described in paragraph 2 herein, have the appearance of new hats which have never been worn, and said hats are sold by respondent to jobbers and wholesale dealers without anything on or about said hats

to indicate that such hats are in fact second-hand hats which have been renovated and made over by said respondent. Said hats are resold by said jobbers and wholesale dealers to retail dealers, who resell them to the public without disclosing the fact that said hats have been previously worn, and then renovated and made over, and under such circumstances as to indicate that they are new hats.

The cost to respondent of obtaining, renovating, and making over said hats as aforesaid is much less than the cost to hat manufacturers of manufacturing new hats of similar quality, and respondent is thereby able to sell said hats to jobbers and wholesalers at substantially lower prices than manufacturers of hats can sell hats of the same or similar quality to jobbers and wholesale dealers.

PAR. 4. It is the common belief and understanding among wholesale and retail dealers, and the purchasing public, that hats having the appearance of new and unused hats, as do hats distributed by respondent, and sold by respondent and those dealing in men's hats without anything on or about said hats to indicate that such is not so, are in fact hats which are new and unused, and have never been worn or used by anyone previously; and said wholesale and retail dealers, and the purchasing public, when buying hats having the appearance of new and unused hats, and without anything on or about said hats to the contrary, are entitled to receive new and unused hats, and not second-hand, old, used, and discarded hats which have been renovated and made over. The acts and practices of respondent as hereinabove set forth, are calculated to, and do, have the capacity and tendency of inducing many wholesale and retail dealers, and many of the purchasing public, to purchase the said second-hand, old, used, and discarded hats which have been renovated and made over by respondent, in the mistaken belief that they are purchasing new and unused hats, and tends to and does unfairly divert trade to respondent from concerns engaged in the manufacture and sale of hats in interstate commerce throughout the various States of the United States and the District of Columbia.

PAR. 5. The above alleged acts and practices of respondent are each and all of them to the prejudice of the public and respondent's competitors, and constitute unfair methods of competition in interstate commerce within the intent and meaning 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."

REPORT, FINDINGS AS TO THE FACTS AND ORDER

Pursuant to the provisions of an act of Congress approved September 26, 1914 (38 Stat. 717), the Federal Trade Commission issued and

served its complaint upon the respondent above named, charging him with the use of unfair methods of competition in commerce in violation of the provisions of said act.

The respondent having entered his appearance, and having filed his answer herein, hearings were had and evidence was thereupon introduced on behalf of the Commission and respondent before an examiner of the Federal Trade Commission theretofore duly appointed.

Thereupon this proceeding came on for final hearing on the briefs and oral argument of counsel for the Commission and counsel for respondent, and brief *amicus curiae* and oral argument by counsel for The Hat Institute, Inc., the trade association for the hat industry, in support of the complaint, and the Commission having duly considered the record, and being fully advised in the premises, makes this its findings as to the facts and conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Sam Gilman, is an individual doing business under the trade name and style of Gilman Hat Co., and has his place of business at 197 Greene Street, in the City of New York, State of New York, where for about seven years last past he has been engaged in the business of manufacturing made-over men's felt hats, and of selling and distributing said hats to wholesale dealers and jobbers located in the various States of the United States and the District of Columbia. Respondent causes said hats, when sold, to be transported from his aforesaid place of business in the City of New York, State of New York, to purchasers thereof at their respective points of location, in the several States of the United States and the District of Columbia.

In the course and conduct of his business as aforesaid respondent is in direct and active competition with various other persons, partnerships, firms, and corporations engaged in the manufacture, sale, and distribution in interstate commerce among the various States of the United States and the District of Columbia, of new and made-over men's felt hats.

PAR. 2. In the course and conduct of his aforesaid business of manufacturing, selling, and distributing men's made-over felt hats, respondent employs from 50 to 75 employees in his place of business who are engaged in the various operations involved in the process of making over men's felt hats, described hereinafter. Respondent sells about 50 percent of his made-over hats direct to jobbers and wholesale dealers, and the remaining 50 percent through Van Orden and Bickner, sales agents. He does not at present send out any advertising literature to customers and prospective customers, but formerly he

did. The sales agents and the wholesale dealers and jobbers do their own advertising of the hats.

Respondent sells his made-over hats in two grades, at \$9 per dozen and \$12.50 per dozen, less 10 percent discount, with a few being sold at \$13.50 per dozen. The principal difference between the grades of the hats is in the width of the brim, those with wider brims selling at higher prices. Some of the lower priced hats may in addition have slight imperfections in the felt. In the years prior to 1930 respondent sold his made-over hats for considerably higher prices. In 1929 the volume of business done by respondent amounted to between \$125,000 and \$130,000, and in 1930 it amounted to approximately \$70,000.

PAR. 3. The principal material used in the manufacture of men's hats sold in this country is felt, which is made from the fur of animals. There are a comparatively small number of men's hats manufactured from wool, but these hats are inferior in quality to fur felt hats, and cheaper in price. The principal fur used in the manufacture of the felt is rabbit or cony fur, although beaver fur and nutria are also used to a considerable extent, beaver being almost exclusively used in the highest priced men's felt hats. The rabbit or cony fur is obtained from England, Australia, France, Poland, and other European countries. The darker colored felt hat bodies are made from British or Australian rabbit fur, while the lighter colored bodies are made from cony, or white rabbit, fur secured principally from France. Many new hat manufacturers purchase the fur from fur cutters, who clip it from the pelt, pack it and sell it to the hat manufacturer. Some of the larger manufacturers, such as the Frank H. Lee Co. of Danbury, Conn., and John B. Stetson Co., of Philadelphia, Pa., buy the pelts and clip their own fur.

The pelts are seasoned for a certain length of time, and then the fur is clipped from them by machines, cleaned, and the hair separated from the fur. In manufacturing a new man's felt hat a certain amount of fur is selected by weight. Usually several different kinds of fur are used in a hat, depending on the color, weight, or other characteristics of the finished hat. Each manufacturer has his own formulae of mixtures used in the hats manufactured by him. The fur selected is blown by a machine into a chamber in which there is a truncated perforated cone, and the fur drops on this cone and is uniformly distributed over it. In its first stage the hat is cone-shaped and about 3½ feet high. After its removal from the cone it is dipped in hot water and shrunk by various manipulations by skilled workmen while saturated with hot water, put on a smaller cone, and the same process repeated until finally the hat is the desired size for shaping into a finished hat. It is then put on a blocking form and given its first shaping. Various other shaping operations follow, and

the hat is dyed when necessary. It is then ready for the final operations of pouncing, ironing, luring, trimming, and flanging. Pouncing consists of rubbing off the rough hairs on the body of the hat, and luring is the process of smoothing the hat with a cloth, and is the final process before trimming. Trimming consists in sewing silk bands on the outside of the hat, and leather sweatbands and linings on the inside. Flanging is the process of giving permanent shape to the brim of the hat, and is usually done after the hats have been trimmed. All of the operations described above are performed by highly skilled workmen.

Many manufacturer's of men's felt hats in this country do not make the hat bodies, but buy them from manufacturers of such bodies and do the finishing in their own plants. These manufacturers are known in the trade as "dry shops".

PAR. 4. Men's made-over felt hats have been manufactured and sold in the United States for more than twenty years, but it has only been during the past six or seven years that their sale has had any substantial effect on the hat industry as a whole. Prior to that time the made-over hats were principally sold in second-hand stores, and many of them were exported to foreign countries. It was not until an improved method of cleaning the old hat bodies was perfected that it has been possible to remake and refinish the old hats so that they are an important factor in competition with new hats.

The first step in the manufacture of made-over men's felt hats is the purchase of the old, worn, used, and discarded hat bodies. There are regular dealers in such old hats located in Chelsea, Mass., New York City, and other cities. The largest dealers in men's old, worn, used, and discarded felt hats are located in Chelsea, Mass., which city seems to be the principal source of supply of such hats. These dealers in old hats buy them from many sources, including trashmen, junk dealers, peddlers, second-hand clothing collectors, and retail stores. The hats purchased from retail stores are usually hats which have been left in the stores by men who have purchased new hats. In some few instances out-of-style hats which have never been worn are purchased from retail stores, but these hats are generally sold without being made over.

The old, worn, used, and discarded men's felt hats purchased by the dealers as aforesaid are sorted by them according to color, quality, and condition, and are packed in bales and sold to made-over hat manufacturers, such as respondent. Respondent purchases his old hat bodies from dealers in New York City, paying from \$2.50 to \$3 per dozen for them.

PAR. 5. The old, worn, used, and discarded men's felt hats are received by respondent packed in bales. Respondent immediately sends them to a dry-cleaning establishment in Brooklyn, N.Y., where

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they are put through a vacuum cleaning process. The hats are turned inside out, put in a vacuum cleaning machine, and the vacuum turned on. Then 500 gallons of benzine are put in and the machine started revolving. The benzine circulates all around the hats, and in the course of about 10 minutes runs out of the machine, leaving the hats thoroughly cleaned. The hats remain in the machine for some time after the benzine has run out. The machine operates slowly because it softens the felt in the hats if it revolves rapidly, or if the hats are left in it too long. Usually the trimmings are not removed from the hats before they are put in the machine, but some manufacturers, including respondent, do remove all trimmings before sending the hats to the cleaner.

When the cleaned hats are returned respondent sorts them as to colors, the dark and light hats being separated. The brims are stiffened with shellac and the crowns are stiffened with gum tragacanth. They are then blocked by steam and put on an electric ironing machine for the shaping of the crown. The hats are then taken to the finishers for pouncing, which consists in smoothing the rough hairs of the body of the hat. Powder is then put on the hats with a wet brush and rubbed in so as to give the hats a uniform color. They are then sent to the trimmers, who sew new hat bands, sweat leathers, and linings on the hats. The hats are then flanged, which consists in shaping the hats to conform to the style which the manufacturer desires to make. The last process is that of luring in which the whole hat is smoothed with a piece of cloth. The hats are then packed in boxes for shipment to customers.

Some of the old hats bought by respondent are in too bad a condition to justify putting through the above process, in which case they are merely cleaned and sold at a cheaper price than those that are made over.

PAR. 6. Linings of various materials are used in practically all the new men's felt hats manufactured and sold in this country. The linings, leather sweatbands, and ribbons used by respondent on the made-over hats manufactured and sold by him are new, and are bought from regular dealers in such trimmings. These dealers supply both new and made-over manufacturers. All hat linings used in new and made-over men's hats have printed on them a name or design, known in the trade as "dies". These dies are imprinted on the linings by the dealer at the order of the manufacturer. New hat manufacturers usually order dies consisting of a trade name, trade mark, or name of the manufacturer, jobber, or retail dealer, together with a design of some kind. These are known in the trade as "special dies". Many dies, however, consist of general names or terms, such as "Select Quality", "Felts De Lux", and "Aristocrat", together

with a fanciful design. These are known as "stock dies", and are used by both new and made-over hat manufacturers. Dealers in linings have "stock dies" printed in quantities and keep them on hand for sale to new and made-over hat manufacturers. In some instances a dealer will buy a job lot of linings from a manufacturer which bears the name or trade mark of a manufacturer, jobber, or retail dealer, and which for some reason, the manufacturer is unable to use. Such linings will be sold to made-over hat manufacturers by the dealer without changing in any way the name of trade mark appearing on the linings.

Respondent buys his linings from dealers in New York City as he needs them, and these linings are imprinted with "stock dies". Respondent does not specify any particular names to be printed on the linings, but takes whatever the dealer has on hand. There is no uniformity of name or brand used by respondent, as respondent does not sell any hats under brand names. Respondent has used linings in his made-over hats bearing the names: "Felts De Lux—Custom Made—Mark of Quality"; "Supreme Quality—Made in U.S.A.—Distinctive Headwear—Styled in New York"; and at the time of taking testimony in this proceeding was using linings bearing the name "Supreme Styling".

Leather sweatbands are purchased by respondent from dealers in such articles, and bear no names or designs when purchased. Respondent has names and designs imprinted on the sweatbands identical with the names and designs appearing on the linings which he is using at the time.

