

FEDERAL TRADE COMMISSION DECISIONS

FINDINGS AND ORDERS, JULY 10, 1936, TO NOVEMBER 30, 1936

IN THE MATTER OF

MARCONI RADIO CORPORATION ET AL.

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

Docket 2214. Complaint, May 25, 1935¹—Decision, July 10, 1936

Where the names, letter combinations, and symbols "Edison," "Bell," representation of a bell and name "Blue Bell," "Marconi," "Victor," "Brunswick," "Majestic," "R. C. A.," "E. B.," and "G. E.," and same letters written in script in a circle, with scroll-like interior decoration, had come to have a peculiar meaning in the radio world and among dealers and the buying public and in foreign countries, and to convey to the public mind a significance distinct from other names employed in such trade or world as meaning the radio and other products of certain well-known concerns, and to be associated with certain famous inventors in the field of sound transmission and with their successors in interest, and the value of said products, thus identified by said names, combinations, and symbols, made and sold by said concerns and interests, had come to amount to millions of dollars annually, and said names, etc., as those of well-known and long-established individuals, companies, and corporations, used as such and as standard brands, marks, and symbols on radio sets, tubes, etc., had come to have a fixed and stable value generally throughout the United States and foreign countries, and to be relied upon by the purchasing public as indicating high standard, reliable, and genuine products, and use thereof influenced purchase of said products and increased sales, and said names, etc., as attached to such standard brand products, had come to have value to the thousands of dealers therein, in addition to their value to the owners and users thereof in commerce; and thereafter three corporations and four individuals, engaged in the manufacture and sale of relatively cheap, shoddy, and inferior radio receiving sets, tubes, and other parts, made or assembled at various unknown points and marked, branded, and labeled with names, symbols, and brands of their own selection and entire business of which, operated as a chain or family group, was controlled by one of said individuals and practice of which, possessed of little or no assets and embarrassed financially, was frequently to move from place to place and to incorporate under new charters and names as different companies, and which had operated under no less than 50 different corporate and trade names, and annual sales of which had amounted to more than \$100,000 annually—

¹ Amended and supplemental.

- (a) Adopted and used as corporate, company, and trade names and as marks, brands, and designations placed, in various combinations upon their said tubes and like products, without authority or consent of corporations and interests for which said names, marks, etc., had come to stand, including the famous inventors as predecessors of some of the companies and interests thus identified, names, letters, and designations "Edison," "Edison-Bell," "Marconi," "Bell," and representation of a bell, "Victor," "Brunswick," or "Majestic," letters "R. C. A.," and such colorable imitations as "Bronswick," letters "R. S. A." or "R. C. I." and letters "EB" in script, in a circle with a scroll-like interior decoration and in colorable imitation of letters "G. E." in script, etc., and the representation of a bell;

With capacity and tendency to lead public to believe that products thus marked or identified by use of such names, letters, and monograms, and simulations thereof were those of said well-known respective companies or interests and with result that there was an appropriation by said corporations and individuals of good will of aforesaid competitive companies and interests and an unfair diversion of business from such competitive companies, etc., and from other competitors who do not resort to such practices, to the injury of the owners of said marks, etc., and of said competitors and to the prejudice and injury of the public, and to the damage and injury of the lawful owners of said names, etc., and of the industry and the public, members of which purchased such misbranded radio sets, etc., as and for the genuine products, and dealers in such sets, etc., were forced to misbrand or place standard brand names or symbols on like products sold by them in order to meet such competition of said corporations and individuals and other dealers engaged in manufacture and sale of such misbranded products, and of placing in the hands of dealers and others means whereby injury and damage might be and was done to competitors dealing in genuine products honestly marked;

- (b) Placed or caused to be placed upon their aforesaid products, acting in cooperation among themselves and with others, in the course and conduct of their said business, aforesaid standard brands, names, letters, etc., attached to such products, and upon the containers thereof, displayed usually in large and easily discernible bold lettering, with own names in small and hardly discernible letters; and
- (c) Advertised said company, corporate and trade names and products thus marked in newspapers and periodicals and other bulletins circulated through the mails, in cooperation among themselves and with other jobbers and dealers throughout the several States and foreign countries selling and shipping such sets, tubes, etc., with advertisements so worded as to convey to minds of purchasing public false impression that products thus advertised were the genuine standard makes or brands;

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

Before *Mr. Robert S. Hall*, trial examiner.

Mr. Carrel F. Rhodes for the Commission.

Mr. Frederick W. Solomon, of Boston, Mass., for respondents, and who also appeared along with *Mr. Morris D. Kopple*, of New York City, for Marconi Radio Corp. and Edison Radio Stores, Inc.

1

Complaint

COMPLAINT¹

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 Marconi Radio Corporation, Edison Radio Stores, Inc., Stuart Radio Corporation, and Joseph E. Frank, S. A. Frank, A. M. Frank, and G. Blumenthal individually and severally trading under the names The Perfection Radio Stores, Harvard Radio Stores, and Post Radio Company, hereinafter referred to as respondents, have been and are 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 amended and supplemental complaint stating its charges in that respect as follows:

PARAGRAPH 1. (a) Respondent, Marconi Radio Corporation, is a corporation organized under and by virtue of the State of New York in 1933, with its principal offices and place of business located at 23 East Twenty-first Street, in the city of New York, State of New York.

(b) Respondent, Edison Radio Stores, Inc., is a corporation organized under and by virtue of the laws of the State of New York in 1931, with its principal offices and place of business at 23 East Twenty-first Street, in the city of New York, State of New York.

(c) Respondent, Stuart Radio Corporation, is a corporation organized under and by virtue of the laws of the State of Massachusetts in 1934, with its offices and principal place of business at 58 Stuart Street in the city of Boston, State of Massachusetts.

(d) Respondent, Joseph E. Frank, is an officer, director, and stockholder in respondent corporations Marconi Radio Corporation, Edison Radio Stores, Inc., and Stuart Radio Corporation, and is president of Edison Radio Stores, Inc.

(e) Respondents, S. A. Frank and A. M. Frank are stockholders, officers, and directors in respondent corporations Marconi Radio Corporation, Edison Radio Stores, Inc., and Stuart Radio Corporation, and said respondent S. A. Frank is vice president of respondent Marconi Radio Corporation.

(f) Respondent, G. Blumenthal, is a stockholder, officer, and director in respondent corporations Marconi Radio Corporation, Edison Radio Stores, Inc., and Stuart Radio Corporation, and is president of Marconi Radio Corporation.

