

Complaint

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IN THE MATTER OF

CHARLES BRONSON, TRADING AS BRONSON
SHOE COMPANYCOMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2298. Complaint, Feb. 14, 1935—Order, Oct. 15, 1935*

Consent order requiring respondent individual, his officers, etc., in connection with the advertisement, offer for sale and sale in interstate commerce and in the District of Columbia, of shoes, to cease and desist from—

- (a) Representing through advertisements, circulars, etc., or in any other manner or assisting or participating in advertisements, etc., representing that he owns or operates a shoe factory, and that prices at which he sells his products to the consumer are manufacturers' wholesale prices; or that he sells his products to the consumer under any plan or method of distribution by means of which all costs, profits or other charges of middlemen are eliminated; or that the proceeds of such savings by reason of the elimination of such middlemen, accrue to the purchasers from him, unless and until such representations are true in fact; or
- (b) Representing as aforesaid or assisting or participating in advertisements, circulars, etc., representing or indicating or having a capacity or tendency to indicate from the text in which such representations appear that he owns or controls patents or "new patents" covering so-called "Air Cushion" shoes or other manufacturing processes unless and until the same are owned or controlled by him.

Mr. Marshall Morgan for the Commission.

Webber, George & Owen, of Winona, Minn., 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 Charles Bronson, trading as Bronson Shoe Company, has been and is using unfair methods of competition in interstate commerce, as "commerce" is defined in said act, in violation of the provisions of Section 5 of said act, and states its charges in that respect as follows:

PARAGRAPHS 1. Respondent, Charles Bronson, trading as Bronson Shoe Company, 710 West Lake Street, Minneapolis, Minn., is, and for more than two years last past has been engaged, as hereinafter described, in the business of selling shoes direct to consumers located in various States of the United States. In consummating such sales and in distributing such merchandise respondent causes the said

shoes so sold to be transported and delivered from the city of Minneapolis, State of Minnesota, through and into various other States of the United States to the respective purchasers thereof at their several points of location. In the course and conduct of his business Charles Bronson, trading as Bronson Shoe Company, has been and now is engaged in direct and substantial competition with various corporations, firms, partnerships, and individuals engaged in selling shoes and in offering such products for sale in interstate commerce.

PAR. 2. In the course and conduct of his said business as described in paragraph 1 hereof, respondent Charles Bronson, trading as Bronson Shoe Company, has offered his products for sale and has sold and transported and caused the same to be transported in commerce, among the several States of the United States, direct to consumers, through the medium of traveling salesmen, canvassers, and solicitors, and the use of mail. Said goods are and were shipped in response to orders taken by such traveling salesmen, canvassers, and solicitors, or received through the mail, and transported or caused to be transported in commerce among the several States of the United States. As a means of obtaining the services of such salesmen, canvassers, and solicitors, who canvass for business all over the United States, said respondent causes and has caused advertisements to appear in periodicals having general circulation, and in addition distributes and has distributed circulars containing sales talks and instructions and catalogs.

PAR. 3. Respondent Charles Bronson, on or about July 14, 1934, acquired by purchase from Chester F. Rohn, vice president, and Franklyn A. Rohn, secretary and treasurer, respectively, of the Rohn Shoe Manufacturing Company, of Milwaukee, Wis., hereinafter referred to as the Rohn Company, 260 shares of the common stock of said company, out of a total of 500 shares, acquiring 130 shares from each of these two brothers, respondent giving in payment therefor, to each, his demand note of even date, for \$13,000. The authorized capital stock of the Rohn Company is \$150,000, made up of \$50,000 of common stock all of which has been issued, and \$100,000 of preferred stock, of which \$88,000 has been issued. Only the common stock of this company has voting rights.

The Rohn Company sells to jobbers and retail stores, including the Bronson Shoe Company, the latter taking about 50 percent of the output of the former. Respondent's procedure in buying from the Rohn Company is the same as that which obtained prior to his purchase of the aforementioned common stock. Respondent orders

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shoes from the Rohn Company, the latter ships and invoices him and he sends checks in payment of the invoices. Respondent has continued to sell his shoes, as he has always done, by means of house-to-house canvassers and by mail. No shipments of shoes are made direct from the Rohn Company to any of respondent's customers, nor to any other point than respondent's sales store or office in Minneapolis.

As a rule, the shoes sold by respondent are sent direct to the buyer and not to the salesman for delivery. The salesman collects a small deposit from the purchaser and the balance is paid on a C. O. D. basis. Respondent disclaims responsibility for shoes turned over to a salesman. No change in the price of shoes sold by the Rohn Company to respondent resulted from the purchase by respondent of the common stock hereinbefore mentioned. The Rohn Company has continued to take a manufacturer's profit in connection with its sales to respondent and respondent has continued to make his profit on shoes sold by him through his salesman or canvassers, or the mail, to customers in various States.

