

Syllabus

IN THE MATTER OF
EDISON-BELL COMPANY, INC., 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 2223. Complaint, May 16, 1935¹—Decision, July 17, 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,

Certain individuals, former partners, and various corporations organized and controlled by them and their families and operated as a single business, engaged in the manufacture and sale of radio receiving sets, tubes, and parts, made or assembled at various places, and in the sale of both standard makes and spurious and relatively cheap and different "gyp" makes in simulation of the former in their design, mark, and brand, and who operated unsuccessfully under many different company, corporate, trade, and brand names prior to adoption and use of name "Edison-Bell," and whose practice it was to substitute in standard brand radio sets their so-called "Edison-Bell," for standard tubes originally installed therein, and to advertise and sell such products, thus marked, under said name and letters "E. B." and representation of a bell—

- (a) Adopted and used, without right and without permission of the owners of said names, letters, and symbols, as corporate, partnership, and trade names, and as marks, brands, and designations for their aforesaid sets, tubes, and other products, names, etc., which closely resembled, in size, typo-

¹ Amended and supplemental.

graphic arrangement and general appearance, the names, letters, and symbols lawfully owned and used by aforesaid owners, as hereinbefore set forth, and which included "Edison" and "Bell," and representation of a bell, and letters "E. B." encircled with scroll-like interior decorations, and such corporate and brand names as "Edison-Bell," "Edison International," and "Edison," in combination with other words, letters, and designations in colorable imitation of said names "Edison" and "Bell," and similarly used names "Victor," "Brunswick," "Majestic," and letters "R. C. A." and "G. E.," encircled in script with scroll-like interior decorations, and such names, letters, etc., in colorable imitation of the aforesaid, as "Victor International," "Brunswick," "Majestic International," "R. S. A.," and "R. C. A.," and letters "E. B.," encircled in script, etc.;

With effect of causing confusion in the trade and enabling them to sell to the public their said radio sets and parts and tubes as and for those made and sold in interstate commerce by other persons, partnerships, and corporations as above set forth, and with capacity and tendency so to do and to lead public to believe that their said products, thus marked and identified, were those of aforesaid well-known companies or interests, and with results that they thereby appropriated good will belonging to said respective competitor concerns and interests, and business was unfairly diverted from such concerns and interests, and 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, which had come to believe that products marked or branded with such well-known names, etc., regardless of price or source of supply, were made and sold by the lawful owners and users of said names, etc., and to accept such products thus named, etc., as their products, and members of which were influenced and caused thereby to buy such radio sets, tubes, etc., thus branded and sold, in imitation of the genuine products, and with further result that dealers in such products were forced to misbrand or place standard brand names and symbols on similar and non-genuine articles in order to meet such competition, and there was placed in the hands of others, to whom said products were sold, means whereby injury might be and was done to competitors dealing in the genuine and honestly marked products, to the injury of manufacturers of and dealers in the legitimate articles, and of the lawful owners and users of such standard brands, names, marks, and symbols;

- (b) Placed, or caused to be placed, upon their said products, aforesaid standard brands, names, and letters and symbols, and upon the boxes, cartons, or containers thereof, with such standard names, etc., usually displayed in large and easily discernible bold lettering, while names of their corporate or business organizations making and selling same were in small and hardly discernible letters; and
- (c) Advertised said company, corporate, and trade names, and products thus marked, in newspapers, periodicals, and other bulletins circulated through the mails in interstate and foreign commerce, so as to convey to mind of purchasing public impression that products thus advertised were the genuine standard makes or brands:

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

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

Mr. Carrel F. Rhodes for the Commission.

Pennie, Davis, Marvin & Edmonds and *Mr. D. V. Mahoney*, of New York City, for respondents.

COMPLAINT ¹

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 Edison-Bell Co., Inc., Fox Radio & Television Co., Inc., Atlas Television Co., Inc., York Television & Radio Corporation, Bob Radio Corporation, Music Masters Corporation, Fox Radio Corporation, and Robert Siegel, Aaron L. Siegel, Samuel Fox Barsky, and Simon Barsky, individually and trading under the name Edison-Bell Co., 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, Edison-Bell Co., Inc., is a corporation organized and existing since September 23, 1933, under and by virtue of the laws of the State of New York, with its principal offices and place of business at 166 Greenwich Street, New York City, State of New York.

(b) Respondent, Fox Radio & Television Co., Inc., is a corporation organized and existing since February 11, 1932, under and by virtue of the laws of the State of New York, with its principal offices and place of business at 60 Cortlandt Street, New York City, State of New York.