¹ Amended and supplemental.
78035m—39—vol. 23—3

Complaint

23 F. T. C.

(g) Respondents, Joseph E. Frank, S. A. Frank, A. M. Frank, G. Blumenthal and others, incorporated or caused to be incorporated respondent corporations Marconi Radio Corporation, Edison Radio Stores, Inc., and Stuart Radio Corporation and said respondent individuals are engaged in the management, operation, and promotion of the business of said respondent corporations for whom they act also as salesmen and agents and are or have been for more than one year last past, holders or owners of the legal or beneficial title or interest in or to the outstanding stock of said corporations. Said respondents, Joseph E. Frank, S. A. Frank, A. M. Frank, G. Blumenthal, and others, also carry on business individually and severally as partners under the trade names The Perfection Radio Stores, located in the city of New York, State of New York; Harvard Radio Stores, located at 70 Stuart Street in the city of Boston, State of Massachusetts; Post Radio Company, located at 605 Market Street, city of Philadelphia, State of Pennsylvania. The business carried on by said respondent corporations and said respondent individuals is essentially a single business, namely, that of manufacturing or assembling radio sets and manufacturing radio tubes and selling said radio sets and radio tubes to the trade and the purchasing public and the profits from the operations of the business thus conducted enure chiefly to said respondents Joseph E. Frank, S. A. Frank, A. M. Frank, and G. Blumenthal. Said business is dominated and controlled by said respondent Joseph E. Frank who manages, dictates, and directs its policies.

PAR. 2. Respondents Joseph E. Frank, S. A. Frank, A. M. Frank, G. Blumenthal, and others, in the course and conduct of their business, as set out in paragraph 1, having caused to be incorporated Marconi Radio Corporation and Edison Radio Stores, Inc., operate and conduct business in said corporate names and other corporate and trade names and designations, and have used and are using said names Marconi Radio Corporation and Edison Radio Stores, Inc., and other names and designations as marks or brands affixed to and to designate radio sets and radio tubes manufactured, sold, and shipped in interstate and foreign commerce by respondents Marconi Radio Corporation, Edison Radio Stores, Inc., and Joseph E. Frank, S. A. Frank, A. M. Frank, and G. Blumenthal, individually and severally. The said corporate name Marconi Radio Corporation is formed by the joinder of the name "Marconi" with the words "Radio Corporation." The name "Marconi" refers to and is used to designate the well-known and universally acclaimed Italian engineer and electrician, Guglielmo Marconi. The said corporate name Edison Radio Stores, Inc., is formed by the joinder of the name "Edison" with the words "Radio Stores, Inc." The said name "Edison"

1

Complaint

refers to and is used to designate Thomas A. Edison, the well-known and outstanding inventor in the electric, radio, and sound transmission fields. The use by respondents of the names "Marconi" and "Edison" in the manner set out hereinabove in paragraphs 1 and 2 is without the authority or consent of the rightful owners of said names.

PAR. 3. Respondent individuals and corporations cooperating with each other among themselves and together with others are now and have been for more than one year last past engaged in the manufacture of radio sets and radio tubes and the sale of said radio sets and said radio tubes between and among the various States of the United States, causing said radio sets and said radio tubes when sold by them to be transported from their several places of business located in the States of New York, Massachusetts, and Pennsylvania, and other States, through and into various other States of the United States, the District of Columbia and foreign countries, and there is now and has been for more than one year last past a constant current of trade and commerce by said respondents and others in such radio sets and radio tubes between and among the various States of the United States, the District of Columbia and foreign countries. In the course and conduct of their business said respondents and others are now and have been for more than one year last past in substantial competition with other corporations, partnerships, and persons engaged in the sale of radio sets and radio tubes between and among the various States of the United States, the District of Columbia and foreign countries in interstate and foreign commerce.

PAR. 4. Respondents Marconi Radio Corporation, Edison Radio Stores, Inc., Stuart Radio Corporation, and respondents Joseph E. Frank, S. A. Frank, A. M. Frank, and G. Blumenthal individually and severally trading under the names The Perfection Radio Stores, Harvard Radio Stores, and Post Radio Company, and as officers and directors of said respondent corporations, cooperating with each other among themselves and together with others in the course and conduct of their business, as set out in paragraphs 1, 2, and 3, have conceived and are carrying out a general scheme to deceive the public and to compete unfairly with other dealers in radio sets and radio tubes who are in competition in interstate and foreign commerce with said respondents and others. Said scheme involves the adoption and use of fictitious, false, and deceptive corporate names and trade names and the placing of false and deceptive name plates and labels on the radio sets and radio tubes so manufactured, sold, and shipped. In furtherance of such scheme and as instrumentalities to effect their purposes, said respondents, without authority, have appropriated and used and are now using upon radio sets and radio tubes sold by them and upon

Complaint

23 F. T. C.

wrappers, cartons, and containers in which they are enclosed when shipped, and upon letterheads and other printed matter circulated through the mails, various names and devices or colorable imitations thereof which are or have been in use by established manufacturers upon and in connection with radio sets and radio tubes or similar merchandise. Said respondents and others attach such false name plates and marks to radio sets and radio tubes manufactured, assembled, sold, and shipped by them from their several places of business in the States of New York, Massachusetts, and Pennsylvania, and other States throughout the several States of the United States, the District of Columbia and foreign countries in interstate and foreign commerce by means of name plates, stamps, stencils, and labels. Among the name plates, marks, and labels so being used by respondent are the following:

"Marconi," "Marconi International," "Marconi" with the representation of a bell, "Marconi Radio Corporation," "Edison," "Edison Radio Stores," "Edison Complete," "Edison Chimes," "Edison International," "Edison Radio Stores, Inc.," "Edison-Bell," "Edison" with the representation of a bell, "Bell," "Bell" with the representation of a bell, "Victor," "Victor International," "Victor Television," "Victor" with the representation of a bell, "Majestic," "Brunswick (Brunswick)," the letters "RSA" and "RCI," and a device of a circle with scroll-like interior projections enclosing the script letters "EB," either standing alone or printed upon the representation of a bell, and the names "Marconi," "Edison," "Bell," "Victor," "Majestic," and "Brunswick (Brunswick)," standing alone or in conjunction with other names and devices or prefixes or suffixes in connection therewith.

PAR. 5. The use by respondents, Marconi Radio Corporation, Edison Radio Stores, Inc., Stuart Radio Corporation, and Joseph E. Frank, S. A. Frank, A. M. Frank, and G. Blumenthal individually and severally trading under the names The Perfection Radio Stores, Harvard Radio Stores, and Post Radio Company, and other corporate and trade names, of the names, including the corporate names "Marconi Radio Corporation" and "Edison Radio Stores, Inc.," and devices as set out in paragraphs 1, 2, 3, and 4 is wholly unauthorized by the owners of said names and devices and gives to respondents' goods a salability which they would not otherwise have and gives said respondents an advantage over their competitors who do not use such means because the true origin of respondents' goods is concealed and a reputable but false origin is attributed to them. Moreover, it is the appropriation by respondents of the reputation and good-will of others at the expense of and injury to such others who have created such reputation and good-will, and deceived the public into believing

1

Complaint

that respondents' products originate with well-known and reputable concerns contrary to the fact. Thereby substantial injury is done by respondents to competitors and substantial competition in interstate and foreign commerce.