PAR. 7. Respondent sells the made-over hats manufactured by him to jobbers and wholesale dealers through sales agents and direct. There is no word of any kind on the made-over hats manufactured and sold by respondent to indicate that the hats are made-over hats, and not new hats. The selling agents, Van Orden and Bickner, of New York City, send out circulars to wholesale dealers and jobbers, in which the hats are described as made-over hats. The wholesale dealers and jobbers who buy made-over hats direct from respondent know that the hats are made-over hats. Many buyers for wholesale dealers and jobbers come to respondent's place of business and buy the hats, and in every case respondent advises such buyers that the hats are made-over hats. Other wholesale dealers and jobbers because of their familiarity with the business know that the hats are made-over hats because of the prices at which they are sold, said prices being lower than new men's fur felt hats can be sold for.

In soliciting business from his customers, respondent sends out letters in which he offers his hats for sale. In such letters no mention is made that the hats are made-over hats. In invoicing made-

over hats to purchasers no mention is made that the hats are made over, they being listed usually by lot numbers.

PAR. 8. The made-over hats manufactured and sold by respondent have the appearance of new hats, and respondent endeavors to make the said hats look as much like new hats as possible. The hats are thoroughly cleaned, as described above, and where there is any difference in color it is made uniform by rubbing into the hat powder of the required color. New ribbons, leather sweatbands, and linings are sewed on the hats.

A number of made-over hats manufactured by respondent, together with a number of made-over hats manufactured by another made-over hat manufacturer, were introduced in evidence and marked as exhibits in this proceeding. A new hat manufactured by a new hat manufacturer was also introduced in evidence and marked as an exhibit. All these hats were then mingled and handed to a number of witnesses from different branches of the hat trade with the request that they designate which hats were new and which were made over. The witnesses asked to make this test consisted of the president of one of the largest companies manufacturing men's felt hats in the United States, a man with 46 years' experience in the hat business, and who has personally worked in all the various processes of manufacture of men's felt hats; three managers of hat stores, and one wholesale hat dealer, who has been in the business since 1892.

Not one of these witnesses was able to correctly distinguish between all of the new and made-over hats, even after thorough and careful examination. Nine hats, eight being made-over hats and one a new hat, were examined by the hat manufacturer, and five hats, four being made-overs and one new, were examined by the other witnesses. All of the witnesses identified some of the hats correctly, but none of them designated all of them properly. The new hat manufacturer designated the new hat as a made-over hat, and picked two of the made-over hats as being new hats. One of the retail hat store managers and the wholesale hat dealer picked all of the hats as being made-over hats. Another retail hat store manager designated three of the hats, including the new hat, as being new hats, and two of the hats as made-over hats. The other retail hat store manager picked four of the hats, including the new hat, as being made-over hats, and one made-over hat as being a new hat.

PAR. 9. It is the invariable custom of men when buying a hat, either in a store selling hats exclusively or in a store selling hats and other articles of merchandise, to ask for a "hat", and never ask for a "new hat". Witnesses connected with four well-known chain store organizations selling men's hats in New York City and in other cities of the United States, and the buyer of men's and women's hats for

a chain department store organization operating 1,472 stores in cities and towns in all parts of the United States, testified in this proceeding. These stores sold men's new fur felt hats at varying prices, the lowest being \$1.98, and the average being about \$3. Not one of these witnesses knew of a case where a man purchasing a hat in any of their stores had asked for a "new hat". They simply asked for a "hat".

Twelve representative men, selected at random and not advised in advance as to the nature of the proceeding or the questions to be asked them, were called as witnesses in this case. They included security and advertising salesmen, an accountant, business men, a private detective, instructors, and law clerks. They all testified that they never asked for a "new hat" when making a purchase of a hat, but always asked for a "hat", and that they expected to receive a new hat, and would feel that they had been deceived if the dealer sold them a made-over hat without advising them that the hat was made over. They testified that they had a prejudice against wearing a hat which had been previously worn by some one else and discarded, even though it had been thoroughly cleaned and fitted with new trimmings.

Not one of these men knew that there was such a business as the made-over hat business, or that men's old, worn, used, and discarded hats were made over and resold to the public in stores which handled men's hats.

PAR. 10. The Commission finds that the made-over hats manufactured, sold, and distributed by respondent so nearly simulate new men's fur felt hats in appearance that it is impossible for the ordinary purchaser at retail to distinguish between such made-over hats and new hats, even by careful examination and inspection; that the use of linings and leather sweatbands having imprinted on them marks and designs similar to those used in new hats, and bearing words such as "Select Quality", "Custom Made", "Mark of Quality", "Supreme Styling", "Distinctive Headwear", and other similar phrases is deceptive and leads purchasers to believe the hats are new hats; that the ordinary purchaser at retail does not know that men's made-over hats are being sold in this country in stores selling men's hats exclusively and in stores selling men's hats and other articles of merchandise; that the ordinary purchaser of men's hats does not know of the existence of the made-over hat industry; that there is a prejudice in the minds of the average man against wearing a hat which has previously been worn by some other person and discarded, even though that hat has been thoroughly cleaned and fitted with new trimmings; and that the made-over hats manufactured, sold, and distributed by respondent can be sold to retail purchasers as new

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hats without the purchaser knowing that they are in fact made-over hats.

PAR. 11. Wholesale dealers and jobbers know that the hats they buy from respondent are made-over hats. Such dealers handle new hats as well as made-over hats, and from their familiarity with the hat business they are able to tell from the prices at which they buy hats those which are made over and those which are new, even if the made-over hat manufacturer does not advise them that the hats are made over. In selling made-over hats to retail dealers, the jobbers, and wholesale dealers do not always advise said retail dealers that the hats are not new hats, but are made over. Wholesale dealers and jobbers sell made-over hats by advertising circulars and catalogs sent to retail dealers, and by traveling salesmen. The salesmen carry samples of made-over hats to show to retail dealers. Some of the wholesale dealers and jobbers sew tickets in the sample made-over hats bearing the word "made-over", or some other word indicating that the hats are not new, and others rely on their salesmen to advise the retail dealers that the hats are made-over hats. In many instances the salesmen do not advise the retail dealers that the hats are made-over hats.

Many wholesale dealers and jobbers of made-over hats offer such hats for sale in advertising circulars or catalogs which are distributed to retail dealers. Such hats are sometimes offered for sale in said circulars or catalogs by themselves, and sometimes together with new hats and hats which have not been worn by anybody, but which are out-of-date because of style or color. Some wholesale dealers and jobbers indicate that the hats are made-over hats in said circulars or catalogs by use of the words "renovated" or "made over", but many of them do not indicate by any word or words, or other description, that the hats being offered for sale are old, worn, used, and discarded men's felt hats which have been made over.

Many wholesale dealers and jobbers engaged in the sale of made-over hats to retail dealers do not indicate in any way on their invoices that the hats being sold are made-over hats, and some retail dealers have bought made-over hats from such wholesale dealers and jobbers without knowing that the said hats were not new hats.

PAR. 12. Made-over hats are sold generally throughout the United States, but the principal sale is probably in the Southern States. Testimony of retail dealers, including small general stores, men's furnishing stores, and a few department stores, located in a number of cities and small towns in a number of Southern States, was taken in this proceeding. Witnesses were called by both sides.

Made-over hats sold in retail stores vary in price from 95 cents to \$2.50, with the largest number being sold at \$1 and \$1.95 each. A few

years ago made-over hats sold for \$2.50 and more apiece. Some retail dealers keep the made-over hats on shelves, sometimes in boxes, with new hats. Other dealers display them on tables by themselves, with a price card stating the price at which they are to be sold. In no instance does the price card advise the purchaser that the hats are made-over hats.

Made-over hats are sold by retail dealers to purchasers in no different manner than are new hats. All of the stores sell new hats as well as made-over hats. The majority of retail dealers do not advise purchasers that the hats are made-over hats, but a few testified that they did tell the purchaser at the time the sale was made that the hat was a made-over hat. Some retail dealers do not say anything about the hats being made-over hats unless purchasers inquire as to why the hats are being sold so cheap, in which event they tell them that they are made-over hats. In an effort to sell higher priced hats, a few retail dealers advise purchasers that the hats are made-over hats and will not give as good service as will new hats.

The Commission finds that a large majority of retail dealers engaged in the sale of made-over hats to the public sell such hats without in any manner advising purchasers that the hats are made-over hats, and that such a method of sale has the capacity and tendency to mislead and deceive the purchasers of such hats into the belief that they are in fact new hats being sold at bargain prices. This results in a stimulation of the market for made-over hats and the curtailing of the market for new hats.

PAR. 13. Old, worn, used, and discarded men's fur felt hats which have been cleaned and fitted with new trimmings by respondent, as described in paragraph 5 hereinabove, are inferior in wearing qualities to new men's fur felt hats. The process of cleaning the old hats loosens the fibers of the felt and allows atmospheric conditions to affect the bodies to a greater extent than they do new felt bodies, the fibers of which are tightly integrated. Many of the old hats have been in contact with wood ashes or other mineral matter after they have been discarded. Any mineral matter will affect any animal matter, of which felt hats are made, and will affect the textile strength of the fur fibers. When the hats are then put through the cleaning process to remove the grease and foreign matter the fibers are loosened and opened up. Gum tragacanth and shellac are used to stiffen the brims and crowns of made-over hats, but upon exposure to atmospheric conditions the stiffening effects are soon lost and the hats lose their shape due to the action of the elements. The felt bodies in made-over hats deteriorate rapidly and the made-over hats will not give as good service as will new hats.

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In many cases it is impossible to completely remove stains and dirt spots from the old hats in the cleaning process, and the powder which is rubbed into the hats to cover such spots and other discolorations wears off. In such cases the old spots and stains reappear after the hat has been worn for a time.

Due to the careful treatment given the old hats by respondent during the process of making them over the defects set forth above are not visible by a careful examination, and will not show up until some time after the made-over hat has been worn. It is, therefore, impossible for the purchasing public to protect itself from buying inferior made-over hats unless there is some mark or other indication on the hats advising purchasers that the hats are in fact made-over hats, or unless the retail dealer tells the purchaser that the hat is a made-over hat, which is seldom done.

PAR. 14. The cost of manufacture of made-over men's fur felt hats is considerably less than the cost of manufacture of the lowest priced men's new fur felt hats. The hat body is the principal item of expense in the manufacture of a man's felt hat. Felt hat bodies sold by manufacturers to "dry shops" for finishing and resale to wholesalers and retailers cost from \$8 per dozen up, depending upon the quality. One manufacturer, in order to meet the competition of made-over hats, had put on the market at the time of the taking of testimony in this proceeding a hat body which he could sell to the "dry shop" for \$6.50 per dozen. This is probably the lowest priced fur felt hat body obtainable. As against this price of new hat bodies, respondent pays from \$2.50 to \$3 per dozen for the old, worn, used, and discarded hats which he buys for use in manufacturing made-over hats.

Five made-over hat manufacturers, including respondent, employ union labor in their factories, but the great majority do not. This respondent pays the following wages in its factory for making over hats:

Finishing bodies:	<i>Per dozen</i>
Cheap hats.....	\$1. 75
Better hats.....	2. 20
Average hats.....	2. 00
Specials (negligible in quantity).....	2. 65
Trimming (flat rate).....	. 95
Sewing on leathers (flat rate).....	. 20
Flanging (flat rate).....	. 45
Steaming (flat rate).....	. 25
Slicking and packing (flat rate).....	. 35
Dry cleaning.....	. 22

It therefore costs respondent \$4.17 per dozen for labor costs in making his cheapest quality made-over hat; \$4.62 per dozen for his better grade; and \$4.42 per dozen for the average made-over hat

which he makes. Respondent pays \$3 per dozen for the best grade of old hat bodies which he buys, \$2.75 per dozen for the average, and \$2.50 per dozen for the cheapest grade, which makes his highest total labor and body costs for manufacturing finished made-over hats \$7.62 per dozen for the best grade, \$7.17 per dozen for the average, and \$6.67 per dozen for the cheapest grade.