(c) Respondent, Atlas Television Co., Inc., is a corporation organized and existing since October 10, 1932, under and by virtue of the laws of the State of New York, with its principal offices and place of business at 58 Cortlandt Street, New York City, State of New York.

(d) Respondent, York Television & Radio Corporation, is a corporation organized and existing since October 10, 1932, under and by virtue of the laws of the State of New York, with its principal offices and place of business at 166 Greenwich Street, New York City, State of New York.

(e) Respondent, Bob Radio Corporation, is a corporation organized and existing since October 4, 1932, under and by virtue of

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the laws of the State of New York, with its principal offices and place of business at 174 Greenwich Street, New York City, State of New York.

(f) Respondent, Music Masters Corporation, is a corporation organized and existing since January 31, 1932, under and by virtue of the laws of the State of New York, with its principal offices and place of business at 71 Cortlandt Street, New York City, State of New York.

(g) Respondent, Fox Radio Corporation, is a corporation organized and existing under and by virtue of the laws of the State of New York, with its principal offices and place of business located at 60 Cortlandt Street, New York City, State of New York.

(h) Respondents, Robert Siegel, Aaron L. Siegel, Samuel Fox Barsky, and Simon Barsky, operate as partners under the trade name "Edison-Bell Company," with their principal offices and place of business at 60 Cortlandt Street, New York City, State of New York.

(i) Respondent, Robert Siegel, is president and a director and stockholder in respondent Edison-Bell Co., Inc.

(j) Respondent, Aaron L. Siegel, is vice president of, and a director and stockholder in, respondent Edison-Bell Co., Inc.

(k) Respondent, Samuel Fox Barsky, is treasurer of, and director and stockholder in Edison-Bell Co., Inc.

(l) Respondent, Simon Barsky, is secretary of, and a director and stockholder in respondent Edison-Bell Co., Inc.

(m) Respondents, Robert Siegel, Aaron L. Siegel, Samuel Fox Barsky, and Simon Barsky, are also officers, directors, and stockholders in each and every of the several respondent corporations, namely, Edison-Bell Co., Inc., Fox Radio & Television Co., Inc., Atlas Television Co., Inc., York Television & Radio Corporation, Bob Radio Corporation, Music Masters Corporation, and Fox Radio Corporation, all of which said respondent corporations were created and incorporated, or caused to be created and incorporated, by said respondent individuals, 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 1 year last past, holders and owners of the legal or beneficial title or interest in, or to the outstanding stock of said corporations. 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 them to the trade and the purchasing public, and all of the profits from

the operations of the business thus conducted enure to respondents, Robert Siegel, Aaron L. Siegel, Samuel Fox Barsky, and Simon Barsky, the officers, directors, and stockholders of said respondent corporations and owners of said trade name "Edison-Bell Company." The books, records, and accounts of the said business are kept in one central office from which the business is managed, controlled, and directed by one and the same set of officers, directors, and individuals as aforesaid, common to all, and deliveries of radio tubes and radio sets made, sold, and delivered by said respondents within a radius of 75 miles from their several places of business in New York City, New York State, or other States of the United States, are made by one truck jointly controlled and used by all of said respondents.

PAR. 2. Respondents, Robert Siegel, Aaron L. Siegel, Samuel Fox Barsky, and Simon Barsky, in the course and conduct of their business as set out in paragraph 1, have used various trade names and have incorporated or caused to be incorporated under various names, corporations in whose names they have operated and conducted business. Among such trade names and corporate names so adopted and so used by respondents, is the trade name "Edison-Bell Company" and the corporate name "Edison-Bell Company, Inc.," and other names and designations. Said respondents incorporated or caused to be incorporated in the State of New York, under the name "Edison-Bell Company, Inc.," a corporation and registered or caused to be registered in the State of New York and applied to but was denied registration by the United States Patent Office upon the opposition of Thomas A. Edison, Inc., the trade name "Edison-Bell Company" and the corporate name "Edison-Bell Company, Inc.," together with a device of a circle with scroll-like interior projections enclosing the script letters "E. B." and have used and are using said names "Edison-Bell Company" and "Edison-Bell Company, Inc.," and the said device of a circle with scroll-like interior projections enclosing the script letters "E. B." and other names and designations as marks or brands affixed to and to designate radio sets and radio tubes manufactured and sold by said respondents.

Said name "Edison-Bell Company" and said corporate name "Edison-Bell Company, Inc.," are formed by the joinder of the name "Edison" which refers to Thomas A. Edison and the name "Bell" which refers to Alexander Graham Bell, two well-known outstanding individuals in the electric, radio, and sound transmission fields. The letters "E. B." in the said device of a circle with scroll-like interior projections enclosing the script letters "E. B." refer to and represent the names "Edison" and "Bell."

