

Syllabus

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IN THE MATTER OF

UNITED ARTISTS AND ENGRAVERS GUILD, INC.

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

Docket 2482. Complaint, June 29, 1935—Decision, Oct. 29, 1935

Where a corporation engaged in designing, selling, and distributing stationery for social and business purposes, including invitations, announcements, calling cards, letterheads, envelopes, and similar products—

- (a) Included the word "Engravers" in its corporate name and featured and made use of the same and such words as "Process Engraved" and "Engraving" in newspaper and magazine advertisements, on price lists, sample books, catalogs, pamphlets, and trade literature distributed to its representatives and agents for display to, and use in soliciting the general public and in general business correspondence, through such statements on sample books, catalogs, and samples as "United Artists and Engravers Guild", "De Luxe Process Engraved Stationery", or "Genuine Steel Dye Engraved Stationery", "Our Process Engraving Plant", notwithstanding fact raised letter effect on its said stationery, which so closely resembled genuine engraving that inexperienced persons could not distinguish between the two, did not constitute genuine engraving, i. e., stationery with words or designs raised from the general plane of the surface through application thereto under pressure of inked metal plates, upon which had been engraved or incised said words, etc., but was produced through a process involving application of chemical and heat to flat, wet printing, and it was not engaged in the business of engraving and was not an engraver as understood by trade and public generally;
- (b) Used word "Manufacturers" in referring to itself through such statements in its said advertising and trade literature as "Designers and Manufacturers", "Our * * * Plant", "World's Largest Producers", and set forth upon such trade literature depiction of a large factory or manufacturing plant with its said corporate name across the entire front thereof, notwithstanding fact that it did not own or operate any plant or machinery for manufacture of stationery products produced by its aforesaid method, or own or occupy the building depicted to such an extent or in such a manner as to justify use of said depiction, but caused its said products to be produced for it, on a cost plus basis, by two plants under oral contracts and arrangements under which, among other things, it sometimes paid certain of the expenses of the producing plant, designed the copy, supervised actual production, and exercised control over process of manufacture by such plants, which, however, supplied and controlled employees, and owned all or most of equipment used, and more than half of the output of which was for others;

With tendency and capacity to mislead and deceive trade and substantial portion of the purchasing public, many of whom decidedly prefer the much more costly genuine engraved stationery to that produced by the above described process, or prefer to deal directly with the manufacturer rather than with selling agency or middleman and especially in case of such special order products as herein concerned, in the belief that in so dealing they secure closer prices and superior quality, and to induce purchase by them of a sub-

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stantial quantity of its said products in the belief that said representations and statements were true, and with effect of unfairly diverting a substantial volume of trade to it from competitors, many of whom make and sell engraved or other stationery and properly represent themselves as manufacturers thereof, others of whom deal in such stationery without in any way misrepresenting themselves as the makers thereof, and many of whom make or sell products produced by a process similar to that used by it without in any way representing their said product as the more costly engraving, and with capacity and tendency so to divert, to the substantial injury of substantial competition in commerce:

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

Before *Mr. John W. Addison*, trial examiner.

Mr. J. T. Welch for the Commission.

Bussian & Debolt, of Chicago, Ill., for respondent.

COMPLAINT

Pursuant to 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 United Artists and Engravers Guild, Inc., a corporation, hereafter designated as respondent, is now, and has been, using unfair methods of competition in commerce, as "commerce" is defined in 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. Respondent is now, and has been at all times mentioned herein, a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois with its office and principal place of business at 8 South Dearborn Street, city of Chicago, in said State, and is now, and has been at all times mentioned herein, engaged in the business of selling and distributing stationery for social and business purposes, including invitations, announcements, calling cards, letterheads, envelopes, greeting cards, Christmas cards and similar products, in commerce as hereinafter set out.