The union scale of wages paid in New York for finishing new men's fur felt hats is as follows:

	<i>Per dozen</i>
Finishing body.....	\$2. 80
Trimming.....	1. 32
Flanging.....	. 55

No figures for steaming and slicking and packing were available, but adding the wages paid by respondent for these processes, which are no higher, if as high, as paid by new hat manufacturers, the total labor costs for manufacturing men's new fur felt hats are \$5.27 per dozen as a minimum. Adding to this figure \$6.50 per dozen for the bodies, which is the price at which one manufacturer was selling bodies to "dry shop" manufacturers, makes a total for body and labor costs of new men's fur felt hats a minimum of \$11.77 per dozen. The price for bodies charged by most manufacturers is from \$8 per dozen up, which would make the general body and labor costs for new hats \$13.27 per dozen and up. Ribbons, linings, and leather sweatbands do not cost made-over manufacturers any more than they do new hat manufacturers.

Finished men's fur felt made-over hats can be made by respondent at a cost of at least \$4.15 to \$5.10 per dozen less than "dry shop" manufacturers in New York City, paying union wages, can make the cheapest new fur felt hats. Whenever new hat manufacturers have reduced the prices of new hats in order to meet the competition of made-over hats, the manufacturers of made-over hats have correspondingly reduced the prices of made-over hats. Because of the higher manufacturing costs of new hats, it is impossible for new fur felt hats to compete in price with made-over fur felt hats, and new hat manufacturers are placed at a great disadvantage in meeting the competition of respondent and other made-over hat manufacturers.

PAR. 15. The manufacture and sale of men's made-over fur felt hats has greatly increased in volume in the past four or five years. Because such hats are sold to the public in retail stores devoted to the sale of new merchandise, without any mark or words on them to indicate that they are made-over hats, and at much lower prices than are charged for new hats, manufacturers of men's new fur felt hats have lost many of their customers owing to their inability to manufacture and sell new hats at a price to compete with made-over hats.

In some instances, they have had to close their branch factories. Manufacturers of new hats have had to continually decrease prices for their hats, until some of them are selling at cost. Sales of new fur felt hat bodies have decreased, even though prices have been reduced. "Dry shop" manufacturers have reduced their purchases of hat bodies for finishing, due to the competition of made-over hats, some of them have been forced out of business, and others have bought made-over hats for sale to retailers who demand a hat which can be sold to the public at a low price.

Jobbers and wholesale dealers have lost customers because of the sale of made-over hats. Many jobbers and wholesale dealers do not sell made-over hats because they believe that the low price at which these hats sell is detrimental to the hat industry. Many retail dealers demand low-priced hats and because these jobbers and wholesale dealers do not sell them, many of their retail customers buy their supply of made-over and new hats from other dealers who handle such hats. Other jobbers and wholesale dealers have been forced to handle made-over hats against their wishes because of the demand for cheap hats. The sale of new hats by jobbers and wholesale dealers has steadily decreased during the past few years, due to the increased purchase of made-over hats by retail dealers. Jobbers and wholesale dealers who sell new hats cannot compete with made-over hats because of the low prices at which the latter are sold. The competition of the made-over hat not only affects the sale of men's new fur felt hats, but has also resulted in a decrease in sales of wool felt hats, which is a hat made of wool, which is sold at considerably lower prices than for felt hats.

Retail stores handling men's new fur felt hats are losing business because of the competition of made-over hats. These stores are placed at a disadvantage over stores selling made-over hats because the latter stores not only sell the made-over hats at a lower price than new hats can be sold for, but do not inform the purchasers that the hats are made-over hats, and there is nothing on the hats to indicate that fact. The sale of made-over hats by some retail stores forces other retail stores not handling such class of merchandise into price competition with stores selling low-priced and cheap merchandise.

PAR. 16. Respondent sells made-over hats to jobbers and wholesale dealers for resale to retail dealers and the purchasing public without any mark, word, or other indication on or about said hats that they are old, worn, used, and discarded men's fur felt hats which have been cleaned and fitted with new ribbons, linings, and leather sweatbands. Respondent advises jobbers and wholesale dealers to whom he sells that such hats are made-over hats. Many of the jobbers and wholesale dealers in reselling said hats to retail dealers do not advise them

that the hats are made-over hats, and some retail dealers have bought made-over hats without knowing that said hats are made-over hats. The great majority of retail dealers in selling made-over hats to the public do not advise purchasers that the hats are not new hats but are in fact old hats which have been made over.

By the manufacture and sale of made-over hats which have the appearance of new hats, and which do not have on or about them any mark, word or words or other indication showing that said hats are not new hats but are in fact old, worn, used, and discarded hats which have been cleaned and fitted with new ribbons, linings, and leather sweatbands, respondent enables jobbers and wholesale dealers to sell said hats to retail dealers, and retail dealers to sell said hats to the purchasing public, as new hats.

The sale of said made-over hats, in the manner described in the within findings, is injurious to the public and competitors of respondent engaged in the manufacture and sale in interstate commerce of men's new fur felt and new wool felt hats. Such sale has the capacity and tendency to, and does in fact, injure the purchasing public because it misleads, deceives, and induces the public to buy such hats in the belief that they are new hats, and that they will give as satisfactory service in wearing qualities as will new hats. Many men would not buy said hats if they knew they were made-over hats because they would not wear a hat which had been previously worn by someone else, even though it had been thoroughly cleaned.

The sale of made-over hats by respondent has the capacity and tendency to, and does in fact, injure competitors of respondent engaged in the business of manufacturing and selling men's new fur felt and wool felt hats because (1) it diverts to respondent from his said competitors the sale of men's new fur felt and new wool felt hats; and (2) it prejudices the purchasing public against the new hat industry because of the deception and deceit in the sale of made-over hats to the public; and because made-over hats are sold at such low prices that competitors of respondent making men's new hats cannot meet such prices, owing to the higher manufacturing costs required to make new hats, and because said made-over hats are inferior in wearing qualities to new hats.

CONCLUSION

The practices of respondent Sam Gilman, doing business under the trade name and style of Gilman Hat Company, under the conditions and circumstances described in the foregoing findings, are to the prejudice of the public and respondent's competitors, and are unfair methods of competition in commerce, and constitute a violation of

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the 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 complaint of the Commission, the answer of the respondent, and the testimony taken and briefs filed herein, and oral argument of counsel, and the Commission having made its findings as to the facts, with its conclusion 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 Sam Gilman, doing business under the trade name and style of Gilman Hat Company, his agents, representatives, and employees, in connection with the sale or offering for sale of men's hats in commerce among the several States of the United States, and in the District of Columbia, cease and desist from:

Selling or offering for sale men's old, worn, used, and discarded fur felt hats which have been cleaned and fitted with new ribbons, sweatbands, and linings, unless and until there is stamped upon, affixed or attached to said hats in a conspicuous place so as to be easily and readily seen, word or words clearly indicating that said hats are not new hats but are used and worn hats which have been cleaned and made over (e.g., "second hand", "used", or "made over").

It is further ordered, That respondent shall within 60 days from the date of the service upon him of the order herein, file with the Commission a report in writing setting forth in detail the manner and form in which this order has been complied with and conformed to.

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The Commission as of the same date promulgated similar findings and orders in eight other cases, one of which, however (Grand Hat Co., Docket 1901), involved as an additional feature simulation of the trade name or brand of a well known hat manufacturer.

Appearances were: *Mr. G. Ed. Rowland* for the Commission; *Mr. Samuel L. Miller*, of New York City, for respondents, along with whom *Mr. Alan G. Trebach*, of New York City, appeared for Prime Hat Co. and *Mr. Max Aronson*, of New York City, appeared for Herman Hat Co.; and *Mr. John Knight Holbrook, Jr.*, of New York City for Hat Institute, Inc., *Amicus Curiae*.

Excerpts from the foregoing findings, with the exception of the Grand Hat case, *supra*, which is published in full (see *infra*, page 399)

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follow; paragraphs and parts of paragraphs which follow substantially verbatim those in the principal case being omitted where their inclusion does not appear to be required to give an adequate idea of the different findings and orders.

GLOBE HAT WORKS

G. POLINER, an individual, doing business under the trade name and style of Globe Hat Works. (Docket 1896.)

PARAGRAPH 1. Respondent, G. Poliner, is an individual doing business under the trade name and style of Globe Hat Works, and has his place of business at 297 Cherry Street, in the City of New York, State of New York, where for about two years last past he has been engaged in the business of manufacturing made-over men's felt hats, and of selling and distributing said hats to wholesale dealers and jobbers located in the various States of the United States and the District of Columbia. Respondent causes said hats, when sold, to be transported from his aforesaid place of business in the City of New York, State of New York, to the purchasers thereof at their respective points of location, in the several States of the United States and the District of Columbia.

In the course and conduct of his business as aforesaid respondent is in direct and active competition with various other persons, partnerships, firms, and corporations engaged in the manufacture, sale, and distribution in interstate commerce among the various States of the United States and the District of Columbia, of new and made-over men's felt hats.

PAR. 2. In the course and conduct of his aforesaid business of manufacturing, selling, and distributing men's made-over felt hats, respondent employs from 10 to 12 employees in his place of business, who are engaged in the various operations involved in the process of making over men's felt hats, described hereinafter. Respondent sells his hats to wholesale dealers and jobbers, most of whom come to his place of business. He does not send out any advertising literature to customers and prospective customers. The wholesale dealers and jobbers to whom he sells do their own advertising of the hats.

Respondent sells his made-over hats in two grades, at \$6 per dozen and \$9 per dozen, with a few being sold at \$12 per dozen. The principal difference between the grades of the hats is in the width of the brim, those with wider brims selling at higher prices. Some of the lower-priced hats may in addition have slight imperfections in the felt. In 1929 and 1930 the volume of business done by respondent amounted to between \$30,000 and \$35,000, but since then it has decreased because of the lower prices of made-over hats.

PAR. 4. * * * Respondent purchases his old hat bodies from dealers in New York City and Chicago, Ill., and from peddlers who bring the old hats to him, paying from \$1 to \$2.50 per dozen for them.

PAR. 6. Linings of various materials are used in practically all the men's new felt hats manufactured and sold in this country. The linings, leather sweatbands, and ribbons used by respondent on the made-over hats manufactured and sold by him are new, and are bought from regular dealers in such trimmings. These dealers supply both new and made-over manufacturers. All hat linings used in new and made-over men's hats have printed on them a name or design, known in the trade as "dies." These dies are imprinted on the linings by the dealer at the order of the manufacturer. New hat manufacturers usually order dies consisting of a trade name, trade mark, or name of the manufacturer, jobber, or retail dealer, together with a design of some kind. These are known in the trade as "special dies." Many dies, however, consist of general names or terms, such as "Select Quality", "Felts De Lux" and "Aristocrat", together with a fanciful design. These are known as "stock dies", and are used by both new and made-over hat manufacturers. Dealers in linings have "stock dies" printed in quantities and keep them on hand for sale to new and made-over hat manufacturers. In some instances a dealer will buy a job lot of linings from a manufacturer which bears the name or trade mark of a manufacturer, jobber, or retail dealer, and which for some reason, the manufacturer is unable to use. Such linings will be sold to made-over hat manufacturers by the dealer without changing in any way the name or trade mark appearing on the linings. Respondent has used such linings and sweatbands in his made-over hats, bearing the names of "Lion Hats—Langenberg Hat Co., St. Louis, Mo.—Syndicate, Pryor & Kuchar, Ennis, Tex." "Long's Mellowfelt—Long, The Custom Hatter," and "The Harold—Hats of Distinction." Langenberg Hat Co., is a jobber of hats and Pryor & Kuchar is a retailer. "Mellowfelt" is the trade name of a brand of hats sold by Long's Hat Stores, a chain of retail stores selling men's hats. "The Harold" is a trade name used by a retailer.

Respondent buys his linings from dealers in New York City as he needs them, and most of these linings are imprinted with "stock dies". Respondent does not specify any particular names to be printed on the linings, but takes whatever the dealer has on hand. There is no uniformity of name or brand used by respondent, as respondent does not sell any hats under brand names. Respondent at the time of taking testimony in this proceeding was using linings bearing the name "Quality Supreme—Finest American Make".

Leather sweatbands are purchased by respondent from dealers in such articles, and bear no names or designs when purchased. Respondent has names and designs imprinted on the sweatbands identical with the names and designs appearing on the linings which he is using at the time.