PAR. 6. (a) The name "Marconi" refers to and is generally recognized as the name of Guglielmo Marconi, the engineer and electrician who first perfected the appliances used in space telegraphy or radiography and the application of electric waves to actual telegraphy and the inventor of various electrical and radio devices among which is the celebrated "Fleming Tube," a tube used in radio sets. Marconi Wireless Telegraph Company of America, a corporation organized in 1899 under and by virtue of the laws of the State of New Jersey, acquired from said Guglielmo Marconi the exclusive right to the use and exploitation of all of the said Guglielmo Marconi patents and inventions, including the use of the name "Marconi" in and throughout the United States and its territories and possessions. In 1919 the said Marconi Wireless Telegraph Company of America sold, transferred, and assigned to Radio Corporation of America all of its right, title, and interest in and to said "Marconi" patents and inventions, including the right to the use of the name "Marconi" in connection therewith. The name "Marconi" is the rightful property of the Radio Corporation of America and its subsidiaries. Ever since the date of their acquisition in 1919, said Radio Corporation of America and its subsidiaries have continuously used and extensively advertised and are now using and advertising radio sets, radio tubes, and other products containing said "Marconi" patents and inventions. Said radio sets, radio tubes, and other products are sold and shipped in interstate and foreign commerce by said Radio Corporation of America and its subsidiaries.

(b) For many years last past the Victor Talking Machine Co., Camden, New Jersey, has been manufacturing and selling phonographs and phonograph records, which phonographs have acquired a wide and favorable reputation and have been in great demand by the trade and purchasing public. During all this period the phonographs, phonograph records, and other articles manufactured and sold by said company have featured the name "Victor" as part of their trade name, which said name has been attached in a prominent place to said machines, sold and shipped in interstate and foreign commerce.

In 1929 the Radio Corporation of America obtained control of said Victor Talking Machine Co. and organized a company under the corporate name "RCA-Victor Co.," and also organized a company under the name of "The RCA Manufacturing Co., Inc.," which

Complaint

23 F. T. C.

company is engaged in the manufacture and sale of radio sets and combination radio and phonograph sets. All of said sets bear the name "Victor," either alone or in combination with other letters or words in a prominent place on said sets. Said radio sets and combination radio and phonograph sets are sold to the purchasing public by retail dealers throughout the United States. During the past 25 years the Victor Talking Machine Co. has spent approximately \$70,000,000 in advertising, and the word "Victor" has always prominently appeared in said advertising. At the present time RCA-Victor Co. is advertising its radio sets and radio tubes in a number of magazines having a large national circulation and in other publications and newspapers.

The name "Victor" when used on radio sets and radio tubes is the rightful property of the RCA-Victor Co. and the Victor Division of the RCA Manufacturing Co.

The said initials "RCA" have long been used as marks or brands to designate radio sets and radio tubes and other merchandise manufactured, sold, and shipped in interstate and foreign commerce by said RCA-Victor Co., the Victor Division of the RCA Manufacturing Co., and the Radio Corporation of America.

The device or initials "RSA" and "RCI" used by respondents are colorable imitations of "RCA," the recognized abbreviation of a corporate name of the well-known company, viz, Radio Corporation of America.

PAR. 7. For more than 30 years prior to his death on October 18, 1931, Thomas A. Edison had been known and recognized throughout the various States of the United States and foreign countries as the inventor, patentee, owner, and manufacturer of numerous electrical devices of various kinds and descriptions and of machines for the reproduction of the human voice, which have acquired a wide and favorable reputation and are in great demand by the trade and purchasing public who desire Edison products. Among the machines for the reproduction of the human voice manufactured by companies which the said Thomas A. Edison organized and controlled, are phonographs, dictaphones, and transmitting machines, radios, combination radios and phonographs, and many other articles of various kinds and character such as storage batteries, spark plugs, ignition coils, and household electrical appliances. Many of the machines and articles above referred to bear the name "Edison" as part of their brand, and such name "Edison" has acquired a valuable goodwill as identifying the manufacturer of said machines or articles.

Among the companies organized and controlled by the said Thomas A. Edison before his death is Thomas A. Edison, Inc., which said company is still engaged in the manufacture of the machines and

articles invented and developed by Thomas A. Edison. Thomas A. Edison, Inc., during the years 1926-1930, inclusive, manufactured and sold radio sets valued at many millions of dollars, and during the said period spent several millions of dollars in advertising its said radio products. All the radio sets manufactured and sold by Thomas A. Edison, Inc., feature the name "Edison" as part of their brand name.

The name "Edison" refers to Thomas A. Edison, the great inventor in the electrical field and the pioneer in the talking machine and radio industry, the right to the use of which name was vested in Thomas A. Edison, Inc., by Thomas A. Edison and was extensively advertised and has long previously been used and continues to be used by Thomas A. Edison, Inc., on radio sets, phonographs, and other electrical devices and appliances, sold and shipped in interstate and foreign commerce.

PAR. 8. During many years last past the Brunswick-Balke-Collender Co. has been a large manufacturer of billiard and pocket billiard tables, bowling alleys, and various other articles, and its products have acquired a wide and favorable reputation and have been in great demand by the trade and purchasing public for many years last past. During all this period the products manufactured and sold by said company have featured the name "Brunswick" as part of their brand name, which said name has been attached in a prominent place to said products. In 1915 the Brunswick-Balke-Collender Co. began the manufacture and sale of phonographs and phonograph records, and sometime later began the manufacture and sale of radio sets and combination radio and phonograph sets, on all of which articles the name "Brunswick" was featured in a prominent place on said machines. In 1930 the radio and phonograph division of said Brunswick-Balke-Collender Co. was sold to Warner Brothers Pictures, Inc., which company organized the corporation under the corporate name of Brunswick Radio Corporation to operate the business. Said latter company obtained the exclusive right to use the name "Brunswick" in connection with said radio sets, phonographs, and combination radio and phonograph sets.

Until January 1, 1933, Brunswick Radio Corporation continued the manufacture and sale of radio sets and combination radio and phonograph sets, on all of which sets the name "Brunswick" has been prominently featured. Since January 1, 1933, the manufacture of radio sets by Brunswick Radio Corporation has been suspended, but said Brunswick Radio Corporation still owns the manufacturing plants in which said sets were manufactured and may resume such manufacture at sometime in the future. The radio sets and combination radio and phonograph sets manufactured by Brunswick-

Complaint

23 F. T. C.

Balke-Collender Co. and Brunswick Radio Corporation were sold to the purchasing public by retail dealers throughout the United States and in foreign countries. During all the time the Brunswick-Balke-Collender Corporation and the Brunswick Radio Corporation were manufacturing and selling radio sets and combination radio and phonograph sets said companies expended large sums of money in advertising said sets, and the name "Brunswick" has at all times been prominently displayed in said advertising.