PAR. 2. Said respondent, being engaged in business as aforesaid, causes said stationery products as hereinabove described, when sold, to be transported from its principal office and place of business in the State of Illinois to the purchasers thereof located in various cities in other States of the United States and in the District of Columbia, and there is now, and has been at all times mentioned herein, a constant current of trade and commerce in said stationery so sold and dis-

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tributed by respondent, between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its said business, respondent is now, and has been, in substantial competition with individuals, firms and corporations engaged in the business of printing, selling, and distributing stationery, as herein described, for social and business purposes, in commerce among and between the various States of the United States and in the District of Columbia, and particularly with individuals, firms, and corporations engaged in the business of engraving and selling engraved stationery for social and business purposes in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 4. In the course of the operation of said business, and for the purpose of inducing individuals, firms, and corporations to purchase said stationery products hereinabove described, respondent has, from time to time, caused advertisements to be inserted in newspapers and magazines of general circulation throughout the United States, and has had printed and has circulated to its agents and representatives throughout the various States of the United States, through the United States mails, price lists, sample books, pamphlets, and other advertising literature. All of said price lists, sample books, and advertising literature were intended and designed by respondent to be used by its agents and representatives for display to the general purchasing public and were and are now used by said agents and representatives in securing orders for said stationery and in selling said stationery products to the consuming public. In all of the price lists, sample books, pamphlets, and advertising literature herein referred to respondent has caused its corporate name, United Artists and Engravers Guild, together with other statements hereinafter detailed, to be prominently and conspicuously displayed.

On the front cover of one sample book appears the following:

De Luxe	Designers and	United Artists and
Process Engraved	Manufacturers	Engravers
Stationery	Greeting Cards	Guild
	Advertising	
	Specialties	

The sample book above referred to is forwarded, as aforesaid, by respondent to its various agents and representatives throughout the various States in response to their inquiries submitted in answer to the advertisements inserted in newspapers and magazines of general circulation throughout the United States.

On the inside of the cover and on the samples themselves there is printed, in connection with the price quotations indicated on said

samples, the following: "process engraved" and "processed engraved." In the various catalogs, circulars, sample books, and pamphlets distributed as aforesaid by respondent, there appear numerous statements wherein the respondent refers to the process by which the letters, words, or designs are printed on said stationery as "process engraved" or "processed engraved."

On the front cover of another sample book appears the following:

Genuine	Designers and	United
Steel Die	Manufacturers	Artists and
Engraved	Greeting Cards	Engravers
Stationery	Advertising	Guild
	Specialties	

This sample book is not distributed by respondent to all of its agents and representatives but is distributed only to certain selected agents and representatives. For this reason it is not exhibited by all of the agents and representatives of respondent when attempting to secure orders for, or make sales of the aforementioned stationery products sold and distributed by respondent.

Further, respondent has prepared and circulated among certain of its leading agents and representatives, for the purpose of inducing individuals, firms and corporations to purchase said stationery products hereinabove described, a certain portfolio of samples designated by it as a "de luxe portfolio."

The front page of this so-called "de luxe portfolio" reads as follows:

UNITED ARTISTS AND ENGRAVERS GUILD

The Chicago sales offices of the Guild are located at 8 South Dearborn Street in the heart of Chicago's famous loop business district. Our process engraving plant, occupying a city block in length, is located on the south side, close to transportation facilities and sources of supplies.

World's Largest Producers of Genuine Process Engraved Business Stationery, located in the heart of the continent, serving more than 100,000 customers in 48 States and all American possessions.

On the bottom of the front page there appears a picturization of a large factory or manufacturing plant. There appear, in large letters, across the entire front facade of the building picturized, the following words:

UNITED ARTISTS AND ENGRAVERS GUILD

PAR. 5. The use of the word "Engravers" in respondent's corporate name, as indicated on the cover of both sample books herein referred to, and on the facade of the building illustrated in the so-called "de luxe portfolio" the use of the words "process engraving", "processed engraving" and "manufacturers" in all of said sample books, price lists, pamphlets, and other advertising literature as

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herein set out, together with similar words, as well as references to said respondent's manufacturing plant as indicated in said "de luxe portfolio" and elsewhere, purport to be descriptive of respondent's business and the products sold by it.

Respondent does not own or operate any plant or machinery for the manufacture of stationery products produced either by the method designated by respondent as "process engraving" or by the method of genuine engraving; and does not own, operate or occupy the building picturized in the above mentioned "de luxe portfolio." The only office and place of business of respondent is located at 8 South Dearborn Street, Chicago, and this office is not equipped for the manufacture or production of engraved or printed stationery products.