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PAR. 3. All of the respondents, cooperating among themselves and together with others, are now and for more than 1 year last past, have been engaged in the manufacture of radio sets and radio tubes and the sale of said radio sets and radio tubes between and among the various States of the United States, causing said radio sets and radio tubes, when sold by them, to be transported from their several places of business located in the States of New York, Massachusetts, and Rhode Island to the purchasers thereof, some located in the States of New York, Massachusetts, and Rhode Island, and others in various other States of the United States, the District of Columbia, and foreign countries, and there is now and has been for more than 1 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 1 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. (a) Respondents, Edison-Bell Co., Inc., Fox Radio & Television Co., Inc., Atlas Television Co., Inc., York Television & Radio Corporation, Bob Radio Corporation, Music Masters Corporation, Fox Radio Corporation, and respondents, Robert Siegel, Aaron L. Siegel, Samuel Fox Barsky, and Simon Barsky, individually and trading under the name "Edison-Bell Company" and as officers and directors of said respondent corporations cooperating together, among themselves and 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 placing of false and deceptive name plates and labels on the radio sets and radio tubes so manufactured and sold. 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 wrappers, cartons, and containers in which they are enclosed, 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 names and marks to radio sets and radio tubes manufactured, assembled, sold, and shipped by them from their several places of business in the State of New York 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 escutcheon plates, stamps, stencils, and labels. Among the name plates, marks, and labels so being used by respondents are the following: "Edison," "Bell," "Edison-Bell," "Edison-Bell Duo Vox," "Edison Chimes," "Edison Complete," "Edison International," "Edison Radio Stores, Inc.," "Edison" with a representation of a bell; "Bell" with a representation of a bell; "Victor," "Victor International," "Victor Television"; "Majestic"; "Brunswick" (Brunswick); the letters "RSA" and "RCI"; and a device of a circle with scroll-like interior projections enclosing the script letters "E. B."; and the names "Edison," "Bell," "Victor," "Majestic," "Brunswick" (Brunswick) standing alone or in conjunction with other names or prefixes, suffixes, and devices in connection therewith.

(b) Respondents have printed or caused to be printed and feature the names "Edison-Bell," "Edison-Bell Company, Inc." and "New Improved Edison-Bell Duo Vox Radio" and other names and designs on display cards which are set up in prominent places in show windows and around the stores in which their business is conducted, and have printed or caused to be printed cardboards and cards attached to radio sets and on labels pasted on cartons or containers in which the radio tubes and radio sets are packed and delivered to retail dealers and the public, and have caused to be printed on leaflets and in magazines and papers distributed by them through the mails and by their salesmen, agents, and representatives to retail dealers and the public in the States of New York, Massachusetts, and Rhode Island, and shipped and transported from said States through and into other States of the United States, and have caused to be printed letterheads, billheads, and stationery upon all of which is printed and featured the name "Edison-Bell" together with the representation of a bell, which they have circulated and distributed throughout the United States, the District of Columbia, and foreign countries to retail dealers and the public.

(c) Respondents, Robert Siegel, Aaron L. Siegel, Samuel Fox Barsky, and Simon Barsky, have caused to be printed personal business cards across the center upon the face of which is printed in large type "Edison-Bell Company, Inc.," and in smaller type "116 Greenwich Street, New York, N. Y.," and in the upper left-hand corner the representation of a bell across the top of which bell is printed "Edison-Bell" and on which bell are printed the initials

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"E. B." and the words "Duo Vox Radio." On the lower left-hand corner of said cards is printed the name of either Robert Siegel, Aaron L. Siegel, Samuel Fox Barsky, or Simon Barsky, which cards are distributed by them as officers, directors, agents, or salesmen representing respondent, Edison-Bell Co., Inc., and the several other respondent corporations hereinabove designated, in person and through the mails to retail dealers and the purchasing public in the State of New York and other States of the United States, the District of Columbia, and foreign countries.

PAR. 5. The use by respondents, Edison-Bell Co., Inc., Fox Radio & Television Co., Inc., Atlas Television Co., Inc., York Television & Radio Corporation, Bob Radio Corporation, Music Masters Corporation, Fox Radio Corporation, and Robert Siegel, Aaron L. Siegel, Samuel Fox Barsky, and Simon Barsky, individually and trading under the name Edison-Bell Co., and other trade names, of the names including the corporate name Edison-Bell Co., Inc., and the trade name Edison-Bell Co., and devices as set out in paragraphs 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 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 which have created such reputation and good will and deceives the public into believing that respondents' products originate with well-known and reputable concerns, contrary to the fact. Thereby substantial injury is done by respondents to substantial competition in interstate commerce.