PAR. 4. In the course and conduct of his said business, as herein-after related, respondent has caused various false, deceptive, and misleading statements and representations to be inserted in advertisements, circulars, and catalogs distributed in interstate commerce. Advertisements have been run in trade magazines and periodicals having general circulation, and circulars and catalogs were mailed and are being mailed direct to prospective customers, or were addressed to, and are and have been distributed among salesmen and canvassers or prospective salesmen and canvassers, and are intended to be and constitute instructions to them in connection with sales talks to be made to consumers throughout the various States of the United States. In this manner the various false and misleading statements and representations made by respondent Charles Bronson, trading under the name of Bronson Shoe Company, are and have been passed on to the consuming public, and said consuming public has been and is being induced to purchase the goods thus offered for sale and sold by respondent Charles Bronson, trading as Bronson Shoe Company, under the erroneous belief that said false and misleading statements and representations were and are true.

PAR. 5. Respondent Charles Bronson, trading as Bronson Shoe Company, in further connection with the sale and distribution of shoes in interstate commerce printed and broadcast a circular advertising and explaining the features and qualities of the "Bronson

100 percent nail-less air cushion" shoes, in which among others, appear the following statements and representations:

Made in our Dress Shoe Factory.

* * * Sold only through Bronson Direct Salesmen.

* * * The new Bronson Work Shoes, under our new patents, are sewed completely around the entire shoe * * *.

In an advertisement addressed to prospective salesmen and canvassmen and canvassers, printed in a trade paper or magazine, appeared the following:

Bronson's cannot be successfully imitated because the construction of the shoe is amply covered by U. S. Patents which cover the highly individual, nail-less, sewed-in heel seat and other superior features.

thereby further creating the impression that said patent was and is the exclusive property right of the respondent Charles Bronson and applied only and solely to shoes sold by him.

In a catalog issued by respondent herein for use by salesmen and canvassers, there appears on the title page thereof the following:

Bronson Air Cushion—The Most Comfortable and Most Practical Shoe Ever Developed.

(Design)

Patented in United States, Canada, Great Britain, Germany and Czecho-Slovakia. U. S. Patent No. 1,807,401.

Respondent, by the use of such statements, again and further creating, and seeking to create, the impression that the said patent referred to was and is the exclusive property right of respondent herein and applied only and solely to shoes sold by him.

In a printed order blank and instruction sheet for use by purchasers, accompanying the catalog above referred to, and distributed likewise throughout various States of the United States, appears the following, among other statements:

We can fit you better than a retail business.

the said language being intended to convey, and conveying to the purchaser the impression that the business conducted by respondent was and is other than and different from that of a retail store.

In another advertisement, addressed to prospective salesmen and canvassers, inserted by respondent in a trade magazine having a

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general interstate circulation, there appeared, among others, the following statements and representations:

* * * Bronson's Nail-Less Air Cushion Shoes
Direct from Factory.

Bronson's Patented Nail-Less Air Cushion Shoes
are sold only through agents, direct from factory * * *.

By eliminating brokers, jobbers, travelling salesmen
and storekeepers' profits, we are able to sell Bronson's
Nail-Less Air Cushion Shoes at prices astonishingly
low * * *.

intending to create and thereby creating by means of such statements and representations the impression upon the consumer that in purchasing shoes from respondent and his factory he was enabled to save the customary profit of the jobber, middleman or storekeeper.

In this same advertisement, above the wording:

Bronson Shoe Company,
706-T West Lake Street,
Minneapolis, Minnesota.

appears a picture of a large factory building bearing a sign at the top reading:

HOME OF BRONSON SHOES

said pictorial representation being intended to convey, and conveying, the impression that the said building shown therein was and is the factory owned and operated by the respondent herein, and from which shoes allegedly manufactured by the respondent were and are shipped direct to the consumer, thus saving to the consumer the profits of broker, jobber, and storekeeper and the cost of traveling salesmen.

When in truth and in fact the above set forth statements and representations made by the respondent Charles Bronson, trading as Bronson Shoe Company, were and are false, deceptive, and misleading in the following, among other particulars:

1. The respondent does not own or operate any factory wherein the products which he sells and distributes, or has sold and distributed in interstate commerce are and were manufactured;
2. The so-called "direct salesmen" do not represent any factory or manufacturer;
3. The "new patents" to which reference is made, covering so-called "Air Cushion" shoes or other manufacturing businesses, are not owned or controlled by the respondent herein;

4. The respondent does conduct a retail business;
5. Respondent's shoes are not sold through or by agents "direct from factory", or "from factory to wearer";
6. Respondent's methods of buying and selling the shoes he handles do not save to the consumer the profits of a jobber, broker, or storekeeper, or other middleman, or the expenses incident to the services of salesman;
7. The pictorial representation appearing in a magazine of a large factory building is not that of a building or factory occupied by the respondent Charles Bronson, doing business as Bronson Shoe Company, and the building shown in the picture with the large sign at the top purporting to read "Home of Bronson Shoes" actually contains no such sign.