Respondent is not engaged in the business of "engraving" and is not an "engraver" as those terms are understood by the trade and the public generally and is not engaged in the business of printing the product called by it "process" or "processed" engraving.

Respondent is engaged solely in the business of selling and distributing stationery products such as letterheads, envelopes, calling cards, invitations, announcements and greeting cards that have been manufactured by others.

The products designated by respondent as "process engraved" stationery, as illustrated in the said catalog or sample books hereinabove first referred to, have not been engraved or produced as a result of an engraving process according to the trade and public understanding of the terms "engraved" and "engraving." The products displayed in said sample book, herein first referred to, are produced by a process which includes the placing of letters, words or designs upon stationery by means of inked type or cuts, commonly designated as flat printing, and the application to such stationery, while the ink is wet, of a chemical in powder form. The said stationery is subsequently heated or baked and the chemical fuses with the ink so as to present a raised letter effect that closely resembles genuine engraving in some of its characteristics. Persons who are not experts cannot distinguish between products produced by this process and products produced by genuine engraving.

PAR. 6. The word "engraving", as it is used in the graphic arts, may be applied either to an engraved intaglio plate upon which letters, words or designs have been incised or cut, or to impressions made from such a plate. Such plates are cut or incised by hand, by machine, by etching with acid, by a transfer from other engravings and by other means, but in all cases the letters, words or designs so to be produced upon stationery are cut below the surface of the plate. To make impressions from such a plate the ink is applied,

then the plate is wiped so that the ink remains only in the lines cut below the surface. The inked plate is then put upon a piece of stationery or article to be engraved and pressure is applied sufficient to force the surface of the stationery into the lines cut in the plate, causing the ink in such lines to adhere to the paper on which the impression is to be made.

PAR. 7. The words "engraving" and "engraved", when used in connection with, or descriptive of, business or social stationery, mean, and the trade and consuming public understand, and for many years have understood, them to mean that the stationery products, so being referred to or described, contain letters, words or designs which are raised from the general plane of the stationery surface, and are in relief, and are the result of the application, under pressure, of metal plates which have been specially engraved, cut or carved for, and are used in, the production of such stationery by the process more particularly detailed herein in paragraph 6.

PAR. 8. The cost of producing genuine engraved stationery greatly exceeds the cost of producing stationery of like stock, grade or character produced by the process employed by the manufacturer of the product sold by respondent, and a substantial portion of the purchasing public has indicated, and has, a decided preference for engraved stationery over stationery produced by the process described in paragraph 5 or any similar process.

A substantial portion of the consuming public prefer to deal direct with the manufacturer of products being purchased, especially when the product being purchased is manufactured only on special order; as is the case with stationery products. Such purchasers believe that they secure closer prices and superior quality in dealing direct with the manufacturer rather than a selling agency or middleman.

PAR. 9. The use by respondent of the word "engravers" in its corporate name, and the words "process engraved", "processed engraved", "engraved" and "manufacturers" as set out in paragraph 4 hereof, either in describing the product sold by it or designating its business in its advertisements in newspapers and magazines, circular letters of solicitation, catalogs, price lists, sample books, pamphlets, folders and other advertising literature, and in its general business correspondence; and the use by respondent of the picturization of a manufacturing plant bearing the words "United Artists and Engravers Guild" across its facade in describing and designating the nature, size and location of respondent's business in offering for sale or selling its stationery products, was and is calculated to, and had and now has the tendency and capacity to, and did and now does mislead and deceive a substantial portion of the purchasing public into the erroneous belief:

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(1) That respondent owns or operates an "engraving" company and is engaged in the business of producing "engraved" stationery;

(2) That the letters, words or designs contained upon the said stationery designated by respondent as "process engraved" or "processed engraved" and offered for sale and sold by the respondent were and are "engraved" and are the result of the engraving process described in paragraph 6;

(3) That respondent owns and operates a factory located in the city of Chicago, State of Illinois, in which factory is produced by respondent the stationery products sold by it;

(4) That they are securing for themselves the advantage of close prices and superior quality resulting from purchasing direct from a manufacturer.