"Bronswick" the name used by respondents is a colorable imitation of the name "Brunswick" which has long been previously used by the Brunswick-Balke-Collender Co. and the Brunswick Radio Corporation on radio sets, phonographs, and combination radio and phonograph sets.

PAR. 9. The name "Bell" and the representation of a bell, when used in connection with sound reproduction and sound transmission in the electrical and radio field refers to the great inventor Alexander Graham Bell and is the property of the said Alexander Graham Bell and his successors and assigns. The common law title to the name "Bell" is vested, by long and continued use since 1886, in the American Telephone & Telegraph Company, its subsidiaries and associates, and the Western Electric Company, Inc. Western Electric Company, Inc., manufactures, sells, extensively advertises, and ships radio sets, radio tubes, and radio batteries in interstate and foreign commerce, and uses the name "Blue Bell" and the representation of a bell as a brand name to designate its said products. The representation of a bell has long been used and extensively advertised by the American Telephone & Telegraph Company as a symbol or trade designation in its business.

PAR. 10. The name "Majestic" is a name long associated with radio sets and is the legal property of Grigsby-Grunow Company who are the original makers of radio sets branded with the name "Majestic," which are extensively advertised, sold, and shipped in interstate and foreign commerce by the said Grigsby-Grunow Company. Said name "Majestic" is now vested in Frank McKey as trustee in bankruptcy for the creditors of said Grigsby-Grunow Company. The said trustee holds title thereto by virtue of authority vested in him by the United States District Court for the Northern District of Illinois.

PAR. 11. A device of a circle with scroll-like interior projections enclosing the script letters "G. E." is the property of General Electric Company and has long been used and extensively advertised by said General Electric Company as a mark or brand to designate the products manufactured, sold and shipped in interstate and foreign

commerce by said General Electric Company. The device used by respondents of a circle with scroll-like interior projections enclosing the script letters "E. B." is a colorable imitation used by respondents of this well-known device.

PAR. 12. The sale and delivery by respondents to retail dealers of radio sets and radio tubes marked and branded with the names, designations, and letters, as set out in paragraph 4, of well-known manufacturers, without the authority or consent of the owners thereof places in the hands of others the means whereby injury might be done to competitors and to the prejudice of the public, and all of the acts and things alleged and done by respondents are each and all of them to the prejudice of the public and respondents' competitors and constitute unfair methods of competition in interstate and foreign 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."

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 the 8th day of August 1934, issued its original complaint and caused the same to be served upon the respondents, Marconi Radio Corporation of New York, N. Y., and the Edison Radio Stores, Inc., of New York, N. Y. Each of respondents filed separate answers to the complaint with the Commission on September 1, 1934.

On the 25th day of May 1935, the Federal Trade Commission filed an amended and supplemental complaint herein, charging respondents with cooperating among themselves and together with others in the use of unfair methods of competition in commerce, in violation of the provisions of Section 5 of said Act, and caused same to be served upon the respondents, Marconi Radio Corporation, Edison Radio Stores, Inc., both of New York, N. Y., Stuart Radio Corporation of Boston, Mass.; Joseph E. Frank, S. A. Frank, A. M. Frank, G. Blumenthal, each individually and as partners, trading as Perfection Radio Stores of New York, N. Y.; Joseph E. Frank, S. A. Frank, A. M. Frank, and G. Blumenthal, each individually and as partners, trading as Harvard Radio Stores of Boston, Mass.; Joseph E. Frank, S. A. Frank, A. M. Frank, and G. Blumenthal, each individually and as partners, trading as Post Radio Company, of Philadelphia, Pa.

Findings

23 F. T. C.

Each of the respondents filed answer to the amended and supplemental complaint on the 20th day of July 1935.

Thereafter testimony and documentary evidence in support of the allegations of said amended and supplemental complaint were introduced by Carrel F. Rhodes, attorney for the Commission, before Robert S. Hall, examiner of the Commission, theretofore duly designated and appointed by it, and in defense of the allegations of said complaint by Frederick W. Solomon, attorney for the respondents, and said testimony and evidence were duly recorded and filed in the office of the Commission. Thereafter the proceeding regularly came on for final hearing before the Commission on the said amended and supplemental complaint, the answers thereto, testimony and evidence, and brief in support of the amended and supplemental complaint, and the Commission having duly considered the same, makes this its findings as to the facts and its conclusion drawn therefrom :

FINDINGS AS TO THE FACTS

PARAGRAPH 1:

a. Respondents, Joseph E. Frank, S. A. Frank, A. M. Frank, and G. Blumenthal, are individuals. Joseph E. Frank and S. A. Frank reside in the State of Massachusetts. A. M. Frank and G. Blumenthal reside in the State of New York. These individuals have been engaged in the radio business for a number of years.

b. Respondent, Marconi Radio Corporation, is a corporation organized under the laws of the State of New York in 1933, with its principal office and place of business at 23 East Twenty-first Street, New York City, State of New York.

c. Respondent, Edison Radio Stores, Inc., is a corporation organized under the laws of the State of New York in 1931, with its principal office and place of business at 23 East Twenty-first Street, New York City, State of New York.

d. Respondent, Stuart Radio Corporation, is a corporation organized under the laws of the State of Massachusetts in 1934, with its office and principal place of business at 58 Stuart Street, in the city of Boston, State of Massachusetts, and is a retail outlet in Massachusetts for the products manufactured and sold by Marconi Radio Corporation and Edison Radio Stores, Inc.

e. Respondents, Perfection Radio Stores, Harvard Radio Stores, and Post Radio Company, are trade names under which respondents Joseph E. Frank, S. A. Frank, A. M. Frank, and G. Blumenthal formerly operated as copartners in various communities in the States of Massachusetts, New York, Pennsylvania, Maryland, and Washington, D. C., prior to 1934. Said respondent individuals operating

1

Findings

under said trade names had gone out of business prior to the issuance of the amended and supplemental complaint.

f. Respondent, Joseph E. Frank, dominated and controlled and dominates and controls all of the business of the several respondent corporations and companies, and all of the relations or dealings of the other said respondent individuals in connection therewith.

PAR. 2. The stock of respondent corporations was issued to respondent, Joseph E. Frank, or through him to the other respondent individuals named in paragraph 1, in no certain amount or denomination, and for little or no consideration, and no dividends were ever paid thereon. The entire business of the said respondent corporations and companies was and is dominated, managed, and controlled as a single business by said respondent, Joseph E. Frank.

Said respondent, Joseph E. Frank, extended his business activities throughout the United States and into foreign countries, and attempted to register with the Spanish Government, the names "Edison," and "Marconi" as trade marks or trade names to designate radio and television receiving sets and related products. Upon the objection of Thomas A. Edison, Inc., the said attempted registration of the said name "Edison," was denied by the Spanish Government on or about the 19th day of February 1935, and upon the objection of the Marconi Company, the said attempted registration of the said name "Marconi," was denied by the Spanish Government on or about February 23, 1935.