PAR. 6. 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 ma-

chines and articles above referred to bear the name "Edison" as part of their brand, and such name "Edison" has acquired a valuable good will 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 1926-30 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. 7. 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.

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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" was 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 some time in the future. The radio sets and combination radio and phonograph sets manufactured by Brunswick-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 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 Brunswick Radio Corporation on radio sets, phonographs, and combination radio and phonograph sets.

PAR. 8. For many years last past the Victor Talking Machine Co., Camden, N. J., 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 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 ap-

peared 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. 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 Co., its subsidiaries and associates, and the Western Electric Co., Inc. Western Electric Co., 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 Co. 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 Co., who were 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 Co. Said name "Majestic" is now vested in Frank McKey as trustee in bankruptcy for the creditors of said Grigsby-Grunow Co. 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 Elec-

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tric Co. and has long been used and extensively advertised by said General Electric Co. as a mark or brand to designate the products manufactured, sold, and shipped in interstate and foreign commerce by said General Electric Co. 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 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 17th day of August 1934, issued its complaint and caused the same to be served upon the respondents, Edison-Bell Co., Inc., Fox Radio & Television Co., Inc., Atlas Television Co., Inc., York Television & Radio Corporation, Music Masters Corporation, and upon Robert Siegel, Aaron L. Siegel, Samuel Fox Barsky, and Simon Barsky as officers, agents, and representatives of said corporation. Respondents filed answer to the complaint with the Commission on the 1st day of October 1934.

After the issuance of said complaint, and the filing of respondents' answer thereto, testimony and evidence in support of the allegations of said complaint were introduced by Carrel F. Rhodes, attorney for the Commission, before John W. Addison, an examiner of the Commission, theretofore duly designated by it, and in defense of the allegations of the complaint by Pennie, Davis, Marvin, and Edmonds, and D. V. Mahoney, attorneys for the respondents. Said hearings were had beginning January 7 and continuing through January 23, 1935, when they were adjourned subject to notice.

Thereafter, this matter came on to be heard upon a motion of the attorney for the Commission, that the aforesaid complaint be amended and supplemented in certain particulars. The motion having been heard and granted by the Commission, the Federal Trade Commission on the 16th day of May 1935 filed an amended and supplemented 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, Edison-Bell Co., Inc., Fox Radio and Television Co., Inc., Atlas Television Co., Inc., York Television & Radio Corporation, Bob Radio Corporation, Music Masters Corporation, Fox Radio Corporation of New York City, New York; Robert Siegel, Aaron Siegel, Samuel Fox Barsky, and Simon Barsky, individually and as partners trading under the name Edison-Bell Co. of New York City, New York.

All of the respondents filed answer to the amended and supplemental complaint on the 4th day of June 1935, and further proceedings were had before the aforesaid examiner and testimony and documentary evidence were offered and received both in support of and in opposition to the allegations of the amended and supplemental complaint, and the testimony and documentary evidence taken, both in support of and in opposition to the allegations of the complaint and the amended and supplemental complaint, was duly recorded and filed in the office of the Commission.

Thereafter the proceedings regularly came on for final hearing before the Commission on the said complaint and amended and supplemental complaint, the answers thereto, the 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

PARAGRAPHS 1. Respondents, Robert Siegel, Aaron L. Siegel, Samuel Fox Barsky, and Simon Barsky, are individuals. All of said individual respondents reside in the city and State of New York. Said individuals have been engaged in the radio business for a number of years, and prior to the organization of respondent corporations operated under numerous company and trade names. Said respondent individuals for many years prior to and up to the date of the organization of respondent corporation, Edison-Bell Co., Inc., on or about September 23, 1933, operated as a copartnership under the trade name Edison-Bell Co.

Respondent, Edison-Bell Co., Inc., is a corporation organized under the laws of the State of New York, on or about September 23, 1933, with its principal office and place of business at 60 Cortlandt Street, New York City, State of New York. (There were 100 shares of stock issued in this corporation, 50 shares to respondent, Robert Siegel, and 50 shares to respondent, Simon Fox Barsky.)

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Respondent, Fox Radio and Television Co., Inc., is a corporation organized under the laws of the State of New York on or about February 11, 1932, with its principal office and place of business at 60 Cortlandt Street, New York City, State of New York. (This corporation did not issue any stock.)