Further, the use of the words "engraved", "process engraved" or "processed engraved", "manufacturers" and "engravers", as well as the use of the word "engravers" in respondent's corporate name, in said advertising literature hereinabove referred to, especially in the sample books, price lists and general public correspondence, and the placing of said advertising literature, containing said words, in the hands of agents, representatives and dealers enables unscrupulous agents, representatives and dealers to mislead and deceive customers into the erroneous belief that respondent owns and operates an engraving company, that it is engaged in the business of producing engraved stationery products, that the stationery products offered for sale and sold by the respondent, designated as "process engraved" or "processed engraved", are genuine engraved products, and that the respondent is a manufacturer of all of said products sold and distributed by it. As a direct consequence of the mistaken and erroneous belief induced by the acts, advertisements and representations of respondent, hereinabove detailed, a substantial number of the consuming public has purchased a substantial volume of respondent's stationery products, with the result that substantial injury has been done to substantial competition in commerce among the various States of the United States and in the District of Columbia.

PAR. 10. There are among respondent's competitors, many who produce "engraved" stationery products which are designed and intended for business and social purposes, and who sell such "engraved" stationery products, when so produced, and transport them or cause them to be transported, to, into and through other States of the United States, to the purchasers thereof at their respective points of location; there are others among respondent's competitors who manufacture and sell in commerce as aforesaid, stationery products designed and intended for business and social purposes, but who do

not manufacture or sell "engraved" stationery products and who do not, by any means or in any manner, hold themselves out, or represent themselves to be manufacturers of, or dealers in, "engraved" stationery products; and the alleged acts, practices and representations of the respondent divert a substantial volume of trade from, and otherwise prejudice and injure a substantial number of said competitors.

PAR. 11. The above and foregoing acts, practices and representations of the respondent have been, and are, all to the prejudice of the public and respondent's competitors as aforesaid, and have been, and are, unfair methods of competition within the meaning and intent 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, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", the Federal Trade Commission issued and served its complaint upon the respondent herein, United Artists and Engravers Guild, Inc., a corporation organized and doing business under and by virtue of the laws of the State of Illinois, charging said respondent with the use of unfair methods of competition in commerce in violation of the provisions of said act.

The respondent, having entered its appearance and having filed its answer herein, testimony and documentary evidence were received in the course of a hearing at Chicago, Ill., August 27, 1935, before John W. Addison, examiner of the Federal Trade Commission, theretofore duly appointed for such purpose, and the respondent having, in the course of said hearing, entered into a stipulation whereby it was stipulated and agreed that a statement of facts signed and executed by respondent, and its counsel, and J. T. Welch, attorney for the Federal Trade Commission, subject to the approval of the Commission, are the facts in this proceeding and shall be taken by the Federal Trade Commission as such and in lieu of testimony before the Commission in support of the charges stated in the complaint, or in opposition thereto, and that said Commission may proceed further upon said statement of facts, stating its findings as to the facts and conclusion thereon and entering its order disposing of the proceeding;

And, thereupon, this proceeding came on for final hearing and the respondent having waived the filing of briefs and the hearing of oral argument herein before the Commission, and said Commission

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having approved and accepted said stipulation as to the facts and having duly considered the record and being now fully advised in the premises, makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, United Artists and Engravers Guild, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois. The respondent maintains its office and principal place of business in the city of Chicago in said State. The respondent corporation is now, and has been since the date of incorporation in 1933, engaged in the business of designing, selling and distributing stationery for social and business purposes, including invitations, announcements, calling cards, letterheads, envelopes and similar products. Since prior to January 1, 1935, all of the stock of the corporation has been held equally by Harry Cohn and Elwood W. Ankrum.

PAR. 2. From the date of its incorporation until the present time the respondent has caused its said stationery products herein described, when sold, to be transported from its principal office and place of business in the State of Illinois to the purchasers thereof located in various cities in other States of the United States. There has been at all times since the incorporation a constant and substantial current of trade and commerce in said stationery products sold by the respondent between and among the various States of the United States, and the respondent is now, and has been, in substantial competition with individuals, firms and corporations engaged in the business of printing or engraving, selling and distributing stationery of like kind and character in commerce among and between the various States of the United States.