PAR. 3. Respondents have little or no known assets and are embarrassed financially. They frequently move from place to place and incorporate and operate under new charters and new names as different companies. Respondent individuals have operated under no less than 50 different corporate and trade names, and since the complaint in this case was filed, have organized and operated, and now operate in cooperation with others under the name Motor Vox Radio Corporation, and other names.

PAR. 4. Respondents were and are engaged in the manufacture and sale of radio receiving sets and parts, including radio tubes, which they manufacture or assemble or cause to be manufactured or assembled for them at various points in secret, unknown, and undisclosed places, which they mark, brand, and label with brands, symbols, and names of their own selection. The various respondent corporations, companies, and business set-ups are linked in a chain and operated as a family group.

PAR. 5. Respondents' products are a cheap, shoddy, and inferior grade, compared to the products they are designed, marked, and branded to imitate.

Findings

23 F. T. C.

PAR. 6. Respondent individuals began the manufacture and sale of radios, radio parts, and radio tubes, prior to 1931, and prior to the organization of respondent corporations, and together with respondent corporations have continued in said business, manufacturing, selling, and shipping said products in large quantities. The annual sales of respondents' said products amount to or have amounted to more than \$100,000 annually.

PAR. 7. Respondent individuals and corporations have been for more than 7 years last past, and are now engaged in the manufacture and sale of radio sets and radio tubes in commerce, between and among the various States of the United States and foreign countries, causing said radio sets and radio tubes when sold by them to be transported from their several places of business located in the State of New York, and other States, through and into various other States of the United States and the District of Columbia, and foreign countries, and there is now and has been for more than 7 years last past, a constant current of trade and commerce by said respondents and others in said radio sets and radio tubes, between and among the various States of the United States and the District of Columbia and foreign countries. In the course and conduct of their business, said respondents and others are now and have been for more than 7 years last past, in substantial competition with other corporations, partnerships, and persons engaged in the sale of radio sets and radio tubes and like products in commerce between and among the various States of the United States, and the District of Columbia and foreign countries in interstate and foreign commerce.

PAR. 8. Respondents, in the course and conduct of their said business, adopted in 1931 and used and now use, without authority or consent from the owners and users thereof, as corporation, company, and trade names, and as marks, brands, and designations placed upon or caused to be placed upon radio sets, radio tubes, and like products sold by them, the following names, letters, and designations.

(a) The name "Edison," "Edison-Bell," "Edison International," and "Edison Radio Stores, Inc." and "Edison" in combination with other words, letters, and designations.

(b) The name "Marconi," "Marconi Radio Corporation," "Marconi International," and "Marconi" in combination with other words and designations.

(c) The name "Bell" and the representation of a bell and other combination of words or letters, together with the name "Bell."

(d) The name "Victor," "Victor International," and "Victor" in combination with other words or letters and designations.

(e) The name "Brunswick," or "Bronswick," a colorable imitation of the name "Brunswick," in combination with other words and designations.

(f) The name "Majestic," "Majestic International," "Majestic Radio Corporation," and other combinations of words or letters together with the name "Majestic."

(g) The letters "R. C. A.," and "R. S. A.," or "R. C. I.," colorable imitations of the letters "R. C. A."

(h) The letters "EB" in scrip in a circle with scroll-like interior decorations, a colorable imitation of the letters "G. E.," in scrip in a circle with scroll-like interior decorations.

(i) The representation of a bell.

All of which said names, letter combinations, and symbols are the exclusive property of, and are owned and used by old, established concerns in the electric, radio, sound transmission, and like or related industries as set out in paragraph nine, following.

PAR. 9. The following words, letters, and symbols, when used in the radio world and among dealers and the buying public in the United States and foreign countries, have a peculiar meaning and convey to the public mind a significance distinct from other names employed in such trade and radio world, to wit:

(a) "EDISON." The name Edison refers to Thomas A. Edison, the great discoverer and inventor in the electric field and pioneer in the talking machine and radio industry. Thomas A. Edison enjoyed a long and eventful life and his inventions and patents cover a period beginning in or about the year 1868 and extending to the time of his death on or about October 18, 1931. He made numerous discoveries and inventions and was granted numerous patents in the field of electricity and related arts, including telephony, telegraphy, X-ray apparatus, electric lighting, electric generation, electrically propelled vehicles, phonographs, radio apparatus, moving and talking pictures, and primary and storage batteries.

The electric bulb or incandescent lamp, discovered and perfected by said Thomas A. Edison, is the foundation principal upon which is based the reception, transmission, control, and utilization of electric energy through space.

Since on or about 1888, the name Edison has been used by Thomas A. Edison, Incorporated, a corporation of New Jersey, or its predecessors, including the late Thomas A. Edison, and other corporations and industries organized by him and thereafter succeeded by said Thomas A. Edison, Incorporated, and which had and have the exclusive legal right from him to use the name Edison, as a corporation,

Findings

23 F. T. C.

company, or trade name and as a mark or brand on its and their products including radio sets, phonographs, primary batteries, and storage batteries, and other electrical and electrically operated devices and like products manufactured, sold and shipped in interstate and foreign commerce.

Thomas A. Edison, Incorporated, is the owner of various important trade mark registrations of the name Edison, appearing either as the facsimile of the signature of Thomas A. Edison, or the name Edison in type, or the representation of said Edison in other forms, all of which trade marks are duly registered and are of record in the United States Patent Office and are in full force and effect, not having been abandoned by Thomas A. Edison, Incorporated, and which trade marks are of great value to Thomas A. Edison, Incorporated.

Said Thomas A. Edison, Incorporated, and its predecessors having continuously used and exploited and Thomas A. Edison, Incorporated, now uses and exploits said name Edison in said manner throughout the world.

The value of the products, including radio apparatus, manufactured and sold by Thomas A. Edison, Incorporated, and its predecessors has for many years amounted to millions of dollars yearly, and Thomas A. Edison, Incorporated, and its predecessors have spent great sums of money in advertising the name Edison and their said products branded with said name, including approximately \$2,000,000 in advertising radio and phonograph apparatus alone. The name Edison as a corporation, company, or trade name and as a mark or brand on radio sets, primary and storage batteries, electrical and like products, is of great value.

Neither the said Thomas A. Edison, Thomas A. Edison, Inc., or any of the said Edison companies or his or their agents, representatives, assigns, or successors have ever granted permission to respondents to use said name Edison in any way.

