

IN THE MATTER OF
STETSON PANTS COMPANY

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

Docket 2609. Complaint, Nov. 2, 1935—Order, Jan. 28, 1936

Consent order requiring respondent corporation, its officers, etc., in connection with the sale of pants, forthwith to cease and desist from—

- (a) Making, publishing, circulating, or causing to be circulated in any manner in interstate commerce, statements for the purpose of falsely creating the impression and belief among potential purchasers of such products that the products so offered for sale or sold are products of its manufacture;
- (b) Representing or causing to be represented to potential customers that it is the exclusive owner of a particular form of merchandise or that it has any patent or copyright upon a so-called "vizualizer", integral part of a general sales method; or
- (c) Making or publishing any false or fraudulent representations as to the volume of business done or the goodwill or trade experience acquired by it.

Mr. Alden S. Bradley for the Commission.

Paxton & Seasongood, of Cincinnati, Ohio, for respondent.

COMPLAINT

Pursuant to the provisions 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, the Federal Trade Commission, having reason to believe that the Stetson Pants Co., a corporation, hereinafter referred to as the respondent, has been and now is using unfair methods of competition in commerce as "commerce" is defined in said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, states its charges in that respect as follows:

PARAGRAPH 1. The respondent, Stetson Pants Co., is a corporation organized and existing under the laws of the State of Ohio, and has its principal office and place of business at No. 212 East Eighth Street, in the city of Cincinnati in said State. The principal business of the respondent consists in the sale and offering for sale of pants through the medium of personal solicitation and contact on the part of agents of said respondent, which agents are located in the various States of the United States; and the respondent now maintains, and since December 25, 1934, the date of its incorporation, has maintained, a constant current of trade and commerce in such

merchandise among the various States of the United States and in the District of Columbia.

PAR. 2. Respondent's general method of effecting sales consists of the distribution of certain pamphlets, circular letters, and other printed matter, excerpts from which are hereinafter set out, which said pamphlets are used in the solicitation of prospective salesmen and the solicitation of customers, are distributed throughout the various States of the United States and the District of Columbia, and contain false and misleading statements and misrepresentations as hereinafter specified.

Respondent, in the pamphlets referred to, and particularly in circular letters as variously circulated by it, uses the following various statements:

STETSON PANTS CO.

Tailored-to-fit Trousers Direct to You.

Cincinnati, Ohio.

Your new "order getting" pants line.

The above, as contained in a circular letter, is undated.

A second circular letter used and now being used was issued as of March 1935, in which appears the following language:

STETSON PANTS CO.

Tailored-to-fit Trousers Direct to You.

Cincinnati, Ohio.

Dear Friend:

The famous Stetson Pants Line is now being offered to direct salesmen. This is the first time in history that salesmen will sell the famous Stetson Tailored-to-fit Trousers direct to the consumer and bring to wearers an amazing opportunity to save money. Above all, an entirely new Pants Line with which SALESMEN CAN MAKE REAL MONEY.

And the way you can present this line to your customers is new and different, too. The fancy patterns, the beautiful stripes and stylish checks will be sampled with extra long swatches. No more small scraps for swatches. These swatches are put up in a striking, novel way, so that your customer can see exactly how the finished pants will look. This is a copyrighted method, a plan all of our own, and will enable you to sell trousers much more quickly. Every customer will be interested as soon as you show him this novel sampling idea and will be sure to buy from you when they see this SENSATIONAL LINE SENSATIONALLY PRESENTED, and REMEMBER THIS: ONLY STETSON SALESMEN WILL BE PERMITTED TO SELL TROUSERS BY THIS NEW METHOD, and it does not cost you one cent.

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In truth and in fact, the merchandise so vended is made by persons, corporations, or copartnerships in no wise connected with the respondent company, and such merchandise is, in fact, purchased by the respondent in the ordinary marts of trade.

PAR. 3. There are, among the members of the purchasing public, a substantial number thereof who have an actual preference for purchasing merchandise directly from the manufacturer of the same, and the false use of the phrase, "Tailored-to-fit Trousers—Direct to You", and other phrases of similar tenor and import, does, among other things, mislead and deceive such portion of the purchasing public into the belief that they are, in fact, purchasing directly from the manufacturer and are avoiding the payment of the so-called middleman's or jobber's profit.

PAR. 4. The respondent, in addition to the distribution of circulars and pamphlets, as referred to in paragraph 1 of this complaint, has distributed and now distributes an undated circular letter from which the following excerpt is taken—

That reminds me to mention the new Stetson Visualizer, the amazing cut-out that enables your prospects to see how the pants pattern will look when made up. This is the greatest improvement ever brought out in pants selling—the most effective idea ever given to pants salesmen to help them sell more pants and make more money. Go through the line with this Visualizer, place the cut-out figure over each fancy pattern, and see for yourself. It is exclusive and patented. Only Stetson salesmen may use it.—

In truth and in fact, the so-called "Stetson Visualizer" is not patented by the respondent, is not exclusively owned by it, and such a "Visualizer", or one of strikingly similar nature, is used by a large number of competitors of the respondent.

PAR. 5. In the course and conduct of the business of respondent as above related, it caused from time to time, during or prior to April 1935, to be circulated among its salesmen, agents or representatives, various articles, either in the form of advertisements in trade magazines or in pamphlets, circular letters, or other printed matter, in which, among other things, appears the following statement in direct conjunction with the advertisement of the product offered by it for sale:

Over Four Million Pairs of Pants sold last year—

the purpose of such advertisement being to convey to the minds of salesmen, agents or representatives, and to the minds of members of the purchasing public, the acquisition of a goodwill and a merchandising experience not acquired by the respondent.