PAR. 3. In the course of the operation of said business, and for the purpose of inducing the purchase of the products sold by it, respondent has caused advertisements to be inserted in newspapers and magazines of general circulation throughout the United States, and has printed and circulated to its agents and representatives throughout the various States of the United States, price lists, sample books, pamphlets, and other advertising literature. All of said advertisements inserted in newspapers and said advertising literature distributed to respondent's representatives were designed by the respondent to be used by said agents and representatives for display to the general purchasing public and were so used by said representatives in securing orders for a substantial quantity of said stationery and in selling said stationery products to the consuming public.

In all of the advertisements, price lists, sample books, catalogs and other pamphlets the respondent has caused its corporate name,

United Artists and Engravers Guild, Inc., together with other statements hereinafter detailed, to be prominently and conspicuously displayed.

On the front cover of one sample book appears the following:

DeLuxe	Designers and	United Artists and
Process Engraved	Manufacturers	Engravers
Stationery	Greeting Cards	Guild
	Advertising	
	Specialties	

On the inside of the cover and on the samples themselves there are printed, in connection with the price quotations indicated on said samples, the words "process engraved" and "processed engraved." In various catalogs, circulars, sample books and pamphlets distributed as aforesaid by the respondent there appear numerous statements wherein the respondent refers to the process by which the letters, words or designs are printed on said stationery as "process engraved" or "processed engraved."

In connection with the distribution and sale of engraved stationery respondent has caused catalogs and other advertising literature containing the same language as hereinbefore set out, except that the words "genuine steel die engraved stationery" are substituted for the words "deluxe process engraved stationery", to be distributed to certain of its agents and displayed to the consuming public generally.

Respondent has also prepared and circulated to certain of its leading agents and representatives, for the purpose of inducing the consuming public to purchase products similar to the samples therein displayed, a certain portfolio of samples designated by it as "deluxe portfolio." The front page of this so-called "deluxe portfolio" reads as follows:

UNITED ARTISTS AND ENGRAVERS GUILD

The Chicago sales offices of the Guild are located at 8 South Dearborn Street in the heart of Chicago's famous loop business district. Our process engraving plant, occupying a city block in length, is located on the south side, close to transportation facilities and sources of supplies.

World's Largest Producers of Genuine Process Engraved Business Stationery, located in the heart of the continent, serving more than 100,000 customers in 48 States and all American possessions.

On the bottom of the front page there appears a picturization of a large factory or manufacturing plant. There appear, in large letters, across the entire front facade of the building picturized, the following words:

UNITED ARTISTS AND ENGRAVERS GUILD

On or about January 15, 1935, the reading matter on the front cover of the sample book formerly describing the product sold by

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the respondent as "process engraved stationery" was changed so as to designate the product as "embossed stationery." The reading matter was also changed so as to eliminate the word "Manufacturers." Since that date the words "process engraved" and "processed engraved" do not appear at any place in said sample book. On the same date the reading matter on the front cover of the sample book used in the sale of "genuine steel die engraved stationery" was changed so as to eliminate therefrom the word "manufacturers." Subsequent to January 15, 1935, but prior to the commencement of the hearings held in Chicago, Ill., on August 27th, respondent changed the reading matter appearing on the front page of the so-called "deluxe portfolio" so that the words "genuine process engraved" were eliminated and the word "embossed" substituted therefor. Certain additional reading matter referring to respondent's process engraving plant and a picturization of a large plant bearing respondent's corporate name across the entire front facade of the building picturized has been obliterated by pasting over said reading matter and picturization a paper upon which appear the corporate name and address of the respondent.

PAR. 4. The words "engraving" and "engraved", when used either alone or in conjunction with other words, in connection with or descriptive of business or social stationery, mean, and the trade and consuming public have for many years understood them to mean, that the stationery products, so being referred to or described, contain letters, words, or designs which are raised from the general plane of stationery surface and are in relief and are printed on to said stationery as a result of the application under pressure of inked metal plates which have been especially engraved or incised with said words, letters or designs.