(b) "MARCONI." The name Marconi refers to and is recognized as the name of Guglielmo Marconi, the great engineer and electrician who first perfected the appliances used in space telegraphy or radiography and the application of electric waves to actual telegraphy, and the inventor of various electrical and radio devices. Marconi Wireless Telegraph Company of America, a corporation acquired from said Guglielmo Marconi the exclusive right to the use and exploitation of all of the said Marconi patents and inventions, including the use of the name Marconi, in and throughout the United States and its territories and possessions. In 1919 the said Marconi Wireless Telegraph Company of America sold, transferred and assigned to Radio Corporation of America, all of its rights, title, and interest in and to said Marconi

patents and inventions, including the right to the use of the name "Marconi" in connection therewith. The said name "Marconi" in and throughout the United States and its territories and possessions, is the property of the Radio Corporation of America and its subsidiaries, and said name "Marconi" has great value. Said Radio Corporation of America, since 1919, has had and has the exclusive right to the use of the said name "Marconi," used in said manner, and has made use of and extensively advertised and exploited, and uses, advertises, and exploits the said name "Marconi" as a mark or brand upon radio and wireless telegraph sets and related products used, sold, and shipped in interstate commerce.

The value of the products, including radio sets, and related products manufactured and sold annually by Radio Corporation of America and its subsidiaries, and the service of said company, amounts to millions of dollars and the said company and related industries spend and have spent great sums of money in advertising their products and service.

Neither said Guglielmo Marconi, Marconi Wireless Telegraph Company of America, or Radio Corporation of America, his or their agents, representatives, successors, or assigns, have ever granted permission to the respondents to use the name "Marconi" in any way, nor have they abandoned the right to the use thereof.

(c) "BELL." The name Bell and the representation of a bell when used in connection with sound reproduction and sound transmission in the electric and radio and related fields, refers to the great electrical engineer and inventor, Alexander Graham Bell, who discovered and perfected sound transmission by the use of wires. The name "Bell" and the representation of a bell is the property of the American Telephone and Telegraph Company, its subsidiaries and associates. Said American Telephone and Telegraph Company and its subsidiary, Western Electric Company, have used for many years last past (long prior to 1900), and now use, the name "Bell" and the representation of a bell as a mark or brand to designate their service and products, and the Western Electric Company has used for many years last past (long prior to 1931), and now uses the name "Blue Bell" and the representation of a bell as a mark or brand to designate dry cell batteries manufactured and sold by it. Said dry cell batteries can be and are used in radio sets and like products.

The said products and service of said companies so marked and identified by said name "Bell" and said name "Blue Bell" and the representation of a bell, have been for many years last past and are now used in connection with products manufactured, sold, shipped, and

Findings

23 F. T. C.

extensively advertised in interstate and foreign commerce by said companies.

The value of said service rendered and said products manufactured, sold, and shipped annually in interstate and foreign commerce by the said companies and their subsidiaries, so marked, amounts to millions of dollars and the said companies spend and have spent large sums of money in advertising their said service and products, so marked, and said names "Bell" and "Blue Bell" and the representation of a bell are of great value.

Neither said Alexander Graham Bell nor the American Telephone & Telegraph Company or its subsidiary, the Western Electric Company, or his or their agents, representatives, successors, or assigns have granted permission to the respondents to use the name "Bell" or the representation of a bell in any manner, nor have they abandoned the use thereof.

(d) "VICTOR." The name Victor refers to and is a part of the name of the Victor Talking Machine Company, and of the RCA Victor Company, a subsidiary of the Radio Corporation of America. The Radio Corporation of America obtained control of the Victor Talking Machine Company on or about March 15, 1929, and the right to the use of the name "Victor." Said Victor Talking Machine Company and said Radio Corporation of America, RCA Victor Company and other subsidiaries of Radio Corporation of America, have used for many years last past, long prior to 1921, and now use the name "Victor" as part of said corporate names and as marks and brands on phonographs, radio sets, and like products, manufactured and sold by said companies in interstate and foreign commerce. The annual sale of said products by said companies amounts to many millions of dollars and said companies have spent and spend millions of dollars annually in advertising said products and said name "Victor"; and said name "Victor" is of great value in the electric, radio, musical, and like industries.

Neither said Victor Talking Machine Company, Radio Corporation of America, or any subsidiaries of said companies or their agents, representatives, successors, or assigns, have granted permission to the respondents to use said name "Victor" in any manner, nor have they abandoned the use thereof.

(e) "BRUNSWICK." The name "Brunswick" was used as part of the name Brunswick-Balke-Collender Company, a large manufacturer of various musical and sound transmitting instruments, including radio sets and combination radio and talking machine sets and like products. Said corporation assigned to Warner Brothers Pictures, Inc., together with other assets, the right to the use of

said name "Brunswick." Said Warner Brothers Pictures, Inc., organized Brunswick Radio Corporation in 1933. Said companies, for many years last past, long prior to 1921, have used and now use the name Brunswick as part of their corporate name and as marks or brands on talking machines, radio sets, and like products. Said companies sell annually millions of dollars worth of said products so marked and spend large sums of money in advertising said name and said products, and said name Brunswick is of great value. The name "Bronswick" used by respondents is a colorable imitation of said name "Brunswick."

Neither said Brunswick-Balke-Collender Company, Warner Brothers Pictures, Inc., or its subsidiaries or their agents, representatives, successors, and assigns, have ever granted permission to respondents to use said name Brunswick (or Bronswick) in any manner, nor have they abandoned the use thereof.

(f) "MAJESTIC." The name Majestic is a name used by Grigsby-Grunow Company, and has been used for many years (long prior to 1921) as a mark or a brand on radio sets and like products manufactured and sold by said company. Said name "Majestic" is now vested in Frank M. McKey as trustee in bankruptcy for the creditors of said Grigsby-Grunow Company and is an asset of great value. Said Grigsby-Grunow Company sold over 4,000,000 of said radio sets and spent approximately \$25,000,000 in advertising said name "Majestic," and its products so marked.

Neither said Grigsby-Grunow Company nor said Frank M. McKey, its or his agents, representatives, successors, or assigns, have ever granted permission to respondents to use the name "Majestic" in any manner, nor have they abandoned the use thereof.

(g) "RCA." The letters RCA stand for and represent Radio Corporation of America. The letters RSA and RCI used in the electric, radio, sound transmission, and like industries are colorable imitations of the letters RCA. The Radio Corporation of America, individually and through its subsidiaries, among its many activities, manufactures and sells radio sets and like products and conducts a radio service in interstate and foreign commerce. The Radio Corporation of America for many years last past (long prior to 1921), has used, and now uses the letters RCA to designate its said service and the said company, and the products manufactured and sold by said company and its subsidiaries. The said service and products of said Radio Corporation of America and its subsidiaries, manufactured (transacted) and sold annually in interstate and foreign commerce, so marked or designated, amounts to millions of dollars, and said products and service are extensively advertised by said company

and its subsidiaries, and the letters RCA, designating said name and products, are valuable. The Radio Corporation of America or its subsidiaries, agents, representatives, successors, or assigns, have never granted to respondents, permission to use the letters "RCA" or the name "Radio Corporation of America" in any way, nor have they abandoned the use thereof.