Respondent, Atlas Television Co., Inc., is a corporation organized under the laws of the State of New York on or about October 10, 1932, with its office and principal place of business at 58 Cortlandt Street, New York City, State of New York. (There were only three shares of stock issued by this corporation: one share Class B stock to respondent, Aaron L. Siegel, one share Class A stock to Murray Siegel, a brother of respondents, Robert Siegel and Aaron L. Siegel, and one share of Class B stock to Reitha Barsky, wife of respondent, Samuel Fox Barsky.)

Respondent, York Television & Radio Corporation is a corporation organized under the laws of the State of New York on or about October 10, 1932, with its office and principal place of business at 166 Greenwich Street, New York City, State of New York. (There were only two shares of stock issued by this corporation: one share to respondent, A. L. Siegel, and one share to Reitha Barsky, wife of respondent, Samuel Fox Barsky.)

Respondent, Bob Radio Corporation, is a corporation organized under the laws of the State of New York, on or about October 4, 1932, with its office and principal place of business at 174 Greenwich Street, New York City, State of New York. (There were only two shares of stock issued by this corporation: one share to respondent, A. L. Siegel, and one share to Reitha Barsky, wife of respondent, Samuel Fox Barsky.)

Respondent, Music Masters Corporation, is a corporation organized under the laws of the State of New York, on or about January 31, 1932, with its office and principal place of business at 71 Cortlandt Street, New York City, State of New York. (This corporation did not issue any stock.)

Respondent, Fox Radio Corporation, is a corporation organized under the laws of the State of New York, with its principal office and place of business at 60 Cortlandt Street, New York City, State of New York. (There were 20 shares of stock issued by this corporation: 10 shares to respondent, Samuel Fox Barsky, and 5 shares to respondent, A. L. Siegel, and 5 shares to Aida Siegel, wife of respondent, Robert Siegel.)

Respondent, Robert Siegel, is president and a director and stockholder in respondent, Edison-Bell Co., Inc., and is an officer and director in each of the several other respondent corporations.

Respondent, Samuel Fox Barsky, is secretary and treasurer of Edison-Bell Co., Inc., president of Fox Radio Corporation, and a stockholder and director in each of the said corporations, and is an officer and director in each of the several other respondent corporations.

Respondent, Aaron L. Siegel, is first vice president and director in each of the following several respondent corporations: York Television & Radio Corporation, Music Masters Corporation, Atlas Television Co., Inc., Bob Radio Corporation, Fox Radio & Television Co., Inc., and a stockholder in York Television & Radio Corporation, Atlas Television Co., Inc., and Bob Radio Corporation.

Respondent, Simon Barsky, is second vice president and director in each of the following several corporations: York Television & Radio Corporation, Music Masters Corporation, Atlas Television Co., Inc., Bob Radio Corporation, Fox Radio & Television Co., Inc.

PAR. 2. The stock in respondent corporations was issued to respondents, Robert Siegel and Samuel Fox Barsky, or at their direction to the relatives of said respondents, without stated value and for little or no consideration. While the business of respondents is done in the several respondent corporate and company names, it is a continuation of the partnership business conducted under the name Edison-Bell Co., by Robert L. Siegel and Samuel Fox Barsky and is entirely owned, dominated, and controlled by said respondents, Robert Siegel and Samuel Fox Barsky, and their families, who conduct the whole as a single business. No dividends or commissions have been paid by respondent corporations. The respondent individuals do not receive salaries as officers, directors, and stockholders of said corporations.

Said respondents extended their business activities throughout the United States and into foreign countries and applied, through application filed by Edison-Bell Co., Inc., to register with the United States Patent Office the name "Edison-Bell," and the representation of a bell upon which was written in script, within a circle with scroll-like interior decorations, the letters "E. B.," as a trade mark or trade name to designate radio and television receiving sets and radio tubes and like and related products. Thomas A. Edison, Inc., filed opposition to said application for the registration of said name, "Edison-Bell" and the said letters and symbol by respondents and the "Opposition was sustained May 15, 1934" by the United States Patent Office.

PAR. 3. Prior to the organization of the Edison-Bell Co. and the adoption of the company, trade, and brand name "Edison-Bell," respondents operated unsuccessfully under many different company,

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corporate, trade, and brand names, which they changed after the adoption and use of said name "Edison-Bell."

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, marked, and branded for them by others at various places in the State of New York and other States at their direction and under their orders. The said radio sets and parts, including radio tubes were branded and labeled or caused to be branded and labeled by respondents or by others for respondents with brands, symbols, letters, and names of their own selection. Respondents sell every make of radio set and radio tube known, both the standard legitimate brands or makes and the spurious, "gyp" brands or makes, including the name "Edison-Bell," which name is formed by the joinder of the surnames of Thomas A. Edison and Alexander Graham Bell, used by respondents as a special company, corporation, trade, and brand name.

