

IN THE MATTER OF
**MAX KIPPERMAN AND SAMUEL ORENSTEIN, DOING
BUSINESS AS SAMAC KNITTING MILLS**

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

Docket 2635. Complaint, Nov. 20, 1935—Decision, Feb. 18, 1936

Where a firm engaged as jobbers in the sale and distribution of clothing and knitted goods—

- (a) Included words "Knitting Mills" in their trade name and displayed same on invoices, letterheads, statements and other printed matter in soliciting sale of and selling their said products in commerce among the States, and printed on their letterheads and other printed matter the words "Manufacturers of Sweaters and Knit Goods", and set forth on labels affixed to their aforesaid products words "Samac Knit", notwithstanding fact they neither owned, operated nor controlled any mill or factory making the same, but filled orders therefor with products knitted or made in a mill or factory neither owned, controlled, nor operated by them; and
- (b) Set forth on labels attached to their said products the term "100% Pure Spun", notwithstanding fact products thus labeled were not composed wholly of wool but contained in substantial part material other than wool, and were not products of superior characteristics and made of "100% pure spun wool" as imported by said phrase, and did not have characteristics superior to those made of like material and in like manner;

With capacity and tendency to deceive ultimate purchasers into buying that which they did not intend to buy, and with effect of so doing and placing in the hands of retailers the means of deceiving the ultimate purchaser, and with further capacity and tendency to divert to them trade of competitors engaged in selling products of the same kind and nature, truthfully advertised and described:

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

Mr. John Darsey for the Commission.

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 Max Kipperman and Samuel Orenstein, copartners doing business as Samac Knitting Mills, hereinafter referred to as respondents, have been and are now 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, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Max Kipperman and Samuel Orenstein, hereinafter referred to as the respondents, are copartners doing business under the firm name and style of "Samac Knitting Mills", with their principal place of business located at 36 West Thirty-Second Street in the city of New York, N. Y. They are now, and for several years last past have been engaged as jobbers in the sale and distribution of clothing and knitted goods in commerce between and among the various States of the United States, and in the course of said sale and distribution ship said clothing and knitted goods or cause same to be shipped from their place of business in the State of New York to the purchasers thereof located in States of the United States other than the State of New York.

PAR. 2. In the course and conduct of their said business, the respondents are in competition with other partnerships, firms, individuals, and corporations likewise engaged in the sale and distribution of similar products in commerce between and among the various States of the United States.

In the course and conduct of their business, the respondents use as and for their trade name the words "Samac Knitting Mills", and which trade name containing the words "Knitting Mills" the said respondents use on their invoices, letterheads, statements, and other printed matter in soliciting the sale of and selling their products in commerce between and among the various States of the United States. In addition to the said trade name, the respondents use and cause to be printed on their letterheads, invoices, statements and other printed matter the words "Manufacturers of Sweaters and Knit Goods." The respondents also cause to be affixed to their said products, which are offered for sale and sold by them in commerce between and among the various States of the United States, labels which bear the words "Samac Knit". All of the above referred to terms are used by the respondents in the manner set forth above, when in truth and in fact the said respondents do not at any time knit or manufacture the products sold by them as aforesaid and when, in truth and in fact, they do not own, operate or control any mill or factory in which the said products sold, or offered for sale, by them are manufactured or knitted, but, on the contrary, the respondents fill orders for their said products as aforesaid with products which are knitted or manufactured in a mill or factory which they neither own, operate or control.

In addition to the use by respondents of the terms in the manner set out above, the respondents cause to be printed on and contained in labels which they attach to their aforesaid products the phrase

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"100% Pure Spun", which said phrase has the capacity and tendency to impute to the said products so marked superior characteristics and has the capacity and tendency to cause a purchaser to believe that the said products are made of 100 percent pure spun wool; when, in truth and in fact, the products so labeled are not composed wholly of wool, but on the contrary are composed in substantial part of a material other than wool and are not products of superior characteristics to products which are made of like material and in a like manner.