PAR. 5. The products designated by respondent as "processed engraved stationery" have not been engraved or produced as a result of an engraving process according to the trade and public understanding of the terms "engraved" and "engraving." The products displayed in said sample book labeled "Deluxe process engraved stationery" are produced by a process which includes the placing of letters, words, or designs upon stationery by means of inked type, electrotypes or cuts, commonly designated as flat printed, and the application to such stationery, while the ink is wet, of a chemical in powder form. The said stationery is subsequently heated or baked and the chemical fuses with the ink so as to present a raised letter effect that closely resembles genuine engraving in some of its characteristics. Persons who are not experts cannot distinguish between products produced by this process and products produced by genuine engraving.

PAR. 6. During the major portion of the year 1934 the so-called "process engraving" sold by the respondent was actually produced at the plant of the Skill Craft Company located at 1508 West Van Buren Street, Chicago, Ill., and the "steel plate engraving" was produced at the plant of the Atlas Engraving Company, Chicago, Ill.

The method of production followed by the respondent was one whereby it entered into oral working agreements or contracts with the producers named who owned equipment and other facilities for the actual production of the stationery products sold by the respondent. Under these several oral contracts respondent sometimes paid certain portions of the operating expenses, including rentals incurred by said producer when the producer could not meet said expenses, designed all of the copy used by the producer in supplying orders for the respondent, supervised the actual production of the products and exercised control over the process of manufacture. All of the oral agreements or contracts provided for the work to be done by the producer on a cost plus basis. The employees actually producing the finished product were employed by the producer and were responsible to him. The majority of the equipment used in the production was owned by the various producers but some equipment was actually owned by the respondent. The sale and distribution of the manufactured product was entirely and absolutely controlled by it. During the last four months of the year 1934 a considerable portion of respondent's work, approximately 40 percent, was produced at the plant of the Murray Engraving Company under similar oral contracts providing for the actual production of the stationery by the Murray Engraving Company on a cost plus basis. All the stationery products sold and distributed by the respondent were manufactured under similar oral agreements or contracts and were produced by the actual manufacturer thereof on a cost plus basis.

In January 1935 Harry Cohn, owner of 50 percent of the stock of respondent corporation, became employed by the Murray Engraving Company and has since that date been continuously so employed. Upon the employment of the said Harry Cohn by the Murray Engraving Company, the respondent brought to an end all of its contracts with other producers of stationery products and entered into an oral agreement or contract with the Murray Engraving Company. Under the terms of this contract the Murray Engraving Company, under the supervision of the said Harry Cohn, became the sole producer of the products sold by the respondent. As a result of this contract the respondent moved what equipment it had to the plant of the Murray Engraving Company and moved its offices, with the exception of its sales office, to the plant of the Murray Engraving Company and there became a tenant of the Murray Engraving Company. Respondent

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thereupon agreed to pay 25 percent of the overhead expense of operating the combined office of the two corporations. The respondent designed all of its samples, selected its own paper and material and had all of its printing and engraving done in said plant with the equipment owned by the Murray Engraving Company under the direct supervision of the said Harry Cohn.

The printing and engraving was done by the Murray Engraving Company and its own employees on a basis of cost plus 10 percent. This oral agreement or contract was, on or about the 20th day of February 1935 incorporated into a written contract. The written contract discloses that the respondent, at the time of the execution thereof, owned no facilities for producing stationery and was operating solely as a sales organization. The written contract provided that the Murray Engraving Company would produce all printing ordered by the respondent on a basis of cost plus 10 percent, would give the orders of respondent preference over orders received from other parties and would use the material directed by respondent. Harry Cohn is paid a regular weekly salary for his part-time services to the Murray Engraving Company and is also paid a weekly salary by the respondent for his part-time services. All of the stationery products now sold by the respondent are produced by the Murray Engraving Company on a cost plus 10 percent basis.

The Murray Engraving Company has always continued to carry on its own business in addition to producing work for the respondent, the work produced for said respondent being only about 40 percent of the total output of said plant.