PAR. 5. Respondents' products are cheap and of a different class, compared to the products they are designed, marked, and branded to imitate.

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 interstate and foreign commerce in large quantities. Included among the radio sets and radio tubes so sold by respondents since January 1, 1932, said respondents sold and shipped, and sell and ship, in commerce between and among the several States of the United States and in the District of Columbia and foreign countries, over \$100,000 in sales value annually of said sets and tubes branded or marked "Edison-Bell" together with the representation of a bell on which is written in script in a circle with scroll-like interior decorations the letters "E. B.", which respondents often substituted and installed, and substitute and install, in standard brand radio sets purchased by the respondents from factories and dealers equipped with RCA and other standard brand radio tubes installed in said sets by the manufacturers thereof, which said sets respondents sold and shipped, and sell and ship, in commerce as commerce is above described.

Respondent corporations other than Edison-Bell Co., Inc., often substitute radio tubes branded "Edison-Bell" together with the representation of a bell on which, in a circle with scroll-like interior decorations, is written in script the letters "E. B." for the RCA and

other standard brand makes of tubes that came with the set. Respondent Edison-Bell Co., Inc., conducts a mail order business and sells said radio sets and like products so marked or branded in commerce between and among the several States of the United States and the District of Columbia and foreign countries. The sales are made through the medium of advertisements inserted in newspapers, magazines, pamphlets, circulars, and other periodicals, and letters circulated through the mail in interstate and foreign commerce. Said advertisements and literature all prominently feature the corporation and brand name as hereinabove set out, emphasizing the name "Edison-Bell" and the letters "E. B." and the representation of a bell.

PAR. 7. Respondent individuals, partnerships, 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 city and State of New York, 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 7 years last past, a constant current of trade and commerce by said respondents and others in said radio sets, radio tubes, and like products 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 said business, respondents are in substantial competition with other corporations, partnerships, and persons engaged in the sale of radio sets, radio tubes, and like products in commerce between and among the various States of the United States, 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 or about the year 1931, and used and now use without authority or consent from the owners and users thereof, as corporation, partnership, and trade names, and as marks, brands, and designations placed upon or caused to be placed upon radio sets, radio tubes, and like products manufactured by respondents or by other manufacturers for respondents and sold by respondents in commerce between and among the several States of the United States, and in the District of Columbia and foreign countries, the following names, letters, and designations, and colorable imitations thereof:

(a) The names "Edison" and "Bell" (together with the representation of a bell on which is written in script within a circle with scroll-

like interior decorations the letters "EB") used as the company, or trade name "Edison-Bell Company," and as the corporate name, "Edison-Bell Company, Inc.," and as the brand name "Edison-Bell," and the names "Edison International," "Edison Radio Stores, Inc.," and "Edison" in combination with other words, letters, and designations, colorable imitations of said names "Edison" and "Bell."

(b) The name "Bell," and the name "Bell" together with the representation of a bell on which is written in script within a circle with scroll-like interior decorations, a colorable imitation of said "Bell."

(c) The name "Marconi," and the names "Marconi Radio Corporation" and "Marconi-International," colorable imitations of said name "Marconi."

(d) The name "Victor," and the name "Victor International," a colorable imitation of said name "Victor."

(e) The name "Brunswick" and the name "Bronswick," a colorable imitation of said name "Brunswick."

(f) The name "Majestic," and the names "Majestic International," "Majestic Radio Corporation" colorable imitations of said name "Majestic."

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

(h) The letters "G. E." in script in a circle with scroll-like interior decorations, and the letters "E. B." in script in a circle with scroll-like interior decorations, a colorable imitation of said letters, "G. E." in script in a circle with scroll-like interior decorations.

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 9 following.

PAR. 9. The following names, letters, and symbols, when used in the radio world 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 or radio world, to wit:

(a) "EDISON." The name "Edison" as set out in paragraph (a) above 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 on or about the year 1868, and extend to the time of his death on or about October 18, 1931. He made many 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 storage batteries.

The electric bulb or incandescent lamp discovered and perfected by said Thomas A. Edison is the foundation principle 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, Inc., 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, Inc., and which had and have the exclusive legal right from him to use the name "Edison" as a corporation, 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 sold and shipped in interstate and foreign commerce.