PAR. 7. Respondent sells the made-over hats manufactured by him to jobbers and wholesale dealers. There is no word of any kind on the made-over hats manufactured and sold by respondent to indicate that the hats are made-over hats, and not new hats. Some of the jobbers and wholesale dealers send out circulars in which no mention is made that the hats are made-over hats. The wholesale dealers and jobbers who buy made-over hats from respondent know that the hats are made-over hats. They come to respondent's place of business and buy the hats, and because of their familiarity with the business they know that the hats are made-over hats because of the prices at which they are sold, said prices being lower than men's new fur felt hats can be sold for.

In invoicing made-over hats to purchasers no mention is made that the hats are made over, they being listed usually by lot numbers.

PAR. 8. The made-over hats manufactured and sold by respondent have the appearance of new hats, and respondent endeavors to make the said hats look as much like new hats as possible. The hats are thoroughly cleaned, as described above, and where there is any difference in color it is made uniform by rubbing into the hat powder of the required color. New ribbons, leather sweatbands and linings are sewed on the hats. * * *

PAR. 10. The Commission finds that the made-over hats manufactured, sold, and distributed by respondent so nearly simulate men's new fur felt hats in appearance that it is impossible for the ordinary purchaser at retail to distinguish between such made-over hats and new hats, even by careful examination and inspection; that the use of linings and leather sweatbands having imprinted on them marks and designs similar to those used in new hats, and bearing words such as "Quality Supreme—Finest American Make", and other similar phrases is deceptive and leads purchasers to believe the hats are new hats; that the ordinary purchaser at retail does not know that men's made-over hats are being sold in this country in stores selling men's hats exclusively and in stores selling men's hats and other articles of merchandise; that the ordinary purchaser of men's hats does not know of the existence of the made-over hat industry; that there is a prejudice in the minds of the average man against wearing a hat which has previously been worn by some other person and discarded, even though that hat has been thoroughly cleaned and fitted with new trimmings; and that the made-over hats manufactured, sold, and

distributed by respondent can be sold to retail purchasers as new hats without the purchaser knowing that they are in fact made-over hats.

PAR. 14. The cost of manufacture of made-over men's fur felt hats is considerably less than the cost of manufacture of the lowest-priced men's new fur felt hats. The hat body is the principal item of expense in the manufacture of a man's felt hat. Felt hat bodies sold by manufacturers to "dry shops" for finishing and resale to wholesalers and retailers cost from \$8 per dozen up, depending upon the quality. One manufacturer, in order to meet the competition of made-over hats, had put on the market at the time of the taking of testimony in this proceeding a hat body which he could sell to the "dry shop" for \$6.50 per dozen. This is probably the lowest-priced fur felt hat body obtainable. As against this price of new hat bodies, respondent pays from \$1 to \$2.50 per dozen for the old, worn, used, and discarded hats which he buys for use in manufacturing made-over hats.

Five made-over hat manufacturers employ union labor in their factories, but the great majority do not. The made-over hat manufacturers employing union labor pay the following wages in their factories for making over hats:

Finishing bodies:	<i>Per dozen</i>
Cheap hats.....	\$1. 75
Better hats.....	2. 20
Average hats.....	2. 00
Specials (negligible in quantity).....	2. 65
Trimming (flat rate).....	. 95
Sewing on leathers (flat rate).....	. 20
Flanging (flat rate).....	. 45
Steaming (flat rate).....	. 25
Slicking and packing (flat rate).....	. 35
Dry cleaning.....	. 22

Applying these figures, it therefore costs respondent at least \$4.17 per dozen for labor costs in making his cheapest quality made-over hat; \$4.62 per dozen for his better grade; and \$4.42 per dozen for the average made-over hat which he makes. Respondent pays \$2.50 per dozen for the best grade of old hat bodies which he buys, and \$1 per dozen for the cheapest grade, which makes his highest labor and body costs for manufacturing finished made-over hats \$7.12 per dozen for the best grade, and \$5.17 per dozen for the cheapest grade. No cost figures for made-over hat manufacturers not employing union labor were introduced in evidence. It is probable, however, that made-over hat manufacturers not employing union labor in their factories do not pay as high wages as those that do, which would make their labor costs lower than those given above.

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The union scale of wages paid in New York for finishing men's new fur felt hats is as follows:

	<i>Per dozen</i>
Finishing body-----	\$2. 80
Trimming-----	1. 32
Flanging-----	. 55

No figures for steaming and slicking and packing were available, but adding the wages paid for these processes by made-over hat manufacturers employing union labor, which are no higher, if as high, as paid by new hat manufacturers, the total labor costs for manufacturing men's new fur felt hats are \$5.27 per dozen as a minimum. Adding to this figure \$6.50 per dozen for the bodies, which is the price at which one manufacturer was selling bodies to "dry shop" manufacturers, makes a total for body and labor costs of men's new fur felt hats a minimum of \$11.77 per dozen. The price for bodies charged by most manufacturers is from \$8 per dozen up, which would make the general body and labor costs for new hats \$13.27 per dozen and up. Ribbons, linings, and leather sweatbands do not cost made-over manufacturers any more than they do new hat manufacturers.

Finished men's fur felt made-over hats can be made by respondent at a cost of at least \$4.65 to \$6.60 per dozen less than "dry shop" manufacturers in New York City, paying union wages, can make the cheapest new fur felt hats. Whenever new hat manufacturers have reduced the prices of new hats in order to meet the competition of made-over hats, the manufacturers of made-over hats have correspondingly reduced the prices of made-over hats. Because of the higher manufacturing costs of new hats, it is impossible for new fur felt hats to compete in price with made-over fur felt hats, and new hat manufacturers are placed at a great disadvantage in meeting the competition of respondent and other made-over hat manufacturers.

MAF HAT WORKS, INC.

MAF HAT WORKS, INC. (Docket 1897.)

PARAGRAPH 1. Respondent, Maf Hat Works, is a corporation organized and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business at 225 Greene Street, in the City of New York, State of New York, where for about six years last past it has been engaged in the business of manufacturing made-over men's felt hats, and of selling and distributing said hats to wholesale dealers, jobbers, and a few retail dealers, located in the various States of the United States and the District of Columbia. It was incorporated in November, 1925, with an authorized capital stock of \$50,000, of which \$20,000 has been issued. Its officers are Alex

Milder, president, and Nathan Courtmen, secretary and treasurer. Respondent causes said hats, when sold, to be transported from its aforesaid place of business in the City of New York, State of New York, to the purchasers thereof at their respective points of location in the several States of the United States and the District of Columbia.

In the course and conduct of its business as aforesaid respondent is in direct and active competition with various other persons, partnerships, firms, and corporations engaged in the manufacture, sale, and distribution in interstate commerce among the various States of the United States and the District of Columbia, of new and made-over men's felt hats.

PAR. 2. In the course and conduct of its aforesaid business of manufacturing, selling, and distributing men's made-over felt hats, respondent employs workmen who are engaged in the various operations involved in the process of making over men's felt hats; described hereinafter. Respondent sells its made-over hats from its place of business and through a salesman who travels throughout the country. It does not send out any advertising literature. The wholesale dealers and jobbers to whom it sells do their own advertising of the hats.

Respondent sells its made-over hats in two grades, at \$8 per dozen and \$13.50 per dozen, less a discount, with a few being sold at \$15.50 per dozen. The principal difference between the grades of the hats is in the quality of trimmings used, cheaper trimmings being used in the lower-priced grade. Some of the lower-priced hats may in addition have slight imperfections in the felt. Respondent does a business of about \$100,000 annually.

PAR. 4. * * * Respondent purchases its old hat bodies from dealers in New York City and from peddlers who bring the hats to it, paying an average of \$2 per dozen for them.

PAR. 6. Linings of various materials are used in practically all the men's new felt hats manufactured and sold in this country. The linings, leather sweatbands, and ribbons used by respondent on the made-over hats manufactured and sold by it are new and are bought from regular dealers in such trimmings. These dealers supply both new and made-over manufacturers. All hat linings used in new and made-over men's hats have printed on them a name or design, known in the trade as "dies". These dies are imprinted on the linings by the dealer at the order of the manufacturer. New-hat manufacturers usually order dies consisting of a trade name, trade mark, or name of the manufacturer, jobber or retail dealer, together with a design of some kind. These are known in the trade as "special dies". Many dies, however, consist of general names or terms, such as "Select Quality", "Felts De Lux", and "Aristocrat", together with a fanciful design. These are known as "stock dies", and are used by both new and made.

over hat manufacturers. Dealers in linings have "stock dies" printed in quantities and keep them on hand for sale to new and made-over hat manufacturers. In some instances a dealer will buy a job lot of linings from a manufacturer which bears the name or trade mark of a manufacturer, jobber, or retail dealer, and which for some reason, the manufacturer is unable to use. Such linings will be sold to made-over hat manufacturers by the dealer without changing in any way the name or trade mark appearing on the linings.

Respondent buys its linings from dealers in New York City as it needs them, and most of these linings are imprinted with "stock dies". Respondent does not ordinarily specify any particular names to be printed on the linings, but takes whatever the dealer has on hand. In a few cases jobbers request respondent to put their names in the made-over hats sold them by respondent in which case respondent orders linings and sweatbands imprinted with the names desired and puts them in the hats sold to those particular jobbers. There is no uniformity of name or brand used by respondent, as respondent does not sell any hats under brand names. Respondent has used linings in its made-over hats bearing the names: "Select Quality Fur Felt—Recognized Standard of Excellence." "Paramount Hats"; "Ambassador Made From Selected Furs—Hats of Character"; and at the time of taking testimony in this proceeding was using linings bearing the names "Select Quality", "Superior Quality", etc.

Leather sweatbands are purchased by respondent from dealers in such articles, and bear no names or designs when purchased. Respondent has names and designs imprinted on the sweatbands identical with the names and designs appearing on the linings which it is using at the time.

PAR. 7. Respondent sells the made-over hats manufactured by it to jobbers and wholesale dealers, and a few retail dealers, through a traveling salesman and direct. There is no word of any kind on the made-over hats manufactured and sold by respondent to indicate that the hats are made-over hats, and not new hats. The wholesale dealers and jobbers who buy made-over hats direct from respondent know that the hats are made-over hats, and the traveling salesman is instructed to inform purchasers that the hats are made-over hats. Many buyers for wholesale dealers and jobbers come to respondent's place of business and buy the hats, and in every case respondent advises such buyers that the hats are made-over hats. Other wholesale dealers and jobbers because of their familiarity with the business know that the hats are made-over hats because of the prices at which they are sold, said prices being lower than men's new fur felt hats can be sold for.

In invoicing made-over hats to purchasers no mention is made by respondent that the hats are made over, they being listed usually by lot numbers.

PAR. 8. The made-over hats manufactured and sold by respondent have the appearance of new hats, and respondent endeavors to make the said hats look as much like new hats as possible. The hats are thoroughly cleaned, as described above, and where there is any difference in color it is made uniform by rubbing into the hat powder of the required color. New ribbons, leather sweatbands, and linings are sewed on the hats. * * *

PAR. 10. The Commission finds that the made-over hats manufactured, sold, and distributed by respondent so nearly simulate new men's fur felt hats in appearance that it is impossible for the ordinary purchaser at retail to distinguish between such made-over hats and new hats, even by careful examination and inspection; that the use of linings and leather sweatbands having imprinted on them marks and designs similar to those used in new hats, and bearing words such as "Select Quality", "Recognized Standard of Excellence", "Superior Quality", "Made From Selected Furs"; and other similar phrases is deceptive and leads purchasers to believe the hats are new hats; that the ordinary purchaser at retail does not know that men's made-over hats are being sold in this country in stores selling men's hats exclusively and in stores selling men's hats and other articles of merchandise; that the ordinary purchaser of men's hats does not know of the existence of the made-over hat industry; that there is a prejudice in the minds of the average man against wearing a hat which has previously been worn by some other person and discarded, even though that hat has been thoroughly cleaned and fitted with new trimmings; and that the made-over hats manufactured, sold, and distributed by respondent can be sold to retail purchasers as new hats without the purchaser knowing that they are in fact made-over hats.

PAR. 14. The cost of manufacture of made-over men's fur felt hats is considerably less than the cost of manufacture of the lowest priced men's new fur felt hats. The hat body is the principal item of expense in the manufacture of a man's felt hat. Felt hat bodies sold by manufacturers to "dry shops" for finishing and resale to wholesalers and retailers cost from \$8 per dozen up, depending upon the quality. One manufacturer, in order to meet the competition of made-over hats, had put on the market at the time of the taking of testimony in this proceeding, a hat body which he could sell to the "dry shop" for \$6.50 per dozen, and this is the lowest priced fur felt hat body obtainable. As against this price of new hat bodies, respondent pays an average price of \$2 per dozen for the old, worn, and discarded hats which it buys for use in manufacturing made-over hats.

