

IN THE MATTER OF
**WOLF GURZIZKY, DOING BUSINESS UNDER THE TRADE
NAME AND STYLE OF WHITE STAR HAT COMPANY**

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

Docket 2045. Complaint, June 6, 1932—Order, Jan. 17, 1934

Consent order requiring respondent, his agents, etc., in connection with the sale or offer of men's hats in interstate commerce and in the District of Columbia, to 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").

Mr. G. Ed. Rowland for the Commission.

Kreindler, Warshaw & Baron, of New York City, for respondent.

COMPLAINT

Acting in the public interest, pursuant to the provisions of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", the Federal Trade Commission charges that Wolf Gurzizky, doing business under the trade name and style of White Star 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, Wolf Gurzizky, is an individual doing business under the trade name and style of White Star Hat Co., having his office and principal place of business at 222 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 his 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 his 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 his place of business. The poorer grade of hats are sold by respondent to his 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 hat 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 tend to and do 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."

ORDER TO CEASE AND DESIST

Pursuant to the provisions of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", the Federal Trade Commission on the 6th day of June, 1932, issued its complaint against Wolf Gurzizky, doing business under the trade name and style of White Star Hat Co., respondent herein, in which complaint it is alleged that respondent has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said act.

On September 12, 1933, respondent filed his answer to said complaint. On January 3, 1934, said respondent filed a second answer herein, wherein he stated that he did not desire to contest the proceeding, and consents that the Federal Trade Commission may make, enter, and serve upon him an order to cease and desist from the

violations of law alleged in the complaint, in accordance with the provisions of Section 2, Rule III, of the Rules of Practice of the Commission, and the Commission having accepted the second answer in lieu of the former one theretofore filed, and being fully advised in the premises,

It is now ordered, That the respondent, Wolf Gurzizky, doing business under the trade name and style of White Star Hat Co., his agents, representatives, servants, 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.

IN THE MATTER OF
MEARS RADIO HEARING DEVICE CORPORATION

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

Docket 2079. Complaint, Dec. 5, 1932—Decision, Jan. 17, 1934

Where a corporation engaged in the sale of a device, and oil for use in conjunction therewith, for the treatment and cure of the partially and totally deaf and those afflicted with head noises, in competition with many meritorious varieties of hearing devices, and devices for relief of such noises and symptoms of deafness, and for treatment of the deaf, and with many ear oils, advertised said device through newspapers of general circulation, magazines, letters, and circulars as a new invention, which exercises the ossicles and muscles of hearing until they become strong enough to work, and relieves deafness and head noises by removing the cause, helping to "restore your natural hearing" and affording "positive and complete relief from head noises", and with a record of accomplishing such results for many, including restoration of hearing after 20 years of extreme deafness, and represented that said oil, assertedly used theretofore by a noted New York physician with remarkable success, and recognized by doctors, had alone relieved many cases of deafness, and claimed through testimonial advertisements that use of said device and oil had relieved users of deafness, had enabled a person deaf for 25 years, to hear the "talkies", and would enable a person born deaf and dumb to acquire the sense of hearing;

Facts being that such device would not cure or aid in the cure of deafness or head noises, or relieve such ailments or noises or restore natural or any hearing to deaf persons, with or without said oil, and was not a new invention, but, formerly sold under a different name, had been discovered, tested and discarded as worthless by otologists a number of years ago, use thereof was dangerous, and treatment thereby afforded, with or without said oil, was neither scientific, efficacious or proper for deafness or head noises, and aforesaid oil did not possess such therapeutic value as to aid, cure or relieve deafness or head noises and was not used or recommended by reputable or noted doctors, or given its name, as asserted, by any physician;

With tendency and capacity to mislead and deceive purchasers and prospective purchasers, including the millions of deaf and partially deaf, and those incurably so, and receptive to anything holding out hope of slightest relief, into believing that such representations were true, and inducing their purchase of said device and oil in such belief, and of unfairly diverting trade to it from its competitors, and with effect of postponing procurement of proper and efficacious treatment, by the user, for his deafness:

Held, That such practices, under the circumstances set forth, constituted unfair methods of competition.

Mr. E. J. Hornibrook for the Commission.