Thomas A. Edison, Inc., is one of the various important trademark registrations of the name "Edison" appearing either as the facsimile of the signature "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, Inc., and which trade marks are of great value to Thomas A. Edison, Inc.

Said Thomas A. Edison, Inc., and its predecessors have continuously used, exploited, and Thomas A. Edison, Inc., 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, Inc., and its predecessors, has for many years amounted to millions of dollars annually and Thomas A. Edison, Inc., and its predecessors have spent large sums of money in advertising the name "Edison" and 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, electric and like products, is of great value.

Neither the said Thomas A. Edison, Thomas A. Edison, Inc., nor 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) "BELL." The name "Bell," and the representation of a bell, as referred to in paragraphs (a) and (b) above, when used in con-

nection with sound reproduction and sound transmission in the electric, radio, and related fields, refer 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 are the property of the American Telephone & Telegraph Co., its subsidiaries and associates. Said American Telephone & Telegraph Co. and its subsidiary, Western Electric Co., 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 Co. has used for many years last past (long prior to 1931), and now uses the name "Bluebell" and the representation of a bell as a mark or brand to designate dry-bell 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 "Bluebell" 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 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 said products so marked and said names "Bell" and "Bluebell" and the representation of a bell are of great value.

Neither said Alexander Graham Bell nor the American Telephone & Telegraph Co., or its subsidiary, the Western Electric Co. 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.

(c) "MARCONI." The name "Marconi," as set out in paragraph (c) above, 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 Co. of America 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 said Marconi Wireless Telegraph Co. 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 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 and advertises and exploits the said name "Marconi" as a mark or brand upon wireless telegraph sets and related products made, 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 Co. 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.

(d) "VICTOR." The name "Victor," as set out in paragraph (d) above refers to and is a part of the name of the Victor Talking Machine Co. and of the RCA Victor Co., a subsidiary of the Radio Corporation of America. The Radio Corporation of America obtained control of the Victor Talking Machine Co. on or about March 15, 1929, and the right to the use of the name "Victor." Said Victor Talking Machine Co. and said Radio Corporation of America, RCA Victor Co., 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 a mark or brand 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" is a great value in the electric, radio, musical and like industries.

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Neither said Victor Talking Machine Co., Radio Corporation of America or any of the subsidiaries of said company, 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" (of which the name "Bronswick" is a colorable imitation), as set out in paragraph (e) above, was used as a part of the name Brunswick-Balke-Collender Co., 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 Bros. Pictures, Inc., together with other assets, the right to the use of said name "Brunswick." Said Warner Bros. 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 manufactured, sold, shipped, and extensively advertised in interstate and foreign commerce. 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.

Neither said Brunswick-Balke-Collender Co., Warner Bros. 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" as set out in paragraph (f) above is a name used by Grigsby-Grunow Co. and has been used for many years (long prior to 1921), as a mark or brand on radio sets and like products manufactured, sold, shipped, and extensively advertised by said company in interstate and foreign commerce. Said name "Majestic" is now vested in Frank M. McKey as trustee in bankruptcy for the creditors of said Grigsby-Grunow Co. and is an asset of great value. Said Grigsby-Grunow Co. sold over four million of said radio sets and spent approximately \$25,000,000 in advertising said name "Majestic" and its products so marked, and said name "Majestic" is of great value.

Neither said Grigsby-Grunow Co. 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" as set out in paragraph (g) above, stand for and represent Radio Corporation of America. The letters "RSA" and "RCI" 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 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, amount 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 and 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" as set out in paragraphs (a) and (h) above, 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 9, and said individuals or corporations have never granted permission to the respondents to use the initials "EB" in any manner.

(i) "GE." The letters "GE" as set out in paragraph (h) above, represent General Electric Co. "GE" (written in script) in a circle with scroll-like interior decorations, is the property of the General Electric Co., and has been and is used and extensively advertised by General Electric Co. 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 Co.

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

The said names, letters, and symbols used by respondents as set out in paragraph 8 hereof, closely resemble in size, typographical arrangement, and general appearance, the names, letters, and symbols lawfully owned and used by the persons, partnerships, and corporations as set out herein. The appearance of said names, letters, and symbols upon radio sets and parts, including radio tubes, and in connection with the offering for sale and sale of said products by respondents in the manner and form as set out in said paragraph, had and has the capacity and tendency to cause confusion and caused and causes confusion in the trade and enabled and enables respondents to sell to the public the said radio sets and parts, including radio tubes as and for radio sets, radio tubes, and like products manufactured and sold in interstate and foreign commerce by other persons, partnerships, and corporations, as set out herein.