Five made-over hat manufacturers employ union labor in their factories, but the great majority do not. The made-over hat manufacturers employing union labor pay the following wages in their factories for making over hats:

Finishing bodies:	<i>Per dozen</i>
Cheap hats.....	\$1. 75
Better hats.....	2. 20
Average hats.....	2. 00
Specials (negligible in quantity).....	2. 65
Trimmings (flat rate).....	. 95
Sewing on leathers (flat rate).....	. 20
Flanging (flat rate).....	. 45
Steaming (flat rate).....	. 25
Slicking and packing (flat rate).....	. 35
Dry cleaning.....	. 22

Applying these figures, it therefore costs respondent at least \$4.17 per dozen for labor costs in making its cheapest quality made-over hat; \$4.62 per dozen for its better grade; and \$4.42 per dozen for the average made-over hat which it makes. Respondent pays \$2 per dozen for the old hat bodies which it buys, which makes its highest total labor and body costs for manufacturing finished made-over hats \$6.62 per dozen for the best grade. No cost figures for made-over hat manufacturers not employing union labor were introduced in evidence. It is probable, however, that made-over hat manufacturers not employing union labor in their factories do not pay as high wages as those that do, which would make their labor costs lower than those given above.

The union scale of wages paid in New York for finishing men's new fur felt hats is as follows:

	<i>Per dozen</i>
Finishing body.....	\$2. 80
Trimming.....	1. 32
Flanging.....	. 55

No figures for steaming and slicking and packing were available, but adding the wages paid for these processes by made-over hat manufacturers employing union labor, which are no higher, if as high, as paid by new hat manufacturers, the total labor costs for manufacturing men's new fur felt hats are \$5.27 per dozen as a minimum. Adding to this figure \$6.50 per dozen for the bodies, which is the price at which one manufacturer was selling bodies to "dry shop" manufacturers, makes a total for body and labor costs of new men's fur felt hats a minimum of \$11.77 per dozen. The price for bodies charged by most manufacturers is from \$8 per dozen up, which would make the general body and labor costs for new hats \$13.27 per dozen and up. Ribbons, linings, and leather sweatbands do not cost made-over manufacturers any more than they do new hat manufacturers.

Finished men's fur felt made-over hats can be made by respondent at a cost of at least \$5.15 per dozen less than "dry shop" manufacturers in New York City, paying union wages, can make the cheapest new fur felt hats. Whenever new hat manufacturers have reduced the prices of new hats in order to meet the competition of made-over hats, the manufacturers of made-over hats have correspondingly reduced the prices of made-over hats. Because of the higher manufacturing costs of new hats, it is impossible for new fur felt hats to compete in price with made-over fur felt hats, and new hat manufacturers are placed at a great disadvantage in meeting the competition of respondent and other made-over hat manufacturers.

MANHATTAN HAT CO., INC.

MANHATTAN HAT CO., INC. (Docket 1898.)

PARAGRAPH 1. Respondent, Manhattan Hat Co., Inc., is a corporation organized and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business at 120 Wooster Street, in the City of New York, State of New York, where for more than one year last past it has been engaged in the business of manufacturing made-over men's felt hats, and of selling and distributing said hats to wholesale dealers and jobbers located in the various States of the United States and the District of Columbia. It has an authorized capital stock of \$35,000, and its officers are Harry Samnick, president; Jacob Samnick, secretary; and Louis Reinken, treasurer. Respondent causes said hats, when sold, to be transported from its aforesaid place of business in the City of New York, State of New York, to the purchasers thereof at their respective points of location in the several States of the United States and the District of Columbia.

In the course and conduct of its business as aforesaid respondent is in direct and active competition with various other persons, partnerships, firms, and corporations engaged in the manufacture, sale, and distribution in interstate commerce among the various States of the United States and the District of Columbia, of new and made-over men's felt hats.

PAR. 2. In the course and conduct of its aforesaid business of manufacturing, selling, and distributing men's made-over felt hats, respondent employs workmen who are engaged in the various operations involved in the process of making over men's felt hats, described hereinafter. Respondent sells its made-over hats direct to wholesale dealers and jobbers throughout the United States. It does not send out any advertising literature. The wholesale dealers and jobbers to whom it sells do their own advertising of the hats.

Respondent sells its made-over hats in two grades, at \$9 per dozen and \$12 per dozen. The principal difference between the grades of the hats is in the brim, those with taped edges selling at the lower price. Some of the lower priced hats may in addition have slight imperfections in the felt. In the years prior to 1930 respondent sold its made-over hats for considerably higher prices. In 1929 the volume of business done by respondent amounted to about \$175,000 and in 1930 it amounted to approximately \$90,000.

PAR. 4. * * * Respondent purchases its old hat bodies principally from the Chelsea Old Hat Co., Chelsea, Mass., and a few from small dealers in New York City, paying \$1.25 and \$2.25 per dozen for them.

PAR. 6. * * * Respondent buys its linings from dealers in New York City as it needs them, and these linings are imprinted with "stock dies". Respondent does not specify any particular names to be printed on the linings, but takes whatever the dealer has on hand. There is no uniformity of names or brand used by respondent, as respondent does not sell any hats under brand names. Respondent has used linings in its made-over hats bearing the names: "Premier Quality", "Supreme Quality—Best Make", "Quality Supreme—Finest American Make—Distinctive Styles", "The Aristocrat—Distinctive Headwear", and at the time of taking testimony in this proceeding was using linings bearing the names "Quality Supreme—Distinctive Styles" and "Premier Quality".

Leather sweatbands are purchased by respondent from dealers in such articles, and bear no names or designs when purchased. Respondent has names and designs imprinted on the sweatbands identical with the names and designs appearing on the linings which it is using at the time.

PAR. 7. Respondent sells the made-over hats manufactured by it to jobbers and wholesale dealers direct. There is no word of any kind on the made-over hats manufactured and sold by respondent to indicate that the hats are made-over hats, and not new hats. Some of the jobbers and wholesale dealers to whom respondent sells send out circulars in which no mention is made that the hats are made-over hats. The wholesale dealers and jobbers who buy made-over hats from respondent know that the hats are made-over hats. Many buyers for wholesale dealers and jobbers come to respondent's place of business and buy the hats, and in every case respondent advises such buyers that the hats are made-over hats. Other wholesale dealers and jobbers, because of their familiarity with the business, know that the hats are made-over hats because of the prices at which they are sold, said prices being lower than men's new felt hats can be sold for.

In invoicing made-over hats to purchasers no mention is made by respondent that the hats are made over, they being listed usually by lot numbers.

PAR. 8. The made-over hats manufactured and sold by respondent have the appearance of new hats, and respondent endeavors to make the said hats look as much like new hats as possible. The hats are thoroughly cleaned, as described above, and where there is any difference in color it is made uniform by rubbing into the hat powder of the required color. New ribbons, leather sweatbands, and linings are sewed on the hats. * * *

PAR. 10. The Commission finds that the made-over hats manufactured, sold, and distributed by respondent so nearly simulate men's new fur felt hats in appearance that it is impossible for the ordinary purchaser at retail to distinguish between such made-over hats and new hats, even by careful examination and inspection; that the use of linings and leather sweatbands having imprinted on them marks and designs similar to those used in new hats, and bearing words such as "Premier Quality", "Quality Supreme—Finest American Make—Distinctive Styles", and other similar phrases is deceptive and leads purchasers to believe the hats are new hats; that the ordinary purchaser at retail does not know that men's made-over hats are being sold in this country in stores selling men's hats exclusively and in stores selling men's hats and other articles of merchandise; that the ordinary purchaser of men's hats does not know of the existence of the made-over hat industry; that there is a prejudice in the minds of the average man against wearing a hat which has previously been worn by some other person and discarded, even though that hat has been thoroughly cleaned and fitted with new trimmings; and that the made-over hats manufactured, sold and distributed by respondent can be sold to retail purchasers as new hats without the purchaser knowing that they are in fact made-over hats.

PAR. 14. The cost of manufacture of made-over men's fur felt hats is considerably less than the cost of manufacture of the lowest priced men's new fur felt hats. The hat body is the principal item of expense in the manufacture of a man's felt hat. Felt hat bodies sold by manufacturers to "dry shops" for finishing and resale to wholesalers and retailers cost from \$8 per dozen up, depending upon the quality. One manufacturer, in order to meet the competition of made-over hats, had put on the market at the time of the taking of testimony in this proceeding a hat body which he could sell to the "dry shop" for \$6.50 per dozen. This is probably the lowest priced fur felt hat body obtainable. As against this price of new hat bodies, respondent pays \$1.25 and \$2.25 per dozen for the old, worn, used,

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and discarded hats which it buys for use in manufacturing made-over hats.

Five made-over hat manufacturers employ union labor in their factories, but the great majority do not. The made-over hat manufacturers employing union labor pay the following wages in their factories for making over hats:

	<i>Per dozen</i>
Finishing bodies:	
Cheap hats.....	\$1. 75
Better hats.....	2. 20
Average hats.....	2. 00
Specials (negligible in quantity).....	2. 65
Trimming (flat rate).....	. 95
Sewing on leathers (flat rate).....	. 20
Flanging (flat rate).....	. 45
Steaming (flat rate).....	. 25
Slicking and packing (flat rate).....	. 35
Dry cleaning.....	. 22

Applying these figures, it therefore costs respondent at least \$4.17 per dozen for labor costs in making its cheapest quality made-over hat; \$4.82 per dozen for its better grade; and \$4.42 per dozen for the average made-over hat which it makes. Respondent pays \$2.25 per dozen for the best grade of old hat bodies which it buys, and \$1.25 per dozen for the cheapest grade, which makes its highest total labor and body costs for manufacturing finished made-over hats \$6.87 per dozen for the best grade, and \$5.42 per dozen for the cheapest grade. No cost figures for made-over hat manufacturers not employing union labor were introduced in evidence. It is probable, however, that made-over hat manufacturers not employing union labor in their factories do not pay as high wages as those that do, which would make their labor costs lower than those given above.

The union scale of wages paid in New York for finishing men's new fur felt hats is as follows:

	<i>Per dozen</i>
Finishing body.....	\$2. 80
Trimming.....	1. 32
Flanging.....	. 55

No figures for steaming and slicking and packing were available, but adding the wages paid for these processes by made-over hat manufacturers employing union labor which are no higher, if as high, as paid by new hat manufacturers, the total labor costs for manufacturing men's new fur felt hats are \$5.27 per dozen as a minimum. Adding to this figure \$6.50 per dozen for the bodies, which is the price at which one manufacturer was selling bodies to "dry shop" manufacturers, makes a total for body and labor costs of new men's fur felt hats a minimum of \$11.77 per dozen. The price for bodies charged

by most manufacturers is from \$8 per dozen up, which would make the general body and labor costs for new hats \$13.27 per dozen and up. Ribbons, linings, and leather sweatbands do not cost made-over manufacturers any more than they do new hat manufacturers.

Men's finished fur felt made-over hats can be made by respondent at a cost of at least \$4.90 to \$6.35 per dozen less than "dry shop" manufacturers in New York City, paying union wages, can make the cheapest new fur felt hats. Whenever new hat manufacturers have reduced the prices of new hats in order to meet the competition of made-over hats, the manufacturers of made-over hats have correspondingly reduced the prices of made-over hats. Because of the higher manufacturing costs of new hats, it is impossible for new fur felt hats to compete in price with made-over fur felt hats, and new hat manufacturers are placed at a great disadvantage in meeting the competition of respondent and other made-over hat manufacturers.

PRIME HAT CO.

LOUIS OPPENHEIM and V. GERBINO, copartners, doing business under the trade name and style of Prime Hat Co. (Docket 1899.)