On the 29th day of March 1935 the two stockholders of respondent corporation entered into a written agreement with the Murray Engraving Company, its stockholders and the creditors of said Murray Engraving Company. Under the terms of this agreement a reorganization of the Murray Engraving Company was to be effected. The majority of the common stock of the said Murray Engraving Company after the reorganization, was to become vested in the two owners of all of the stock of respondent corporation. The agreement also provided for the payment of the debts of the Murray Engraving Company to the amount of in excess of \$100,000 by the issuance of preferred stock to said creditors, said preferred stock to be redeemable under certain conditions fully set forth. This agreement has not been declared operative insofar as the division of stock is concerned and the transfer of said common stock to the owners of the stock of respondent corporation. The two owners of the stock of respondent corporation now own no stock whatever in the Murray Engraving Company.

PAR. 7. Respondent does not own or operate any plant or machinery for the manufacture of stationery products produced by the

method designated by respondent as "process engraving", which is described in paragraph 5 hereof, or by the method of genuine engraving, which is described in paragraph 4 hereof, and does not own or occupy the building picturized in the above-mentioned "deluxe portfolio" to such an extent or in such a manner as to justify its use of the picturization of said building, either alone or with the corporate name of respondent prominently displayed on facade thereof, in advertisements, catalogs, or advertising literature, or in any manner whatever.

Respondent is not engaged in the business of engraving and is not an engraver as those terms are understood by the trade and the public generally, and is not engaged in the business of printing the product formerly called by it "process" or "processed" engraving and now called by it "embossed" stationery.

PAR. 8. There are among the competitors of respondent many who manufacture and sell engraved stationery, or stationery produced by some other process of printing, in commerce as herein set out, and who rightfully and lawfully represent that they do manufacture said product. There are others among the competitors of respondent who do not manufacture the engraved stationery, or stationery produced by some other process of printing, that is sold by them in interstate commerce and who do not advertise or in any way represent that they are the manufacturer thereof. There are also among the competitors of respondent many who manufacture or sell stationery products produced by a process similar to that used in the production of the stationery formerly designated by respondent as "process engraved stationery" and who in no way represent that said product is produced by an engraving process.

PAR. 9. The cost of producing genuine engraved stationery greatly exceeds the cost of producing stationery produced by the process described in paragraph 5 hereof, and a substantial portion of the purchasing public has indicated, and has, a decided preference for engraved stationery over stationery produced by the process described in paragraph 5 or any similar process.

A substantial portion of the consuming public prefers to deal direct with the manufacturer of products being purchased, especially when the product being purchased is manufactured only on special order as is the case with stationery products. Such purchasers believe that they secure closer prices and superior quality in dealing direct with the manufacturer rather than with a selling agency or middleman.

PAR. 10. The false and misleading statements on the part of the respondent, in the marketing of the product sold by it, to the effect (1) that it is the manufacturer of the product sold and distributed

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by it; (2) that it is engaged in the business of producing genuine steel die engraving; (3) that it owns, operates, or controls a plant for the manufacture of stationery products produced either by an engraving process or any other process; and (4) that the products sold by it under the designation "process engraved" or "processed engraved" are actually produced by an engraving process, are, and were, made for the purpose, and have, and have had, a tendency and a capacity to mislead and deceive a substantial portion of the purchasing public and the trade and to cause them to purchase a substantial quantity of the products sold by the respondent under the belief that the said representations and statements were true.

PAR. 11. The false and misleading statements and representations used by the respondent have had, and now have, a tendency and capacity to, and do, unfairly divert a substantial volume of trade from all classes of competitors of the respondent as herein set out.

Substantial quantities of the stationery products distributed and sold by the respondent are sold to purchasers on account of the erroneous beliefs induced by the false and misleading representations on the part of the respondent, and, as a result, substantial injury has been done by the respondent to substantial competition in commerce among and between the several States of the United States.