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 standard, reliable, and genuine products. The use of such names, letters, and symbols influences the purchase of said products and increases 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 of 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 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 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 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 the course and conduct of their business of manufacturing, assembling, selling, and shipping said radio sets, radio tubes, 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.

In selling and shipping said radio sets, radio tubes, and like products in interstate and foreign commerce, respondents advertise said company, corporate, and trade names and said products so marked, in newspapers, magazines, and other bulletins and periodicals cir-

culated through the mails in interstate and foreign commerce. 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 John W. Addison, 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, Edison-Bell Co., Inc., Fox Radio & Television Co., Inc., Atlas Television Co., Inc., York Television & Radio Corporation, Bob Radio Corporation, Music Masters Corporation, Fox Radio Corporation, their officers, agents, representatives, and employees, and Robert Siegel, Aaron L. Siegel, Samuel Fox Barsky, and Simon Barsky, their agents, representatives, and employees, operating individually or operating under the trade name Edison-Bell Co., or 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, ap-

pliances, 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, Inc., American Telephone & Telegraph Co., Western Electric Co., Marconi Wireless Telegraph Co. of America, Radio Corporation of America, Victor Talking Machine Co., Brunswick-Balke-Collender Co., Warner Bros. Pictures, Inc., and its subsidiary, Brunswick Radio Corporation, Grigsby-Grunow Co., or Frank M. McKey, trustee for the creditors of Grigsby-Grunow Co., General Electric Co., 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-Bell Company," "Edison-Bell Company, Inc.," "Edison Radio Stores, Inc.," "Edison International," "Bell," "Marconi," "Marconi Radio Corporation," "Victor," "Brunswick," "Bronswick," "Majestic," "Majestic Radio Corporation," "Majestic International," "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 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, Inc., American Telephone & Telegraph Co., Western Electric Co., Marconi Wireless Telegraph Co. of America, Radio Corporation of America, Victor Talking Machine Co., Brunswick-Balke-Collender Co., Warner Bros. Pictures, Inc., and its subsidiary, Brunswick Radio Corporation, Grigsby-Grunow Co., or Frank M. McKey, trustee for creditors of Grigsby-Grunow General Electric Co., 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-Bell," "Edison-Bell Company," "Edison-Bell Company, Inc.," "Edison Radio Stores, Inc.," "Edison International," "Bell," or the representation of a bell, "Victor," "Brunswick," "Bronswick," "Majestic," "Majestic

Radio Corporation," "Majestic International," "Marconi," "Marconi Radio Corporation," "Radio Corporation of America," "General Electric," "General Electric Company," 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, Inc., American Telephone & Telegraph Co., Western Electric Co., Marconi Wireless Telegraph Co. of America, Radio Corporation of America, Victor Talking Machine Co., Brunswick-Balke-Collender Co., Warner Bros. Pictures, Inc., and its subsidiary, Brunswick Radio Corporation, Grigsby-Grunow Co., or Frank M. McKey, trustee for creditors of Grigsby-Grunow Co., General Electric Co., or the agents, representatives, successors, or assigns or 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
JACK DIAMOND, TRADING AS DIAMOND 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 2645. Complaint, December 5, 1935—Decision, July 17, 1936

Where an individual engaged in sale and distribution of knitted garments, neckwear, and other wearing apparel, made for him in factories or mills owned by others, on a contract basis at a specified price per dozen, from yarn furnished by him, and under complete supervision and control of such others, and not to any extent under control of said individual, who neither owned, operated nor controlled any mill, plant, or factory making or knitting products thus dealt in by him—

Used, as a trade name, name including words "Knitting Mills" on letterheads, order blanks, and otherwise; with capacity and tendency to mislead and deceive many customers and prospective customers into belief that he owned, operated, or controlled a mill or mills making said products, and into erroneous belief that in purchasing same they were buying directly from manufacturer and were thereby eliminating profits of middlemen and obtaining various other advantages not to be had by buying goods from others than the manufacturer, and with tendency to divert business unfairly from, and otherwise injure and prejudice competitors, among whom there are those who make the garments sold by them and rightfully represent themselves as the manufacturers thereof, and others who purchase products dealt in and resell same without representing themselves as manufacturers thereof:

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

Before *Mr. John L. Hornor*, trial examiner.

Mr. Astor Hogg for the Commission.

Mr. David M. Engelson, of New York City, for respondent.

COMPLAINT

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission, having reason to believe that Jack Diamond, trading as Diamond Knitting Mills, hereinafter referred to as the respondent, has been and is using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to the said Federal Trade Commission that a proceeding by it in respect thereof would be to the interest of the public, the said Federal