PARAGRAPH 1. Respondents Louis Oppenheim and V. Gerbino are copartners, doing business under the trade name and style of Prime Hat Co., and have their place of business at 103-105 Mott Street, in the City of New York, State of New York, where for about eight years last past they have been engaged in the business of manufacturing made-over men's felt hats, and of selling and distributing said hats to wholesale dealers and jobbers located in the various States of the United States and the District of Columbia. Respondents cause said hats, when sold, to be transported from their aforesaid place of business in the City of New York, State of New York, to the purchasers thereof at their respective points of location in the several States of the United States and the District of Columbia.

In the course and conduct of their business as aforesaid respondents are in direct and active competition with various other persons, partnerships, firms, and corporations engaged in the manufacture, sale, and distribution in interstate commerce among the various States of the United States and the District of Columbia, of new and made-over men's felt hats.

PAR. 2. In the course and conduct of their aforesaid business of manufacturing, selling, and distributing men's made-over felt hats, respondents employ an average of 12 employees in their place of business, who are engaged in the various operations involved in the process of making over men's felt hats, described hereinafter. Respondents sell their hats to wholesale dealers and jobbers direct.

They do not send out any advertising literature to customers and prospective customers. The wholesale dealers and jobbers to whom they sell do their own advertising of the hats.

Respondents sell their made-over hats for \$6.75, \$8.50, and \$9 per dozen depending on the quality of the hats. The principal difference between the grades of the hats is in the quality of the felt and general appearance of the hats. Some of the lower priced hats may in addition have slight imperfections in the felt. In the years prior to 1930 respondents sold their made-over hats for considerably higher prices. The average volume of business done by respondents is \$20,000 per year.

PAR. 4. * * * Respondents purchase their old hat bodies from dealers in New York City, paying from \$1.80 to \$2.15 per dozen for them, and sometimes even less.

PAR. 6. * * * Respondents buy their linings from dealers in New York City as they need them, and these linings are imprinted with "stock dies". Respondents do not specify any particular names to be printed on the linings, but take whatever the dealer has on hand. There is no uniformity of name or brand used by respondents, as respondents do not sell any hats under brand names. Respondents have used linings in their made-over hats bearing the names: "The Aristocrat—Distinctive Headwear" and "Felts De Lux—Standard of Excellence—Custom Made—Mark of Quality"; and at the time of taking testimony in this proceeding were using similar linings.

Leather sweatbands are purchased by respondents from dealers in such articles, and bear no names or designs when purchased. Respondents have names and designs imprinted on the sweatbands identical with the names and designs appearing on the linings which they are using at the time.

PAR. 7. Respondents sell the made-over hats manufactured by them to jobbers and wholesale dealers. There is no word of any kind on the made-over hats manufactured and sold by respondents to indicate that the hats are made-over hats, and not new hats. Some of the jobbers and wholesale dealers to whom respondents sell, send out circulars in which no mention is made that the hats are made-over hats. The wholesale dealers and jobbers who buy made-over hats from respondents know that the hats are made-over hats. Many buyers for wholesale dealers and jobbers come to respondents' place of business and buy the hats, and in every case respondents advise such buyers that the hats are made-over hats. Other wholesale dealers and jobbers because of their familiarity with the business know that

the hats are made-over hats because of the prices at which they are sold, said prices being lower than new men's fur felt hats can be sold for.

In invoicing made-over hats to purchasers no mention is made by respondents that the hats are made over, they being listed usually by lot numbers.

PAR. 8. The made-over hats manufactured and sold by respondents have the appearance of new hats, and respondents endeavor to make the said hats look as much like new hats as possible. The hats are thoroughly cleaned, as described above, and where there is any difference in color it is made uniform by rubbing into the hat powder of the required color. New ribbons, leather sweatbands and linings are sewed on the hats. * * *

PAR. 10. The Commission finds that the made-over hats manufactured, sold, and distributed by respondents so nearly simulate new men's fur felt hats in appearance that it is impossible for the ordinary purchaser at retail to distinguish between such made-over hats and new hats, even by careful examination and inspection; that the use of linings and leather sweatbands having imprinted on them marks and designs similar to those used in new hats, and bearing words such as "Felts De Lux—Standard of Excellence—Custom Made—Mark of Quality", "The Aristocrat—Distinctive Headwear", and other similar phrases is deceptive and leads purchasers to believe the hats are new hats; that the ordinary purchaser at retail does not know that men's made-over hats are being sold in this country in stores selling men's hats exclusively and in stores selling men's hats and other articles of merchandise; that the ordinary purchaser of men's hats does not know of the existence of the made-over hat industry; that there is a prejudice in the minds of the average man against wearing a hat which has previously been worn by some other person and discarded, even though that hat has been thoroughly cleaned and fitted with new trimmings; and that the made-over hats manufactured, sold, and distributed by respondents can be sold to retail purchasers as new hats without the purchaser knowing that they are in fact made-over hats.

PAR. 14. The cost of manufacture of made-over men's fur felt hats is considerably less than the cost of manufacture of the lowest priced men's new fur felt hats. The hat body is the principal item of expense in the manufacture of a man's felt hat. Felt hat bodies sold by manufacturers to "dry shops" for finishing and resale to wholesalers and retailers cost from \$8 per dozen up, depending upon the quality. One manufacturer, in order to meet the competition of made-over hats, had put on the market at the time of the taking of testimony in this proceeding a hat body which he could sell to the

"dry shop" for \$6.50 per dozen. This is probably the lowest priced fur felt hat body obtainable. As against this price of new hat bodies, respondents pay from \$1.80 to \$2.15 per dozen for the old, worn, used, and discarded hats which they buy for use in manufacturing made-over hats.

Five made-over hat manufacturers employ union labor in their factories, but the great majority do not. The made-over hat manufacturers employing union labor pay the following wages in their factories for making over hats:

Finishing bodies:	<i>Per dozen</i>
Cheap hats.....	\$1. 75
Better hats.....	2. 20
Average hats.....	2. 00
Specials (negligible in quantity).....	2. 65
Trimming (flat rate).....	. 95
Sewing on leathers (flat rate).....	. 20
Flanging (flat rate).....	. 45
Steaming (flat rate).....	. 25
Slicking and packing (flat rate).....	. 35
Dry cleaning.....	. 22

Applying these figures, it therefore costs respondents at least \$4.17 per dozen for labor costs in making their cheapest quality made-over hat; \$4.62 per dozen for their better grade; and \$4.42 per dozen for the average made-over hat which they make. Respondents pay \$2.15 per dozen for the best grade of old hat bodies which they buy, and \$1.80 per dozen for the cheapest grade, which makes their highest total labor and body costs for manufacturing finished made-over hats \$6.77 per dozen for the best grade, and \$5.97 per dozen for the cheapest grade. No cost figures for made-over hat manufacturers not employing union labor were introduced in evidence. It is probable, however, that made-over hat manufacturers not employing union labor in their factories do not pay as high wages as those that do, which would make their labor costs lower than those given above.

The union scale of wages paid in New York for finishing men's new fur felt hats is as follows:

	<i>Per dozen</i>
Finishing body.....	\$2. 80
Trimming.....	1. 32
Flanging.....	. 55

No figures for steaming and slicking and packing were available, but adding the wages paid for these processes by made-over hat manufacturers employing union labor, which are no higher, if as high, as paid by new hat manufacturers, the total labor costs for manufacturing men's new fur felt hats are \$5.27 per dozen as a minimum. Adding to this figure \$6.50 per dozen for the bodies, which is the price at

which one manufacturer was selling bodies to "dry shop" manufacturers, makes a total for body and labor costs of men's new fur felt hats a minimum of \$11.77 per dozen. The price for bodies charged by most manufacturers is from \$8 per dozen up, which would make the general body and labor costs for new hats \$13.27 per dozen and up. Ribbons, linings, and leather sweatbands do not cost made-over hat manufacturers any more than they do new hat manufacturers.

Finished men's fur felt made-over hats can be made by respondents at a cost of at least \$5 to \$5.80 per dozen less than "dry shop" manufacturers in New York City, paying union wages, can make the cheapest new fur felt hats. Whenever new hat manufacturers have reduced the prices of new hats in order to meet the competition of made-over hats, the manufacturers of made-over hats have correspondingly reduced the prices of made-over hats. Because of the higher manufacturing costs of new hats, it is impossible for new fur felt hats to compete in price with made-over fur felt hats, and new hat manufacturers are placed at a great disadvantage in meeting the competition of respondents and other made-over hat manufacturers.

PROSPECT HAT CO., INC.

PROSPECT HAT CO., INC. (Docket 1902.)

PARAGRAPH 1. Respondent, Prospect Hat Co., Inc., is a corporation organized and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business at 20 West Third Street, in the City of New York, State of New York, where for about three years last past it has been engaged in the business of manufacturing men's made-over felt hats, and of selling and distributing said hats to wholesale dealers and jobbers located in the various States of the United States and the District of Columbia. It was incorporated in February, 1928, and its officers are Nathan Kott, president; F. Maisel, treasurer; and Carl Goldburg, secretary. Respondent causes said hats, when sold, to be transported from its aforesaid place of business in the City of New York, State of New York, to the purchasers thereof at their respective points of location in the several States of the United States and the District of Columbia.

In the course and conduct of its business as aforesaid respondent is in direct and active competition with various other persons, partnerships, firms, and corporations engaged in the manufacture, sale, and distribution in interstate commerce among the various States of the United States and the District of Columbia, of new and made-over men's felt hats.

PAR. 2. In the course and conduct of its aforesaid business of manufacturing, selling, and distributing men's made-over felt hats, respondent employs workmen who are engaged in the various operations involved in the process of making over men's felt hats, described hereinafter. Respondent sells its made-over hats through a commission house in New York City to wholesale dealers and jobbers. It does not send out any advertising literature. The wholesale dealers and jobbers to whom it sells do their own advertising of the hats.

Respondent sells its made-over hats in two grades, at \$7 per dozen and \$12 per dozen. The principal difference between the grades of the hats is in the appearance and quality of the felt body. Some of the lower priced hats may in addition have slight imperfections in the felt. Respondent did between \$45,000 and \$50,000 worth of business in the years 1928 and 1929, and about \$65,000 worth of business in the year 1930.

PAR. 4. * * * Respondent purchases its old hat bodies from dealers in New York City, and from peddlers who bring the hats to it, paying \$1.75, \$2.25, and \$2.50 per dozen for them.

PAR. 6. * * * Respondent buys its linings from dealers in New York City as it needs them, and most of these linings are imprinted with "stock dies". Respondent does not ordinarily specify any particular names to be printed on the linings, but takes whatever the dealer has on hand. In a few cases jobbers request respondent to put their names in the made-over hats sold them by respondent, in which case respondent orders linings and sweatbands imprinted with the names desired and puts them in the hats sold to those particular jobbers. There is no uniformity of name or brand used by respondent, as respondent does not sell any hats under brand names. Respondent has used linings in its made-over hats bearing the names: "Felts De Lux—Custom Made—Mark of Quality"; and "Style and Quality"; and at the time of taking testimony in this proceeding was using linings bearing the name "Sportsman's".

Leather sweatbands are purchased by respondent from dealers in such articles, and bear no name or design when purchased. Respondent has names and designs imprinted on the sweatbands identical with the names and designs appearing on the linings which it is using at the time.

PAR. 7. Respondent sells the made-over hats manufactured by it to jobbers and wholesale dealers through a commission house. There is no word of any kind on the made-over hats manufactured and sold by respondent to indicate that the hats are made-over hats, and not new hats. The wholesale dealers and jobbers who buy made-over hats from respondent know that the hats are made-over hats. Many buyers for wholesale dealers and jobbers come to respondent's

place of business and buy the hats, and in every case respondent advises such buyers that the hats are made-over hats. Other wholesale dealers and jobbers because of their familiarity with the business know that the hats are made-over hats because of the prices at which they are sold, said prices being lower than men's new fur felt hats can be sold for. In invoicing made-over hats to purchasers no mention is made by respondent that the hats are made over, they being listed usually by lot numbers.