(h) "EB." The letters "EB" when used in the radio, electric, and sound transmission fields, and as a mark or brand on radio sets and like products, stand for and represent the surnames of Thomas A. Edison and Alexander Graham Bell. Said names are owned and used by the respective persons, companies, and corporations designated in subparagraphs (a) and (c) of paragraph 8, none of which said individuals, companies, or corporations have ever granted permission to the respondents to use the initials "EB" in any manner.

"GE." The letters "GE" stand for and represent General Electric Company. "GE" (written in script) in a circle with scroll-like interior decorations, is the property of the General Electric Company, and has been and is used and extensively advertised by General Electric Company to designate said company's name and as a mark or brand to designate products, including radio sets, radio tubes, and like products manufactured, sold, and shipped in interstate and foreign commerce by said company. Said company has sold for many years last past (long prior to 1921) and sells millions of dollars worth annually of its said products and extensively advertises said products, including said mark. The letters "EB" (in script) in a circle with scroll-like decorations used by respondents in the radio, electric, sound transmission, and like industries, is a colorable imitation of the letters "GE" in a circle with scroll-like decorations used by General Electric Company.

Said General Electric Company, its agents, representatives, successors, and assigns, have never granted permission to respondents to use said letters or symbols in any manner, nor have they abandoned the use thereof.

Said names, letters, and symbols are the names and designations of well-known and long established individuals, companies, and corporations, and are standard brands and symbols when used as company, corporate, and trade names, and as marks and brands on radio sets, radio tubes, batteries, electrical, and like products, and said products so marked have a fixed and stable value in the trade and industry generally throughout the United States and foreign countries. The purchasing public relies upon said well-known brands, marks, and symbols when used on radio sets, radio tubes, batteries, electrical, and like products and in said industries as indicating high

1

Findings

standard, reliable, and genuine products. The use of such names, letters, and symbols influence the purchase of said products and increase sales. The number of dealers in said products so marked, increase sales value. The said names, letters, and symbols attached to said products have value to the thousands of dealers engaged in the sale and distribution of said standard brand products. The said names, letters, and symbols are valuable to those persons, partnerships, and corporations owning them, and who have used and now use and employ them in commerce.

Because of the popularity of the name "Edison" and the products bearing this name, manufactured and sold by the lawful owners thereof; and because of the popularity of the name "Marconi" and the products bearing this name, manufactured and sold by the lawful owners thereof; and because of the popularity of the name "Bell" and the representation of a bell, and the service and products bearing this name and symbol, manufactured and sold or furnished by the lawful owners thereof; and because of the popularity of the name "Victor" and the products bearing this name, manufactured and sold by the lawful owners thereof; and because of the popularity of the name "Brunswick" and the products bearing this name, manufactured and sold by the lawful owners thereof; and because of the popularity of the name "Majestic" and the products bearing this name, manufactured and sold by the lawful owners thereof; and because of the popularity of the letters "RCA" and the products bearing these letters, manufactured and sold by the lawful owners thereof; and because of the popularity of the monogram or letters "GE" (in script) in a circle with scroll-like interior decorations, and the products bearing these letters and symbol, manufactured and sold by the lawful owners thereof; the use by respondents of said names, letters, and monograms, and simulations thereof, has led and has the capacity and tendency to lead the public to believe that the products sold by respondents and so marked or identified are the products of said well-known respective companies or interests hereinabove referred to and identified and results in the appropriation by the respondents of the good will of, and an unfair diversion of business from said respective competitor companies and interests, and an unfair diversion of business from other competitors who do not resort to such practices, to the injury of the owners of said marks, letters, and symbols, and of said competitors, and to the prejudice and injury of the public.

PAR. 10. The placing and use of said names, letters, symbols, marks, and brands as set out in paragraph 8 hereof, on radio sets, radio tubes, and like products offered for sale and sold by respondent individuals,

partnerships, corporations, and others, without authority or right, has the capacity and tendency to deceive and deceives the purchasing public and is unfair to and injures competitors who do not resort to such practices. Such misbranding damages and injures the lawful owners thereof and is injurious to the industry and the public.

The purchasing public buying radio sets, radio tubes, and like products, marked or branded with the said well-known names, letters, and symbols are of a common mind or belief, regardless of the selling price or of the source of supply, that said products are manufactured and sold by the lawful owners and users of said names, marks, brands, letters, and symbols, and when said names, marks, brands, letters, and symbols are placed upon radio sets, radio tubes, and like products, such products are accepted as the products of those who have lawfully used and now use such names as marks, brands, letters, and symbols upon like products as set out in paragraph 9 hereof. The name or brand being depended upon, influences the sale of said products.

Members of the purchasing public have purchased radio sets, radio tubes, and like products branded and sold to the trade by respondents and others, which products were imitations of or less than the genuine products, believing them to be genuine products entered in trade by the lawful owners and users of said standard names, and have been deceived in such purchases.

Dealers in radio sets, radio tubes, and like products have been forced to misbrand or place standard brand names and symbols on like products sold by them, that were not genuine, in order to meet competition of respondents and other dealers engaged in manufacturing and selling said misbranded products.

The manufacture, sale, and delivery to retail dealers by respondents of radio sets, radio tubes, and like products, marked and branded with the names, letters, and symbols hereinabove designated of well-known manufacturers and lawful users of said names, marks, brands, and symbols, without authority or consent of the owners and lawful users thereof, places in the hands of dealers and others, to whom said products are sold, the means whereby injury might be and is done to competitors dealing in the genuine products honestly marked. Injury to manufacturers and dealers in the legitimate products is suffered by the sale by respondents of products falsely marked, sold, and shipped in interstate and foreign commerce. Injury to the lawful owners and users of standard brands, names, marks, and symbols is suffered because of the manufacture, sale, and competition of respondents' said products.

PAR. 11. Respondents, in cooperation among themselves and together with others, in the course and conduct of their business of manufac-

1

Order

turing, assembling, selling, and shipping said radio sets and like products in interstate and foreign commerce, placed or caused to be placed upon the products, the aforesaid standard brand names, letters, and symbols, by means of name plates, marks, and brands attached to said products and upon the boxes, cartons, or containers in which they were packed and shipped. The said standard names, marks, brands, and symbols were usually displayed in large, bold lettering, easily discernible, while the names of respondents' corporations or business organizations manufacturing and selling said products were in small letters, hardly discernible.

Respondents, in cooperation among themselves and together with other jobbers and dealers throughout the several States of the United States and foreign countries, selling and shipping respondents' said radio sets, radio tubes, and like products in interstate and foreign commerce, advertise said company, corporation, and trade names and said products so marked, in newspapers, magazines, and other bulletins and periodicals circulated through the mails. Said advertisements are so worded as to convey to the mind of the purchasing public the impression that the products so advertised, are the genuine standard makes or brands, contrary to the facts.