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In truth and in fact, at no time prior to the insertion of such advertisement had the company endured more than four-and-a-half months of corporate life.

PAR. 6. There are, among the competitors of the respondent, various firms, persons, partnerships, and corporations engaged in the sale of pants, who do not falsely represent or cause to be represented to members of the purchasing public, that the purchase of such merchandise is a purchase direct from the manufacturer or tailor thereof; who do not falsely represent to members of the purchasing public that the pants so offered by them for sale are tailored to meet the individual requirements of the purchaser; who do not falsely represent that they possess a monopoly of a certain method of merchandising, and who, for the purpose of securing the confidence of members of the purchasing public, do not falsely claim a substantial volume of business and acquisition of trade experience.

PAR. 7. The acts and practices of the respondent as hereinabove set forth have the capacity and tendency to and do, in fact, mislead and deceive the salesmen as agents or representatives of the respondent company and do mislead and deceive members of the purchasing public into the false belief that (1) the merchandise offered for sale is merchandise manufactured by the respondent company; (2) that the pants to be procured from the respondent are in every instance tailored to meet the individual requirements of the purchaser; (3) that respondent enjoys and possesses a monopoly of a certain method of merchandising superior to those of its competitors; and (4) that a substantial goodwill and trade experience has been acquired by the respondent as evidenced by the large volume of business represented to have been done by the respondent within the 12 months prior to April 1935, and has caused a substantial diversion of trade from competitors of the respondent and has occasioned substantial injury to competitors of the respondent engaged in the sale of similar products in interstate commerce.

Such acts and practices constitute unfair methods of competition in interstate commerce within the meaning and intent of Section 5 of an Act of Congress entitled "An Act to create a Federal Trade Commission, to define its power and duties, and for other purposes."

ORDER TO CEASE AND DESIST

The respondent herein having filed its answer to the complaint in this proceeding, waiving hearing of the charges set forth in the complaint herein, and having stated in said substitute answer that it does not desire to contest said proceeding, and having consented in its said substitute answer that the Commission without hearing,

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without evidence, and without findings as to the facts or other intervening procedure, might make, enter and serve upon the respondent herein, an order to cease and desist from the methods of competition alleged in the complaint and the Commission being fully advised in the premises;

It is hereby ordered, That the respondent, the Stetson Pants Company, a corporation, and its several officers, agents, servants and employees, in connection with the sale or offering for sale in interstate commerce of pants, shall forthwith cease and desist:

(1) From making, publishing, circulating or causing to be circulated in any manner in interstate commerce, statements for the purpose of falsely creating the impression and belief among potential purchasers of such products that the products so offered for sale or sold are products of the manufacture of the respondent.

(2) From representing or causing to be represented to potential customers that it is the exclusive owner of a particular form of merchandise or that it has any patent or copyright upon a so-called "vizualizer" the same being an integral part of a general sales method.

(3) From making or publishing any false or fraudulent representations as to the volume of business done or the goodwill or trade experience acquired by it.

It is hereby further ordered, That the respondent shall within 60 days from the day of the date of the service upon it of this order, file with this Commission its report in writing, stating the manner and form in which it has complied with this order.

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IN THE MATTER OF

NEW ENGLAND COLLAPSIBLE TUBE COMPANY AND
ROBERT P. GUST COMPANY, INC.COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2457. Complaint, June 26, 1935—Order, Jan. 29, 1936*

Consent order requiring respondents, their agents, etc., in connection with the sale and offer of toothpaste or other merchandise in interstate commerce, to cease and desist from—

- (a) Selling or offering for sale, or causing others to sell or to offer toothpaste or other merchandise for sale in tubes, boxes, cartons, or other packages, whose dress or appearance, when sold to dealers for resale or to the public for use of consumption, is contrived or otherwise formed, with or without the use of attached labels, by means of brand names or printed words or statements in type of the same or approximately the same size, form and arrangement, in colors or in white or black, and with retail resale prices marked or printed thereon, so that the dress or appearance simulates the dress or appearance of tubes, boxes, cartons, or other packages in which similar toothpaste or other merchandise is sold or offered for sale by a competitor or competitors, with the effect that the dress or appearance of their tube, etc., has the capacity and tendency to confuse, deceive and mislead dealers and members of the public into the belief that their toothpaste or merchandise is that of a competitor;
- (b) Representing by printed resale prices on the tubes, boxes, cartons or packages thereof, or verbally or otherwise representing, or causing others to represent the retail resale price or prices of toothpaste or other merchandise sold or offered for sale by them, or by either of them, to be a sum or sums greater than the actual price or prices at which the said toothpaste or other merchandise is regularly and customarily sold and offered for sale at retail to the public who purchase the same for use or consumption; or
- (c) Representing that the manufacturer of the toothpaste or other merchandise sold or offered for sale by them is other than the actual manufacturer thereof by printing a fictitious name and address on the tubes, boxes, cartons or packages thereof.

Before *Mr. Charles F. Diggs*, trial examiner.

Mr. Edward E. Reardon for the Commission.

Mr. Nathan Belcher, of New London, Conn., for respondents.

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 New England Collapsible Tube Company and Robert P. Gust Company, Inc.,