PAR. 8. The made-over hats manufactured and sold by respondent have the appearance of new hats, and respondent endeavors to make the said hats look as much like new hats as possible. The hats are thoroughly cleaned, as described above, and where there is any difference in color it is made uniform by rubbing into the hat powder of the required color. New ribbons, leather sweatbands, and linings are sewed on the hats. * * *

PAR. 10. The Commission finds that the made-over hats manufactured, sold, and distributed by respondent so nearly simulate men's new fur felt hats in appearance that it is impossible for the ordinary purchaser at retail to distinguish between such made-over hats and new hats, even by careful examination and inspection; that the use of linings and leather sweatbands having imprinted on them marks and designs similar to those used in new hats, and bearing words such as "Felts De Lux—Custom Made—Mark of Quality", "Style and Quality", and other similar phrases is deceptive and leads purchasers to believe the hats are new hats; that the ordinary purchaser at retail does not know that men's made-over hats are being sold in this country in stores selling men's hats exclusively and in stores selling men's hats and other articles of merchandise; that the ordinary purchaser of men's hats does not know of the existence of the made-over hat industry; that there is a prejudice in the minds of the average man against wearing a hat which has previously been worn by some other person and discarded, even though that hat has been thoroughly cleaned and fitted with new trimmings; and that the made-over hats manufactured, sold, and distributed by respondent can be sold to retail purchasers as new hats without the purchaser knowing that they are in fact made-over hats.

PAR. 14. The cost of manufacture of made-over men's fur felt hats is considerably less than the cost of manufacture of the lowest priced men's new fur felt hats. The hat body is the principal item of expense in the manufacture of a man's felt hat. Felt hat bodies sold by manufacturers to "dry shops" for finishing and resale to wholesalers and retailers cost from \$8 per dozen up, depending upon the quality. One manufacturer, in order to meet the competition of made-over hats, had put on the market at the time of the taking of

testimony in this proceeding, a hat body which he could sell to the "dry shop" for \$6.50 per dozen, and this is the lowest priced fur felt hat body obtainable. As against this price of new hat bodies, respondent pays from \$1.75 to \$2.50 for the old, worn, and discarded hats which he buys for use in manufacturing made-over hats.

Five made-over hat manufacturers employ union labor in their factories, but the great majority do not. The made-over hat manufacturers employing union labor pay the following wages in their factories for making over hats:

Finishing bodies:	<i>Per dozen</i>
Cheap hats.....	\$1. 75
Better hats.....	2. 20
Average hats.....	2. 00
Specials (negligible in quantity).....	2. 65
Trimming (flat rate).....	. 95
Sewing on leathers (flat rate).....	. 20
Flanging (flat rate).....	. 45
Steaming (flat rate).....	. 25
Slicking and packing (flat rate).....	. 35
Dry cleaning.....	. 22

Applying these figures, it therefore costs respondent at least \$4.17 per dozen for labor costs in making its cheapest quality made-over hat; \$4.62 per dozen for its better grade; and \$4.42 per dozen for the average made-over hat which it makes. Respondent pays \$2.50 per dozen for the best grade of old hat bodies which it buys, and \$1.75 per dozen for the cheapest grade, which makes its highest total labor and body costs for manufacturing finished made-over hats \$7.12 per dozen for the best grade, and \$5.92 per dozen for the cheapest grade. No cost figures for made-over hat manufacturers not employing union labor were introduced in evidence. It is probable, however, that made-over hat manufacturers not employing union labor in their factories do not pay as high wages as those that do, which would make their labor costs lower than those given above.

The union scale of wages paid in New York for finishing men's new fur felt hats is as follows:

	<i>Per dozen</i>
Finishing body.....	\$2. 80
Trimming.....	1. 32
Flanging.....	. 55

No figures for steaming and slicking and packing were available, but adding the wages paid for these processes by made-over hat manufacturers employing union labor, which are no higher, if as high, as paid by new hat manufacturers, the total labor costs for manufacturing men's new fur felt hats are \$5.27 per dozen as a minimum. Adding to this figure \$6.50 per dozen for the bodies, which is the price at which one manufacturer was selling bodies to "dry shop" manufac-

turers, makes a total for body and labor costs of men's new fur felt hats a minimum of \$11.77 per dozen. The price for bodies charged by most manufacturers is from \$8 per dozen up, which would make the general body and labor costs for new hats \$13.27 per dozen and up. Ribbons, linings, and leather sweatbands do not cost made-over manufacturers any more than they do new hat manufacturers.

Men's finished fur felt made-over hats can be made by respondent at a cost of at least \$4.65 to \$5.75 per dozen less than "dry shop" manufacturers in New York City, paying union wages, can make the cheapest new fur felt hats. Whenever new hat manufacturers have reduced the prices of new hats in order to meet the competition of made-over hats, the manufacturers of made-over hats have correspondingly reduced the prices of made-over hats. Because of the higher manufacturing costs of new hats, it is impossible for new fur felt hats to compete in price with made-over fur felt hats, and new hat manufacturers are placed at a great disadvantage in meeting the competition of respondent and other made-over hat manufacturers.

H. & H. HAT MANUFACTURING CO.

HYMAN SOMER, an individual, doing business under the trade name and style of H. & H. Hat Manufacturing Co. (Docket 1903.)

PARAGRAPH 1. Respondent, Hyman Somer, is an individual doing business under the trade name and style of H. & H. Hat Manufacturing Co., and has his place of business at 16 West Fourth Street, in the City of New York, State of New York, where for about five years last past he has been engaged in the business of manufacturing made-over men's felt hats, and of selling and distributing said hats to wholesale dealers and jobbers located in the various States of the United States and the District of Columbia. Respondent causes said hats, when sold, to be transported from his aforesaid place of business in the City of New York, State of New York, to the purchasers thereof at their respective points of location in the several States of the United States and the District of Columbia.

In the course and conduct of his business as aforesaid respondent is in direct and active competition with various other persons, partnerships, firms, and corporations engaged in the manufacture, sale, and distribution in interstate commerce among the various States of the United States and the District of Columbia, of new and made-over men's felt hats.

PAR. 2. In the course and conduct of his aforesaid business of manufacturing, selling, and distributing men's made-over felt hats, respondent employs from 15 to 18 employees in his place of business who are engaged in the various operations involved in the process of making over men's felt hats, described hereinafter. Respondent sells

his made-over hats direct to wholesale dealers and jobbers throughout the United States. He does not send out any advertising literature. The wholesale dealers and jobbers to whom he sells do their own advertising of the hats.

Respondent sells his made-over hats in two grades, at \$6 per dozen and \$9 per dozen, less 10 percent discount, a few being sold at \$12 per dozen. The principal difference between the grades of the hats is in the quality of the bodies and trimmings. Some of the lower priced hats may in addition have slight imperfections in the felt. Respondent's business amounts to about \$70,000 per year.

PAR. 4. * * * Respondent purchases his old hat bodies from dealers and peddlers in New York City, paying from \$1.25 to \$2.75 per dozen for them.

PAR. 6. * * * Respondent buys his linings from dealers in New York City as he needs them, and these linings are imprinted with "stock dies". Respondent does not specify any particular names to be printed on the linings, but takes whatever the dealer has on hand. There is no uniformity of name or brand used by respondent, as respondent does not sell any hats under brand names. Respondent has used linings in his made-over hats bearing the names: "Superior Quality—High Grade—Hats of Distinction"; "Quality Supreme—Styles Distinctive—For Fine Trade"; and at the time of taking testimony in this proceeding was using linings bearing the names: "Distinctive Styles—Styles of Distinction."

Leather sweatbands are purchased by respondent from dealers in such articles, and bear no names or designs when purchased. Respondent has names and designs imprinted on the sweatbands identical with the names and designs appearing on the linings which he is using at the time.

PAR. 7. Respondent sells the made-over hats manufactured by him to jobbers and wholesale dealers direct. There is no word of any kind on the made-over hats manufactured and sold by respondent to indicate that the hats are made-over hats, and not new hats. Some of the jobbers and wholesale dealers to whom respondent sells send out circulars in which no mention is made that the hats are made-over hats. The wholesale dealers and jobbers who buy made-over hats from respondent know that the hats are made-over hats. Many buyers for wholesale dealers and jobbers come to respondent's place of business and buy the hats, and in every case respondent advises such buyers that the hats are made-over hats. Other wholesale dealers and jobbers because of their familiarity with the business know that the hats are made-over hats because of the prices at which they are sold, said prices being lower than men's new fur felt hats can be sold for.

In invoicing made-over hats to purchasers no mention is made by respondent that the hats are made over, they being listed usually by lot numbers.

PAR. 8. The made-over hats manufactured and sold by respondent have the appearance of new hats, and respondent endeavors to make the said hats look as much like new hats as possible. The hats are thoroughly cleaned, as described above, and where there is any difference in color it is made uniform by rubbing into the hat powder of the required color. New ribbons, leather sweatbands, and linings are sewed on the hats. * * *

PAR. 10. The Commission finds that the made-over hats manufactured, sold, and distributed by respondent so nearly simulate men's new fur felt hats in appearance that it is impossible for the ordinary purchaser at retail to distinguish between such made-over hats and new hats, even by careful examination and inspection; that the use of linings and leather sweatbands having imprinted on them marks and designs similar to those used in new hats, and bearing words such as "Superior Quality—Hats of Distinction"; "Quality Supreme—Styles Distinctive—For Fine Trade"; and other similar phrases is deceptive and leads purchasers to believe the hats are new hats; that the ordinary purchaser at retail does not know that men's made-over hats are being sold in this country in stores selling men's hats exclusively and in stores selling men's hats and other articles of merchandise; that the ordinary purchaser of men's hats does not know of the existence of the made-over hat industry; that there is a prejudice in the minds of the average man against wearing a hat which has previously been worn by some other person and discarded, even though that hat has been thoroughly cleaned and fitted with new trimmings; and that the made-over hats manufactured, sold, and distributed by respondent can be sold to retail purchasers as new hats without the purchaser knowing that they are in fact made-over hats.

PAR. 14. The cost of manufacture of men's made-over fur felt hats is considerably less than the cost of manufacture of the lowest priced men's new fur felt hats. The hat body is the principal item of expense in the manufacture of a man's felt hat. Felt hat bodies sold by manufacturers to "dry shops" for finishing and resale to wholesalers and retailers cost from \$8 per dozen up, depending upon the quality. One manufacturer, in order to meet the competition of made-over hats, had put on the market at the time of the taking of testimony in this proceeding a hat body which he could sell to the "dry shop" for \$6.50 per dozen. This is probably the lowest priced fur felt hat body obtainable. As against this price of new hat bodies, respondent pays from \$1.25 to \$2.75 for the old, worn, used, and discarded hats which he buys for use in manufacturing made-over hats.

Five made-over hat manufacturers employ union labor in their factories, but the great majority do not. The made-over hat manufacturers employing union labor pay the following wages in their factories for making over hats:

	<i>Per dozen</i>
Finishing bodies:	
Cheap hats.....	\$1. 75
Better hats.....	2. 20
Average hats.....	2. 00
Specials (negligible in quantity).....	2. 65
Trimming (flat rate).....	. 95
Sewing on leathers (flat rate).....	. 20
Flanging (flat rate).....	. 45
Steaming (flat rate).....	. 25
Slicking and packing (flat rate).....	. 35
Dry cleaning.....	. 22

Applying these figures, it therefore costs respondent at least \$4.17 per dozen for labor costs in making his cheapest quality made-over hat; \$4.62 per dozen for his better grade; and \$4.42 per dozen for the average made-over hat which he makes. Respondent pays \$2.75 per dozen for the best grade of old hat bodies which he buys, and \$1.25 per dozen for the cheapest grade, which makes his highest total labor and body costs for manufacturing finished made-over hats \$7.37 per dozen for the best grade, and \$5.42 per dozen for the cheapest grade. No cost figures for made-over hat manufacturers not employing union labor were introduced in evidence. It is probable, however, that made-over hat manufacturers not employing union labor in their factories do not pay as high wages as those that do, which would make their labor costs lower than those given above.

The union scale of wages paid in New York for finishing men's new fur felt hats is as follows:

	<i>Per dozen</i>
Finishing body.....	\$2. 80
Trimming.....	1. 32
Flanging.....	. 55

No figures for steaming and slicking and packing were available, but adding the wages paid for these processes by made-over hat manufacturers employing union labor which are no higher, if as high, as paid by new hat manufacturers, the total labor costs for manufacturing men's new fur felt hats are \$5.27 per dozen as a minimum. Adding to this figure \$6.50 per dozen for the bodies, which is the price at which one manufacturer was selling bodies to "dry shop" manufacturers, makes a total for body and labor costs of men's new fur felt hats a minimum of \$11.77 per dozen. The price for bodies charged by most manufacturers is from \$8 per dozen up, which would make the general body and labor costs for new hats \$13.27 per dozen and up.