CONCLUSION

The aforesaid acts and practices of said respondents, under the conditions and circumstances described in the foregoing findings, are all to the injury and prejudice of the public and of respondents' competitors, and constitute unfair methods of competition in commerce and are in violation 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 heard by the Federal Trade Commission upon the complaint and the amended and supplemental complaint of the Commission, the answers of the respondents, testimony, and evidence taken before Robert S. Hall, an examiner of the Commission theretofore duly designated by it, in support of the charges of said complaints and in opposition thereto, and the brief filed by Carrel F. Rhodes, counsel for the Commission, and the Commission having made its findings as to the facts and its conclusion that said respondents have 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."

It is now ordered, That the respondents, Marconi Radio Corporation, Edison Radio Stores, Inc., Stuart Radio Corporation, their officers, agents, representatives, and employees, and Joseph E. Frank, S. A. Frank, A. M. Frank, and G. Blumenthal, their agents, representatives, and employees operating individually or operating under the trade names, the Perfection Radio Stores, Harvard Radio Stores, and Post Radio Company, or under any other trade name or designation, in connection with the offering for sale or sale in interstate and foreign commerce and in the District of Columbia of radio sets, radio tubes, and like devices, appliances, or products, do hereby cease and desist from:

(1) Representing, directly or indirectly, through advertisements, trade promotion literature, in sales talks, and through corporation, company, or trade names, marks, or brands, or in any other manner whatsoever, that the radio sets, radio tubes, and like devices, appliances, or products manufactured or assembled for or by, and offered for sale or sold by any of said respondents, are the radio sets, radio tubes, appliances, or products manufactured, assembled, and sold, sponsored, endorsed, approved, or licensed by Thomas A. Edison, Thomas A. Edison, Incorporated, American Telephone & Telegraph Company, Western Electric Company, Marconi Wireless Telegraph Company of America, Radio Corporation of America, Victor Talking Machine Company, Brunswick-Balke-Collender Company, Warner Brothers Pictures, Inc., and its subsidiary, Brunswick Radio Corporation, Grigsby-Grunow Company, or Frank M. McKey, trustee for the creditors of Grigsby-Grunow Company, General Electric Company, or the agents, representatives, successors, or assigns of any of said persons, partnerships, or corporations.

(2) Representing, directly or indirectly, through the use of the names, "Edison," "Edison-Bell," "Edison Radio Stores, Inc.," "Edison International," "Bell," "Marconi," "Marconi Radio Corporation," "Victor," "Brunswick," "Bronswick," "Majestic," "Radio Corporation of America," "General Electric Company," or through the use of the letters "R. C. A.," "R. S. A.," "R. C. I.," "G. E.," or "E. B.," or through the representation of a bell, alone or in combination or connection with any other word or words or letter or letters, symbol or symbols, that the radio sets, radio tubes, and like devices, appliances, or products manufactured or assembled for or by and sold by any of said respondents are radio sets, radio tubes, devices, appliances, or products manufactured, assembled, sold, sponsored, endorsed, approved, or licensed by Thomas A. Edison, Thomas A. Edison, Incorporated, American Telephone & Telegraph Company, Western Electric Company, Marconi Wireless Telegraph Company of America, Radio Cor-

1

Order

poration of America, Victor Talking Machine Company, Brunswick-Balke-Collender Company, Warner Brothers Pictures, Inc., and its subsidiary, Brunswick Radio Corporation, Grigsby-Grunow Company or Frank M. McKey, trustee for creditors of Grigsby-Grunow Company, General Electric Company, or the agents, representatives, successors, or assigns of any of said persons, partnerships, or corporations.

(3) From applying to, attaching to, or causing to be applied or attached to or used on any radio sets, radio tubes, or other devices, appliances, or like products, manufactured or assembled or sold by respondents, escutcheon plates, brands, marks, or other devices, bearing the names or designations "Edison," "Edison Radio Stores, Inc.," "Edison International," "Edison-Bell," "Bell," or the representation of a bell, "Marconi," "Victor," "Brunswick," "Bronswick," "Majestic," "Marconi Radio Corporation," "Radio Corporation of America," "General Electric," or the letters "R. C. A.," "R. S. A.," "R. C. I.," "G. E.," or "E. B.," alone or in combination or conjunction with any other word or words or with any other letter or letters, symbol or symbols, so as to import or imply that the said radio sets, radio tubes, or other devices, appliances, or like products, manufactured or assembled and sold by respondents are manufactured, assembled, sold, sponsored, endorsed, approved, or licensed by Thomas A. Edison, Thomas A. Edison, Incorporated, American Telephone & Telegraph Company, Western Electric Company, Marconi Wireless Telegraph Company of America, Radio Corporation of America, Victor Talking Machine Company, Brunswick-Balke-Collender Company, Warner Brothers Pictures, Inc., and its subsidiary, Brunswick Radio Corporation, Grigsby-Grunow Company or Frank M. McKey, trustee for creditors of Grigsby-Grunow Company, General Electric Company, or the agents, representatives, successors, or assigns of any of said persons, partnerships, and corporations.

It is further ordered, That said respondents shall within 30 days from notice hereof, file with this Commission a report in writing, stating in detail the manner and form in which they have complied with this order.

Complaint

23 F. T. C.

IN THE MATTER OF
AUTOGRAF TOOTH BRUSH COMPANY, INC., AND HENRY
L. HUGHES, INC.

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

Docket 2497. Complaint, July 17, 1935—Decision, July 10, 1936

Where two corporations engaged in the business of assembling, distributing, and selling tooth brushes, and with a community of interest—

Prominently stamped upon imported handles, on which name of country of origin in very faint type was so placed that insertion of necessarily imported bristles inevitably entirely obliterated or effectively obscured said name of origin, and upon the paper boxes in which the tooth brushes, thus assembled, were packed, the words "Made in U. S. A.";

With effect of deceiving and misleading a substantial number of members of purchasing public into false belief that commodity thus sold and offered was made within the United States and of raw materials produced therein, and that handles thereof were there made and of domestic raw materials, and of purchasing same in such belief, and with capacity and tendency thus to mislead members of such public, among whom there exist an active preference for purchase of goods, when available, of domestic raw materials, entirely, and strong antipathy toward purchase of certain tooth brushes and classes of commodities offered for sale in competition with goods entirely of domestic raw materials; and

With result that trade was diverted to them from competitors, among whom there are those who do not import or use imported handles in the assembling of their products or obliterate or obscure name of country of origin through inserting bristles in the assembling thereof; to their substantial injury and prejudice and to that of the public:

Held, That such acts and practices, under the conditions and circumstances set forth, constituted unfair methods of competition.

Before *Mr. W. W. Sheppard*, trial examiner.

Mr. Alden S. Bradley for the Commission.

Mr. James W. Bevans, of New York City, 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 Henry L. Hughes Co., Inc., and Autograf Tooth Brush Co., Inc., hereinafter referred to as respondents, have been and now are 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