

IN THE MATTER OF
H. T. POINDEXTER & SONS MERCHANDISE COMPANY

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

Docket 2659. Complaint, Dec. 16, 1935—Order, Jan. 25, 1936

Consent order requiring respondent corporation, its officers, etc., in connection with the sale, offer for sale, or distribution in interstate commerce and in the District of Columbia, of cotton print goods, to cease and desist from representing, directly or indirectly, that the cotton print goods which it offers for sale or sells are "tub fast", or that such goods will not fade when washed in the normal course of use of such goods, unless and until such goods are in fact dyed with a "tub fast" dye, and the same will not fade when washed as aforesaid.

Mr. William H. Griffin for the Commission.

Mr. William G. Holt and *Mr. John Marshall*, of Washington, D. C., 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 H. T. Poindexter & Sons Merchandise Company, a corporation, has been and is 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 a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal place of business in Kansas City in said State. Respondent is now and for a number of years last past has been engaged in the business of wholesaling and jobbing dry goods, and makes a specialty of selling yard goods and various lines of dry goods to small retail dealers located in small cities and villages. The principal portion of said business of respondent is in commerce between and among the various States of the United States.

In the course of its said business respondent has at all times herein mentioned utilized, and does now utilize, traveling salesmen and also a catalog and other kinds of advertising matter which it submits through the mails direct to the prospective customer. Respondent causes its said products when so sold to be transported from its said

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place of business in Kansas City, Mo., or other State of origin, into and through other States of the United States to purchasers of said products.

In the course and conduct of its said business respondent is in competition with individuals, partnerships, and other corporations engaged in the sale and distribution of similar products in commerce between and among various States of the United States.

PAR. 2. In connection with and in the conduct of its said business, respondent caused advertising matter, specifically postal cards, to be distributed in interstate commerce among its customers and prospective customers situated in States other than the State of origin of such distribution, in which said advertisements certain of its products, specifically certain cotton print goods of 36-inch width, 10- to 20-yard lengths, priced at $7\frac{1}{2}\text{¢}$ per yard, were represented to be, and designated and referred to as being, "tub fast", that is to say, that said goods would not fade when washed in the normal course of use of such goods; when in truth and in fact such cotton print goods were not dyed with a "tub fast" dye and were not "tub fast" as that term is understood by and is generally accepted to mean in the cotton print goods trade and among the purchasing public, and when said print goods would and did fade when washed.

PAR. 3. By means of said designations and descriptions of its said product as set forth in paragraph 2 hereof, respondent was enabled to make ready and quick sales and turnovers of said product by committing and practicing deception and fraud upon the purchasing public by its representation that said product was "tub fast" as described in said paragraph 2.

The aforesaid false representations and deceptions made by respondent as above alleged have had the capacity and tendency to cause the purchasing public to purchase said product which was not "tub fast" as above described, in the belief that said product so purchased was "tub fast" as above described.

PAR. 4. There were and are among the competitors of said respondent many who have dealt in and sold and who deal in and sell similar products to the products herein mentioned which were and are "tub fast" as above described, and who have rightfully and truthfully represented and who rightfully and truthfully represent their said products to be "tub fast" as above described, and the above alleged acts and practices of said respondent have tended to and do tend to divert and have diverted and do divert business from and have tended, and do tend, otherwise to prejudice and injure said competitors; and there were and are among the competitors of said respondent many who have dealt in and sold and who deal in and sell similar

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products to those herein mentioned which were not and are not "tub fast", as above described, and who have not represented and who do not represent their said products to be "tub fast", as above described, and the above alleged acts and practices of said respondent have tended to and do tend to divert and have diverted and do divert business from, and have tended and do tend otherwise to prejudice and injure said competitors.

PAR. 5. The above alleged acts and practices of respondent have been and are all to the prejudice of the public and competitors of said respondent and constitute an unfair method of competition in commerce 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", approved September 26, 1914.

ORDER TO CEASE AND DESIST

This matter coming on to be heard by the Commission upon the complaint filed herein on December 16, 1935, and the answer to said complaint filed January 21, 1936, by H. T. Poindexter & Sons Merchandise Company, a corporation, respondent herein, in which answer the said respondent states that it waives hearing on the charges set forth in the complaint herein; that it refrains from contesting the proceeding; and that it consents that the Commission, without a trial, without evidence, and without findings as to the facts or other intervening procedure, may make, enter, issue and serve upon the said respondent, an order to cease and desist from the methods of competition charged in the complaint; and the Commission being now fully advised in the premises;

It is hereby ordered, That the respondent H. T. Poindexter & Sons Merchandise Company, a corporation, its officers, directors, agents, representatives, servants, and employees, in connection with the sale, offering for sale or distribution in interstate commerce and in the District of Columbia of cotton print goods, cease and desist from representing, directly or indirectly, that the cotton print goods which it offers for sale or sells are "tub fast", or that such goods will not fade when washed in the normal course of use of such goods, unless and until such goods are in fact dyed with a "tub fast" dye, and the same will not fade when washed as aforesaid.

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

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IN THE MATTER OF

UNIVERSAL EXTRACT COMPANY, INC.

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

Docket 2348. Complaint, Mar. 29, 1935—Decision, Jan. 28, 1936

Where a corporation engaged in the manufacture and sale of flavoring extracts—
Set forth upon the labels thereof the Italian words "Soli representanti in
America per la preparazione dei famosi genuini estratti", and upon its
letterheads, statements and invoices the words "Importers and Exporters",
and represented through advertisements, labels and otherwise, that it
imported and exported the flavoring extracts made and sold by it, and
that such products, thus dealt in by it, were imported into the United
States from foreign countries, the facts being it was not sole representative
in America of any famous or other preparations made in Italy or any
other foreign country, and neither exported nor imported any of the
products thus advertised and dealt in by it;

With tendency and capacity to mislead and deceive purchasers and prospective
purchasers into believing that said extracts were imported as above set
forth and that it was an importer and exporter of such products, and
thereby to induce the purchasing public, a portion of which prefers the
imported extracts over and above the domestic and to buy such products
from importers and exporters thereof, to purchase its said products from
it in such beliefs, and thus divert trade to it from its competitors, among
whom there are those engaged in the manufacture in the United States of
such products from ingredients purchased therein, without representing
the same as imported, or themselves as importers or exporters, and those
who in fact import such products from various foreign countries and
export the same, and truthfully represent their operations as such importers
and exporters, and their said products as imported from various foreign
countries; to the substantial injury of substantial competition in interstate
commerce:

Held, That such acts and practices were all to the injury and prejudice of the
public and competitors within the intent and meaning of Section 5.

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

Mr. Edward L. Smith and *Mr. John W. Hildrop* for the
Commission.

Mr. Milton H. Goldstricker, of New York City, for respondent.

COMPLAINT

Pursuant to the provisions of an Act of Congress, approved Sep-
tember 26, 1914, entitled "An Act to create a Federal Trade Com-
mission, to define its powers and duties, and for other purposes", the
Federal Trade Commission having reason to believe that Universal