Ribbons, linings, and leather sweatbands do not cost made-over hat manufacturers any more than they do new hat manufacturers.

Men's finished fur felt made-over hats can be made by respondent at a cost of at least \$4.40 to \$6.35 per dozen less than "dry shop" manufacturers in New York City, paying union wages, can make the cheapest new fur felt hats. Whenever new hat manufacturers have reduced the prices of new hats in order to meet the competition of made-over hats, the manufacturers of made-over hats have correspondingly reduced the prices of made-over hats. Because of the higher manufacturing costs of new hats, it is impossible for new fur felt hats to compete in price with made-over fur felt hats, and new hat manufacturers are placed at a great disadvantage in meeting the competition of respondent and other made-over hat manufacturers.

HERMAN HAT CO.

HERMAN DANIEL and MURRAY DANIEL, copartners, doing business under the trade name and style of Herman Hat Co. (Docket 1904.)

PARAGRAPH 1. Respondents Herman Daniel and Murray Daniel are copartners doing business under the trade name and style of Herman Hat Co., and have their place of business at 323 Henry Street, in the City of New York, State of New York, where for about five years last past they have been engaged in the business of manufacturing men's made-over felt hats, and of selling and distributing said hats to wholesale dealers and jobbers located in the various States of the United States and the District of Columbia. At the time of taking testimony in this proceeding Murray Daniel was no longer a partner in the business having severed his connection with the firm, and Charles Daniel, father of respondent Herman Daniel, had become a partner. Respondents cause said hats, when sold, to be transported from their aforesaid place of business in the City of New York, State of New York, to the purchasers thereof at their respective points of location, in the several States of the United States and the District of Columbia.

In the course and conduct of their business as aforesaid respondents are in direct and active competition with various other persons, partnerships, firms, and corporations engaged in the manufacture, sale, and distribution in interstate commerce among the various States of the United States and the District of Columbia, of men's new and made-over felt hats.

PAR. 2. In the course and conduct of their aforesaid business of manufacturing, selling, and distributing men's made-over felt hats, respondents employ from 6 to 8 employees in their place of business, who are engaged in the various operations involved in the process

of making over men's felt hats, described hereinafter. Respondents sell their hats to wholesale dealers and jobbers direct and through commission houses, the latter comprising about 75 percent of the total sales. They do not at present send out any advertising literature to customers and prospective customers, but formerly they did. The wholesale dealers and jobbers to whom they sell do their own advertising of the hats.

Respondents sell their made-over hats in two grades, at \$9 per dozen and \$10.50 per dozen less 10 percent discount. The principal difference between the grades of the hats is in the quality of the bodies and trimmings. Some of the lower priced hats may in addition have slight imperfections in the felt. In the years prior to 1930 respondents sold their made-over hats for considerably higher prices. In 1929 the volume of business done by respondents amounted to between \$40,000 and \$50,000, but in 1930 it amounted to approximately \$25,000.

PAR. 4. * * * Respondents purchase their old hat bodies from dealers in New York City, paying from 75 cents to \$1.25 per dozen for them.

PAR. 6. * * * Respondents buy their linings from dealers in New York City as they need them, and these linings are imprinted with "stock dies". Respondents do not specify any particular names to be printed on the linings, but take whatever the dealer has on hand. There is no uniformity of name or brand used by respondents as respondents do not sell any hats under brand names. Respondents have used linings in their made-over hats bearing the names: "Superior Quality—Distinctive Styles—Made by Expert Craftsmen for Fine Trade"; "Felts De Lux—Custom Made—Mark of Quality"; and at the time of taking testimony in this proceeding were using similar linings.

Leather sweatbands are purchased by respondents from dealers in such articles, and bear no names or designs when purchased. Respondents do not imprint names and designs on the sweatbands but use only plain sweatbands in their made-over hats.

PAR. 7. Respondents sell the made-over hats manufactured by them to jobbers and wholesale dealers, through commission houses and direct. There is no word of any kind on the made-over hats manufactured and sold by respondents to indicate that the hats are made-over hats, and not new hats. Some of the jobbers and wholesale dealers to whom respondents sell send out circulars in which no mention is made that the hats are made-over hats. The wholesale dealers and jobbers who buy made-over hats direct from respondents, and the commission houses through whom respondents sell know that the hats are made-over hats. Many buyers for

wholesale dealers and jobbers come to respondents' place of business and buy the hats, and in every case respondents advise such buyers that the hats are made-over hats. Other wholesale dealers and jobbers because of their familiarity with the business know that the hats are made-over hats because of the prices at which they are sold, said prices being lower than men's new fur felt hats can be sold for.

In invoicing made-over hats to purchasers no mention is made by respondents that the hats are made over, they being listed usually by lot numbers.

PAR. 8. The made-over hats manufactured and sold by respondents have the appearance of new hats, and respondents endeavor to make the said hats look as much like new hats as possible. The hats are thoroughly cleaned, as described above, and where there is any difference in color it is made uniform by rubbing into the hat powder of the required color. New ribbons, leather sweatbands, and linings are sewed on the hats. * * *

PAR. 10. The Commission finds that the made-over hats manufactured, sold, and distributed by respondents so nearly simulate men's new fur felt hats in appearance that it is impossible for the ordinary purchaser at retail to distinguish between such made-over hats and new hats, even by careful examination and inspection; that the use of linings and leather sweatbands having imprinted on them marks and designs similar to those used in new hats, and bearing words such as "Superior Quality—Made by Expert Craftsmen for Fine Trade"; "Felts De Lux—Custom Made—Mark of Quality", and similar phrases is deceptive and leads purchasers to believe the hats are new hats; that the ordinary purchaser at retail does not know that men's made-over hats are being sold in this country in stores selling men's hats exclusively and in stores selling men's hats and other articles of merchandise; that the ordinary purchaser of men's hats does not know of the existence of the made-over hat industry; that there is a prejudice in the minds of the average man against wearing a hat which has previously been worn by some other person and discarded, even though that hat has been thoroughly cleaned and fitted with new trimmings; and that the made-over hats manufactured, sold, and distributed by respondents can be sold to retail purchasers as new hats without the purchaser knowing that they are in fact made-over hats.

PAR. 14. The cost of manufacture of made-over men's fur felt hats is considerably less than the cost of manufacture of the lowest priced men's new fur felt hats. The hat body is the principal item of expense in the manufacture of a man's felt hat. Felt hat bodies sold by manufacturers to "dry shops" for finishing and resale to wholesalers and retailers cost from \$8 per dozen up, depending

upon the quality. One manufacturer, in order to meet the competition of made-over hats, had put on the market at the time of the taking of testimony in this proceeding a hat body which he could sell to the "dry shop" for \$6.50 per dozen. This is probably the lowest priced fur felt hat body obtainable. As against this price of new hat bodies, respondents pay from 75 cents to \$1.25 per dozen for the old, worn, used, and discarded hats which they buy for use in manufacturing made-over hats.

Five made-over hat manufacturers employ union labor in their factories, but the great majority do not. The made-over hat manufacturers employing union labor pay the following wages in their factories for making over hats:

Finishing bodies:	<i>Per dozen</i>
Cheap hats.....	\$1. 75
Better hats.....	2. 20
Average hats.....	2. 00
Specials (negligible in quantity).....	2. 65
Trimming (flat rate).....	. 95
Sewing on leathers (flat rate).....	. 20
Flanging (flat rate).....	. 45
Steaming (flat rate).....	. 25
Slicking and packing (flat rate).....	. 35
Dry cleaning.....	. 22

Applying these figures, it therefore costs respondents at least \$4.17 per dozen for labor costs in making their cheapest quality made-over hat; \$4.62 per dozen for their better grade; and \$4.42 per dozen for the average made-over hat which they make. Respondents pay \$1.25 per dozen for the best grade of old hat bodies which they buy, and 75 cents per dozen for the cheapest grade, which makes their highest total labor and body costs for manufacturing finished made-over hats \$5.87 per dozen for the best grade, and \$4.92 per dozen for the cheapest grade. No cost figures for made-over hat manufacturers not employing union labor were introduced in evidence. It is probable, however, that made-over hat manufacturers not employing union labor in their factories do not pay as high wages as those that do, which would make their labor costs lower than those given above.

The union scale of wages paid in New York for finishing men's new fur felt hats is as follows:

	<i>Per dozen</i>
Finishing body.....	\$2. 80
Trimming.....	1. 32
Flanging.....	. 55

No figures for steaming and slicking and packing were available, but adding the wages paid for these processes by made-over hat manufacturers employing union labor, which are no higher, if as high, as paid by new hat manufacturers, the total labor costs for manufac-

turing men's new fur felt hats are \$5.27 per dozen as a minimum. Adding to this figure \$6.50 per dozen for the bodies, which is the price at which one manufacturer was selling bodies to "dry shop" manufacturers, makes a total for body and labor costs of men's new fur felt hats a minimum of \$11.77 per dozen. The price for bodies charged by most manufacturers is from \$8 per dozen up, which would make the general body and labor costs for new hats \$13.27 per dozen and up. Ribbons, linings, and leather sweatbands do not cost made-over hat manufacturers any more than they do new hat manufacturers.

Men's finished fur felt made-over hats can be made by respondents at a cost of at least \$5.90 to \$6.85 per dozen less than "dry shop" manufacturers in New York City, paying union wages, can make the cheapest new fur felt hats. Whenever new hat manufacturers have reduced the prices of new hats in order to meet the competition of made-over hats, the manufacturers of made-over hats have correspondingly reduced the prices of made-over hats. Because of the higher manufacturing costs of new hats, it is impossible for new fur felt hats to compete in price with made-over felt hats, and new hat manufacturers are placed at a great disadvantage in meeting the competition of respondents and other made-over hat manufacturers.

Syllabus

IN THE MATTER OF

MORRIS HOCHBERG AND DAVID HOCHBERG, COPARTNERS, TRADING UNDER THE FIRM NAME AND STYLE OF GRAND HAT COMPANY

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

Docket 1901. Complaint, Jan. 20, 1931—Decision, June 17, 1933

Where a firm engaged in the purchase of used and discarded men's felt hats, and in the cleaning, renovation, and re-equipment thereof, with new hat ribbons, sweatbands, and linings, with typical designs and words or legends thereon, under a process and treatment which gave said hats the appearance of new,

(a) Sold the same with nothing thereon to advise the uninformed as to their made-over character, through wholesale dealers and agents, whose retail dealer customers (1) included such establishments as customarily deal in new hats and/or other merchandise, (2) made no particular, if any, revealing, distinction in their display and sale of the new, as compared with the cheaper, less durable, and inferior renovated, article, and (3) offered and sold the latter to the ultimate consumer making the customary demand for a "hat", in ignorance of the comparatively new and rapidly growing business in hats renovated as above set forth, and their marketing through retail channels theretofore associated in the public mind with sale of new hats exclusively, without, ordinarily, advising him as to the true nature of the article being sold him;

With the result that wholesale and retail dealers were enabled to sell said hats as and for new, and the ultimate purchaser or consumer was deceived and misled into buying as and for a new and unused hat, one discarded and renovated, as above set forth, notwithstanding the prejudice or distaste frequently or customarily felt for such a purchase, and trade was diverted from wholesale and retail dealers and manufacturers of, the necessarily more costly new felt and wool hats and from the "dry shop" hat body manufacturers or finishers, who were variously unable to meet the competition of the renovated article misleadingly sold as above set forth, and whose business was seriously injured or destroyed thereby, to their prejudice and injury, and that of the industry and purchasing public; and

(b) Sold some of the higher priced renovated hats, dealt in by it as aforesaid, with the mark and label of a long established and well known manufacturer of men's hats of high quality, which had become well and favorably known to the public throughout the United States, and represented said hats as having been originally made by said manufacturer, notwithstanding the fact that hats so marked, labeled, and represented had not been made by the manufacturer in question;

With the effect of inducing wholesale dealers and jobbers and the purchasing public to buy said hats as and for new hats made by said manufacturer, and pay a higher price therefor, because of the well known qualities of said manufacturer's product, and with the capacity and tendency so to induce such