

IN THE MATTER OF
JACOB ANTINOPH AND HARRY MEDOFF, COPARTNERS,
DOING BUSINESS UNDER THE FIRM NAME AND
STYLE OF PHILADELPHIA LEATHER-GOODS CO.

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

Docket 2098. Complaint, Mar. 29, 1933—Order, Feb. 2, 1934

Consent order requiring respondents, their agents, etc. to cease and desist, in connection with the sale, offering for sale, or distribution in interstate commerce and the District of Columbia of handbags, suitcases, and other luggage or other products made from the under layers of sealskin, known as "Split Seal", from designating and describing the same as "Seal" or "Genuine Seal" unless the word "Seal" is modified by the word "Split" in letters equally conspicuous or other expression clearly and conspicuously designating that the material is an under layer of sealskin.

Mr. Harry D. Michael for the Commission.

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 Joseph ¹ Antinoph and Harry Medoff hereinafter referred to as respondents have been and are 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. The respondents Joseph Antinoph and Harry Medoff are now and have been for several years last past partners under the firm name and style of Philadelphia Leather-Goods Co., and engaged in the business of manufacturing and selling in interstate commerce to jobbers and retail dealers throughout the United States handbags, suitcases, and other luggage. They cause said merchandise when sold to be shipped in interstate commerce from their said place of business at Philadelphia into and through other States of the United States to the purchasers thereof at their respective points of location. In the course and conduct of their business respondents are and have been in competition with many other persons, firms and corporations located in the United States engaged

¹ Should be Jacob. See p. 192.

in the manufacture and sale in interstate commerce of handbags, suitcases, and other luggage and in the shipment of same from their respective points of location to purchasers throughout the various States of the United States.

PAR. 2. Many of respondents' competitors mentioned in paragraph 1 hereof make and sell luggage manufactured from leather made from the outside or topside of sealskin after same has been separated or split from the flesh side of the skin. Such leather is generally described by makers of luggage and generally known to manufacturers, dealers and the purchasing public as "Seal" or "Genuine Seal". Until recently the flesh side of the sealskin has been by manufacturers of leather discarded as waste material. Such material is now used to some extent for the making of leather which leather is ordinarily described in the trade as "Split Seal". It is very much inferior in quality, durability and price to "Seal" or "Genuine Seal" as described in this paragraph.

PAR. 3. Respondents among other merchandise manufacturer and sell in the course of business described in paragraph 1 hereof luggage the covering of which is the material mentioned in paragraph 2 hereof as Split Seal which material is treated, embossed and finished by said respondents so as to imitate the leather known as Seal or Genuine Seal as described in paragraph 2 hereof. Respondents by means of stamps and tags affixed to said luggage made of Split Seal describes said luggage as being made of Genuine Seal. Said description made on or attached to said luggage reaches the public through the retail merchants and is used by said merchants in advertising said spurious luggage and in selling said spurious luggage to the public.

PAR. 4. The said description and representation made by respondents as to their merchandise is false and fraudulent in that the material described is not Genuine Seal or Seal in any sense as the terms Seal and Genuine Seal are commonly understood by the purchasing public. The use of said description and representation has the capacity and tendency to deceive the purchasing public and to induce purchasers to buy the luggage thus described in and on account of a belief that the said luggage is made of genuine sealskin. The said false branding and description also have the capacity and tendency unfairly to divert and do divert trade from respondents' competitors to the respondents.

PAR. 5. The above alleged acts and things done by respondents are all to the prejudice of the public and of respondents' competitors and constitute unfair methods of competition in commerce within

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the intent and meaning of Section 5 of an Act of Congress entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914.

ORDER TO CEASE AND DESIST

Pursuant to the provisions of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", the Federal Trade Commission on the 29th day of March, 1933, issued its complaint against Joseph Antinoph and Harry Medoff, copartners, doing business under the firm name and style of the Philadelphia Leather-Goods Co., and caused the same to be served upon the respondents named in the title hereof as required by law, in which complaint it is charged that said respondents have been and are using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act.