PAR. 3. Under the foregoing facts and circumstances the use by respondents of the terms in the manner set out in paragraph 2, *supra*, is false and misleading and has the capacity and tendency to deceive, and does deceive, the ultimate purchasers into buying that which they did not intend to buy; and through and by virtue of the practices aforesaid the respondents place in the hands of the retailer the means of deceiving the ultimate purchaser. The aforesaid practices have the capacity and tendency to divert to respondents the trade of competitors engaged in selling in commerce between and among the various States of the United States products of the same kind and nature as those of respondents, which products are truthfully advertised and described. Thereby substantial injury is done by respondents to substantial competition in commerce between and among the various States of the United States.

PAR. 4. The acts and things above alleged to have been done and the false representations alleged to have been made by respondents are to the prejudice of the public and the competitors of respondents and constitute unfair methods 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.

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 on November 20, 1935, issued its complaint in this proceeding, and on November 22, 1935, said complaint was served upon Max Kipperman and Samuel Orenstein, copartners doing business as Samac Knitting Mills, the respondents, charging the said respondents with the use of unfair methods of competition in commerce in violation of the provisions of the said act. Respondents answered said complaint, and in said answer admitted the allegations of the complaint and the facts therein set forth to be true and

stated that they waived hearing on the charges set forth in the complaint, that they refrain from contesting the proceeding, and that they consented that the Commission make, enter, issue, and serve upon them without hearing or other intervening procedure, findings as to the facts and an order to cease and desist from the methods of competition alleged in the complaint. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint and the answer thereto and the Commission, having duly considered the same and being fully advised in the premises, advises that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondents, Max Kipperman and Samuel Orenstein, are and have been for several years last past copartners doing business under the firm name and style of "Samac Knitting Mills", with their principal place of business located at 36 West Thirty-Second Street in the city of New York, N. Y. They are now, and for several years last past have been engaged as jobbers in the sale and distribution of clothing and knitted goods in commerce between and among the various States of the United States. In the course of sale of their said products the respondents have caused and cause the same to be shipped from their place of business in the State of New York to purchasers thereof located in States of the United States other than the State of New York.

PAR. 2. In the course and conduct of their said business, the respondents have been and are in competition with other partnerships, firms, individuals and corporations likewise engaged in the sale and distribution of similar products in commerce between and among the various States of the United States.

PAR. 3. In the course and conduct of their business, the respondents use as and for their trade name the words "Samac Knitting Mills", which trade name containing the words "Knitting Mills" the respondents use on their invoices, letterheads, statements, and other printed matter in soliciting the sale of and selling their products in commerce between and among the various States of the United States. In addition to the use of the aforesaid trade name, the respondents use and cause to be printed on their letterheads, invoices, statements, and other printed matter the words "Manufacturers of Sweaters and Knit Goods". The respondents also cause to be affixed to their said products, which are offered for sale and sold by them in commerce between and among the various

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States of the United States, labels which bear the words "Samac Knit".

PAR. 4. The respondents use and have used all of the terms referred to in paragraph 3, *supra*, and in the manner set forth therein, when in truth and in fact the said respondents do not at any time knit or manufacture the products sold by them as aforesaid and when, in truth and in fact, they do not own, operate or control any mill or factory in which the said products which are sold and offered for sale by them are manufactured or knitted, but on the contrary the respondents fill orders for their said products with products which are knitted or manufactured in a mill or factory which they neither own, operate, or control.

PAR. 5. In the course and conduct of their said business, the respondents also use and have used on labels which are attached to their products which are sold in commerce between and among the various States of the United States the term "100% Pure Spun", which said phrase has the capacity and tendency to impute to the said products so marked superior characteristics and has the capacity and tendency to cause a purchaser to believe that the said products are made of 100% pure spun wool. The respondents use and have used the term "100% pure spun" on their labels and in the manner aforesaid when in truth and in fact the products so labeled were and are not composed wholly of wool, but on the contrary are composed in substantial part of a material other than wool and are not products of superior characteristics to products which are made of like material and in a like manner.