CONCLUSION

The acts and practices of the respondent as herein set out, under the conditions and circumstances described in the foregoing findings of facts, are all to the prejudice of the public and respondent's competitors, and constitute unfair methods of competition in 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

This proceeding having been duly heard by the Federal Trade Commission upon a complaint of the Commission, the answer of the respondent, testimony in support of the charges of said complaint and a stipulation entered into between the respondent herein, United Artists and Engravers Guild, Inc., a corporation, and its counsel, Bussian and DeBolt, and counsel for this Commission, and the Commission having made its findings as to the facts and its conclusion that said 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"—

Now, therefore, it is hereby ordered, That the respondent, United Artists and Engravers Guild, Inc., a corporation, its officers, agents, representatives, and employees, in connection with the distribution, offering for sale and sale of stationery products, in interstate commerce, forthwith cease and desist from:

(1) Using the word "engravers" in its corporate name, business signs, advertising matter, catalogs and trade literature, until and unless it actually owns, operates or controls the plant in which all the stationery products produced by a process of printing said stationery from inked metal plates into which the words, letters and designs have been incised, and sold by it, are actually produced;

(2) Using the words "process engraved" or the words "engraved" and "engraving", either alone or in conjunction with any other word, or words, in its advertisements and advertising literature, catalogs and general business correspondence distributed or displayed to the public in the several States of the United States, to designate or describe stationery sold by it, the lettering, inscriptions or designs on which have been printed from inked type faces, electrotypes or similar devices, and which stationery does not have printed thereon inked impressions from engraved plates or dies, and which lettering, inscriptions or designs have been given a raised letter effect by the application of a chemical in powder form to the ink while it was still wet, then subjecting same to heat, thereby causing the chemical so applied to fuse with the wet ink;

(3) Using the word "manufacturers", or words of similar import, in its advertisements and advertising literature, catalogs and general business correspondence distributed or displayed to the public in the several States of the United States, until and unless it actually owns, operates and controls a plant wherein all of the stationery products sold by it are actually manufactured or produced;

(4) Representing its ownership, occupation and control of a plant for the manufacture of the products sold by it, by use of picturizations of manufacturing plants with respondent's corporate name appearing thereon, until and unless it actually owns, operates and controls such plant thus pictured.

It is further ordered, That the respondent shall within 90 days after the service upon him of this order file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist hereinabove set forth.

Syllabus

21 F. T. C.

IN THE MATTER OF
L. & C. MAYERS CO., INC.

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

Docket 2038. Complaint, May 18, 1932—Decision, Oct. 30, 1935

Where a corporation engaged as diamond importer and dealer in jewelry, silverware, diamonds, leather goods, and kindred items, described itself on and in its catalogs as wholesale jeweler, and set forth therein, in accordance with jobbers' and wholesalers' practice, purported list prices and dealer discounts, with intent of inducing purchasing public to buy such articles from it as and from a wholesaler selling retail trade at dealer prices;

The facts being that said supposed list prices did not, discounted as set forth, represent wholesale prices of articles involved, but were higher than those usually charged by wholesale jewelers; well over half its total sales were (1) to industrial concerns, public utilities, banks and other similar organizations, purchasing either for their own use and not in quantity lots, or for resale, for the benefit of their employees, and (2) to mutual buying clubs of fraternities, colleges or universities, and to employees of industrial organizations, purchasing in such way to obtain price and other benefits of such buying, not for resale but for the use of organizations or their members; and it did not in any substantial way solicit the retail jewelry trade by catalogs or salesmen, manufactured less than 10 percent of all the jewelry handled by it, and did not constitute a wholesale jeweler, i. e., seller to the trade for resale, and, excepting only sales to industrial concerns and similar organizations purchasing in quantity lots and not for resale but for their own use, seldom, if ever, seller to the purchasing public;

With effect of misleading and deceiving purchasing public into the belief that the products offered and sold by it were sold at wholesale prices, and that those who bought such articles from it purchased at such prices and saved retailer's profit, and inducing such purchases in reliance upon such erroneous belief, and with capacity and tendency so to do and unfairly divert trade to it from competitors who truthfully describe their status and their prices, to the substantial injury of substantial competition in interstate commerce:

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

Before *Mr. Edward M. Averill*, trial examiner.

Mr. Robert H. Winn and *Mr. Edward L. Smith* for the Commission.

Mr. John C. Gall, of Washington, D. C., and *Mr. Sidney Newborg* and *White & Case*, of New York City, for respondent.