On April 27, 1933, said respondents named in the title hereof entered an appearance herein and filed an answer to said complaint setting forth among other things that the correct name of the first copartner in said copartnership doing business under the firm name and style of the Philadelphia Leather-Goods Co. is *Jacob* Antinoph instead of *Joseph* Antinoph, as erroneously stated in the title and elsewhere in said complaint. On January 13, 1934, said respondents, Jacob Antinoph and Harry Medoff, copartners doing business under the firm name and style of Philadelphia Leather-Goods Co., submitted to the Commission for filing an amended answer electing to refrain from contesting this proceeding and consenting to the issuance of an order to cease and desist from the practices set forth in the complaint herein, which said amended answer is hereby received and ordered filed.

Thereafter, this proceeding came on regularly for disposition and decision by the Commission under subdivision (2) of Rule III of the Rules of Practice and Procedure adopted by the Commission, and the Commission being fully advised in the premises:

It is ordered, That respondents, Jacob Antinoph and Harry Medoff, copartners, doing business under the firm name and style of Philadelphia Leather-Goods Co., their agents, employees, or successors, in connection with the sale, offering for sale, or distribution in interstate commerce and the District of Columbia of handbags, suitcases, and other luggage or other products made from the underlayers of sealskin known as "Split Seal", cease and desist from designating

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and describing the same as "Seal" or "Genuine Seal" unless the word "Seal" is modified by the word "Split" in letters equally conspicuous or other expression clearly and conspicuously designating that the material is an underlayer of sealskin.

It is further ordered, That respondents, within 60 days from and after the date of the service upon them of this order, shall file with the Commission a report in writing, setting forth in detail the manner and form in which they are complying with the order to cease and desist hereinabove set forth.

IN THE MATTER OF
VANADIUM-ALLOYS STEEL COMPANY

COMPLAINT, FINDINGS, OPINION, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 7 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914

Docket 1694. Complaint, Sept. 19, 1929—Decision, Feb. 3, 1934

CLAYTON ACT, SECTION 7—CORPORATE STOCK ACQUISITION IN COMPETITOR—"COMPETITION"—WHAT CONSTITUTES SUBSTANTIAL—CRITERIA—QUANTITATIVE, QUALITATIVE, PRICE, AND FUNCTIONAL.

In a proceeding by the Federal Trade Commission, challenging the acquisition by a corporation of stock in another corporation, as a violation of said section, prohibiting such acquisitions in the case of corporations engaged in interstate commerce "where the effect of such acquisition may be to substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to restrain such commerce in any section or community, or tend to create a monopoly in any line of commerce", a showing that, (1) at least 22.5 percent of the acquiring company's sales of "comparable and competitive" brands of tool steels, and nearly 54 percent of the acquired company's sales of similar products were competitive in certain fields, (2) both companies' tool steels were characterized by marked similarity as to type, determining elements, and price, and, (3) that, founding competition on two of said products' practically equal desirability for at least one use, percentages of 82.5 and 77.7 were respectively reached, *held* to disclose substantial competition in tool steel production between the two companies, in full accord with the analyses of competitive products made in *International Shoe Co. v. Federal Trade Commission*, 280 U. S. 291, and to give a true concept to the term "competition."

CLAYTON ACT, SECTION 7—CORPORATE STOCK ACQUISITION IN COMPETITOR—"COMPETITION"—POTENTIAL AND FUTURE—"COMPARABLE" AND/OR "COMPETITIVE" BRANDS.

Section 7 looks to the lessening of future competition as well as to the suppression of such competition as there may have been in the past, and where substantial proportions of the two companies' sales were concerned with "comparable" and/or "competitive" tool steels, sold in common markets and to common customers, there was no question that such companies were and might be in substantial competition with one another as to said products, since "though there may be at the moment no willingness on the part of customers to take one brand instead of another because of a multitude of differences, such as minor variations in quality, prior business relations involving more than the one product, and even the inertia that so often finds high capitalization under the term 'good-will', products that at the beginning may only be 'comparable' quickly become 'competitive' as salesmen become active, markets limited, and manufacturers mould quality and price to meet variant desires."