PAR. 6. By the use of such false and misleading statements and representations appearing in respondent's circulars, catalogs and other advertising matter, reaching the public through the medium of agents, canvassers and the mail, members of the consuming public are and have been thereby deceived concerning the character, origin and cost to them of shoes that are being sold and have been sold to them by respondent and are thereby induced to purchase such shoes under the erroneous belief that said false and misleading statements and representations are true in that the Bronson Shoe Company is a business concern operating a factory in which are manufactured the shoes sold by respondent; that the respondent is therefore able to sell said shoes to the consumer at factory prices, substantially less than those usually demanded by the retailer or storekeeper in the ordinary course of trade for like products of similar character, and that said consumer is also given the exclusive benefit of valuable patent rights owned and controlled by respondent.

The aforesaid practices are further to the detriment and injury of competitors of respondent in that they divert to respondent the trade of competitors engaged in selling in interstate commerce like products of similar character to those sold by respondent.

The aforesaid acts and practices of respondent further are detrimental to and tend to demoralize the market developed and existing in connection with the sale of shoes by a retailer or middleman to the consumer, are destructive of and create confusion as to the public's conception of the retail shoe business, result in great injury to the business of competitors and place in the hands of the salesmen and canvassers representing respondent the means of deceiving the purchaser of the said shoes, sold under and by virtue of the herein set forth false, deceptive and misleading representations.

PAR. 7. The above false, misleading, and deceptive acts, practices, and methods of respondent, under the circumstances and conditions hereinabove alleged are unlawful and constitute unfair methods of competition within the intent and meaning of Section 5 of an Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes".

ORDER TO CEASE AND DESIST

This proceeding coming on for final hearing by the Federal Trade Commission on the record, including the complaint of the Commission issued under 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", and respondent's amended answer thereto in which respondent waives hearing on the charges set forth in the complaint, refrains from contesting the proceeding and, pursuant to the Commission's Rules of Practice with respect to answers, consents that the Commission may make, enter and serve upon respondent an order to cease and desist from the unfair methods of competition set forth in the complaint herein, and the Commission being advised in the premises—

It is now ordered, That respondent, Charles Bronson, trading as Bronson Shoe Company, his officers, agents, servants and employees, in connection with the advertising, offering for sale, and selling in interstate commerce and in the District of Columbia, of shoes, do cease and desist from:

(a) Representing by means of advertisements, circulars, catalogs, stationery or by any other manner, or assisting or participating in the circulation of any advertisements, circulars, catalogs, stationery or any other media representing, that respondent owns or operates a shoe factory, and that prices at which respondent sells his products to the consumer are manufacturers' wholesale prices; or that the respondent sells his products to the consumer under any plan or method of distribution by means of which all costs, profits or other charges of middlemen are eliminated; or that the proceeds of such savings by reason of the elimination of such middlemen, accrue to purchasers from respondent, unless and until such representations are true in fact; and

(b) Representing in any advertisements, circulars, catalogs, stationery or otherwise, or assisting or participating in the circulation of any advertisements, circulars, catalogs, stationery or other media representing or indicating, or having the capacity or tendency to indicate from the text in which such representations appear, that

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the respondent owns or controls patents or "new patents" covering so-called "Air Cushion" shoes or other manufacturing processes unless and until the same are owned or controlled by the respondent.

It is further ordered, That the respondent within 60 days from and after the date of service upon him of this order shall file with the Commission a report or reports in writing, setting forth in detail the manner and form in which he is complying with the order to cease and desist hereinbefore set out by the Commission.

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IN THE MATTER OF

DAVIS KNITTING MILLS, INC., TRADING UNDER ITS OWN
NAME AND AS YORKE KNITTING MILLSCOMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 23, 1914*Docket 2525. Complaint, Aug. 21, 1935—Order, Oct. 15, 1935*

Consent order requiring respondent corporation, its officers, etc., in connection with the advertisement, offer for sale and sale in interstate commerce and in the District of Columbia of men's and boys' knitted outerwear, to cease and desist from using the word "Mills" or the words "Knitting Mills" in its corporate or trade name and in any trade name under which it may do business; and from the use of the word "Mills" or the words "Knitting Mills" in any way which may have the capacity or tendency to confuse, mislead or deceive purchasers into the belief that it owns, controls and operates a mill or factory wherein its products are made or fabricated, unless and until such representations are true in fact.

Mr. Wilbur N. Baughman for the Commission.

Mr. Harry W. Pitt, of New York City, for respondent.

COMPLAINT

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, having reason to believe that Davis Knitting Mills, Inc., trading under its own name, and as Yorke Knitting Mills, have been and are using unfair methods of competition in commerce, as "commerce" is defined in said act of Congress, in violation of said act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public interest hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. That the respondent is a corporation incorporated and existing under the laws of the State of New York, having its principal place of business at 1199 Broadway, New York City; in its own name and also under the style and name of Yorke Knitting Mills, and is engaged in the business of selling men's and boys' knitted outerwear, in the course of which it has solicited orders for its products from dealers and prospective customers in various States other than the State of New York, and has contracted to sell and deliver and has sold and caused to be transported to purchasers outside of the State of New York, its products as above described; that the respondent is in competition with persons, partnerships, and corporations who manufacture and sell in interstate commerce a similar line of knitted outer-