PAR. 6. The use by respondents of the terms, and in the manner set forth, in paragraphs 3 and 5, *supra*, is false and misleading and has the capacity and tendency to deceive, and does deceive, the ultimate purchasers into buying that which they did not intend to buy; and through and by virtue of the practices aforesaid the respondents place and have placed in the hands of the retailer the means of deceiving the ultimate purchaser. The use by respondents of the aforesaid practices have the capacity and tendency to divert to respondents the trade of competitors engaged in selling in commerce between and among the various States of the United States products of the same kind and nature as those of respondents, which products are truthfully advertised and described.

CONCLUSION

The practices of the respondents under the conditions and circumstances set forth in the foregoing findings are to the prejudice of

the public and of respondents' competitors, and are unfair methods of competition in commerce and constitute a violation 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

The respondent in and by its answer having waived hearings on the charges set forth in the complaint in this proceeding, and having stated in its said answer that it does not contest the said proceeding, and having admitted in its answer the truth of the allegations and facts set forth in the complaint, and having consented in its said answer that the Commission, without hearing or further procedure, might make, enter, issue and serve upon the said respondents findings of facts and conclusion and an order to cease and desist from the methods of competition charged in the complaint; and the Commission being fully advised in the premises:

It is hereby ordered, That the respondent, Samac Knitting Mills, its officers, agents, representatives and employees, in connection with the offering for sale, and sale of their clothing and knit goods products in interstate commerce, forthwith cease and desist from:

(1) Representing through their trade name, and through their invoices, letterheads, statements, labels, and other printed matter, or in any other manner, by the use of the words "mill" or "mills", "knitting" or "knit", "manufacturers", "knitters", and through the use of any other word or words of similar import and meaning, that respondents own, operate or control a mill or mills in which its said products are knitted or manufactured.

(2) Representing by the use of the term "100% pure spun", or any other such term or phrase of similar import or meaning, that the product which said term or terms is being used to describe, is made of 100% pure spun wool, unless and until the products so labeled are composed wholly of wool.

It is further ordered, That within 60 days from the date of the service of this order upon said respondent that it file with the Commission a report in writing, setting forth in detail the manner and form in which this order has been complied with.

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IN THE MATTER OF
BEST & COMPANY

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

Docket 2359. Complaint, Apr. 11, 1935—Decision, Feb. 19, 1936

Where a corporation engaged in the sale and distribution of a general line of merchandise including women's hats, made use of words "Toyo Panama" and "Panama", in newspaper advertising describing and offering certain hats, notwithstanding fact that said products were not the genuine superior Panama hat woven moist in South American countries by natives skilled in the distinctive type of hand weaving concerned, and made of material from the tropical jipljapa or paja toquilla plant, but were made of rice paper and imported from an island of Japan; with capacity and tendency to induce purchasing public to buy said hats as and for the genuine Panama product and to divert trade unfairly from competitors engaged in the sale of "Toyo" hats, Japanese meaning of which designation is not popularly known or understood by purchasing public, and from those engaged in sale of Panama hats, truthfully and rightfully advertised and represented by said competitors:

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

Before *Mr. William C. Reeves*, trial examiner.

Mr. Astor Hogg for the Commission.

Mr. M. James Spitzer of *Strauss, Reich & Boyer*, of New York City, 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", the Federal Trade Commission, having reason to believe that Best & Company, a corporation, hereinafter referred to as respondent, has been and 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 would be in the public interest, states its charges in that respect as follows:

PARAGRAPH 1. Respondent is, and at all times hereinafter mentioned has been, a corporation duly organized, created, and existing under and by virtue of the laws of the State of New York, with its principal place of business located in the city of New York in the State of New York. It is now, and for a number of years last