

Syllabus

IN THE MATTER OF

JEFFERSON EDUCATIONAL COMPANY, TRADING AS
BOYD BUSINESS UNIVERSITYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2631. Complaint, Nov. 15, 1935—Decision, Nov. 10, 1936*

Where a corporation engaged in conducting a business school in the District of Columbia, and in advertising and offering for sale and selling courses of instruction in accountancy, secretarial work, bookkeeping, stenographic courses, commercial law, and other related branches, and in advertising, offering, and selling to the purchasing public certain text books, including "Boyd's Shorthand System"—

(a) Adopted and used a trade name, including words "Business University," and featured said trade name in radio broadcasts, newspapers, booklets, circulars, and other advertising media having circulation in the aforesaid District and in many of the States, and displayed said name, together with the words "Washington, D. C.," on the back of a catalog widely distributed by it in said District, to students and prospective students;

The facts being its courses of instruction were limited and confined to business subjects, as above indicated, and it did not offer instruction in any of the higher branches of learning, and was not empowered to confer, and did not confer degrees, its instructors were not all graduates of colleges or universities, and its organization did not constitute a university as understood by scholastic people and the public generally;

(b) Included in its aforesaid catalogs, on the back of which appeared, as above set forth, its trade name of "Boyd Business University," a facsimile of a purported diploma given to students finishing their courses at its said institution, and bearing the signature of "Robt. Boyd, President," and a paragraph describing the Boyd Shorthand System, together with a picture of the aforesaid individual;

The facts being that said individual, who conducted and maintained a business school in Chicago, originated in 1901 the aforesaid popular and esteemed system, used to a substantial extent and taught in universities, high schools, and other educational institutions throughout the United States and in many foreign countries, and published and sold in the United States certain shorthand books and dictionaries embodying the principles of his said system, was not the president of said "Boyd Business University"; and

(c) Included and linked its said name with that of F. P. Baker & Company, London, England, on the title page of a shorthand textbook offered and sold by it, through the words "Boyd Shorthand System * * * by Robt. Boyd, B. A., published by Boyd Press, Chicago, Illinois—Sidney, Australia, Boyd Business University, Washington, D. C., F. P. Baker & Company, London, England";

Notwithstanding fact that there was no connection between it and said Baker & Company, and it was not the exclusive American representative of said textbook;

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With capacity and tendency to mislead and deceive prospective students and purchasers of textbooks into the erroneous belief that it conducted a university as ordinarily accepted and understood by the public, aforesaid Robt. Boyd was president thereof, there was some connection between it and said English Company, and it was exclusive American representative of said textbook, and to induce such students and purchasers, acting in such erroneous belief, to enroll and pay for its courses of instruction, and attend its school and purchase its textbooks in preference, respectively, to other schools and other textbooks, and thereby unfairly divert trade to it from competitors, including those in said District, offering courses of instruction in business education equal in every essential particular to its own, and who mostly do not represent in any manner that they conduct a "university" or a "business university," or misuse said term, or falsely represent international connections, or through other false and misleading statements misrepresent the exact nature, connections, and character of their respective institutions; to the substantial injury of competition in commerce:

Held, That such acts and practices were to the prejudice of the public and competitors, and constituted unfair methods of competition.

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

Mr. Astor Hogg for the Commission.

Mr. George R. Jackson, of Washington, D. C., for respondent.

COMPLAINT

Pursuant to the provisions of an Act of Congress, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914, the Federal Trade Commission, having reason to believe that Jefferson Educational Company, a corporation, trading as Boyd Business University, hereinafter referred to as respondent, has been and is using unfair methods of competition in commerce as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Jefferson Educational Company, trading as Boyd Business University, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware with its principal place of business located in the city of Washington, in the District of Columbia. It is now and for more than one year last past has been engaged in conducting a business school under the name and style "Boyd Business University" wherein instruction is given in such branches as shorthand, accountancy, secretarial work, bookkeeping, commercial law and other related branches, and in advertising, offering for sale and selling to its

students and others a textbook entitled "Boyd Shorthand System." In the course and conduct of its business respondent is and was at all times herein referred to in active and substantial competition with other corporations and with persons and firms similarly engaged in the conduct of business schools and in the sale of textbooks in the District of Columbia.

PAR. 2. In the course and conduct of its business as described in paragraph 1 hereof, respondent uses and used the following methods and practices:

(a) Adopted as and for a trade name under which to carry on its business the words "Boyd Business University" and used said name containing the word "University" in advertisements of its courses of instruction and books and in selling and offering for sale courses of instruction and books. In truth and in fact, the said school was not and is not a university and the respondent did not at any time herein referred to conduct an educational institution or extension thereof which was organized for teaching and study in the higher branches of learning, nor did it, nor does it, have power to confer degrees in the higher branches of learning, such as theology, law, medicine, and the arts.

(b) Respondent widely distributes in the District of Columbia to students and prospective students an advertising catalog on the front of which appears the words "Boyd Business University, Washington, D. C." In said catalog, which respondent distributes as aforesaid, appears a facsimile of the diploma given to students bearing the signature of Robt. Boyd as president. Also appearing in said catalog is a descriptive paragraph of the Boyd shorthand system with a picture or portrait of Robt. Boyd, together with the words "originator of the Boyd shorthand and the leading character of the Boyd schools located in the principal cities". In truth and in fact Robt. Boyd is not the president of "Boyd Business University" and has no connection whatever with Boyd Business University or Jefferson Educational Company.

Robt. Boyd conducts and maintains a business school in Chicago, Ill. He originated in the year 1901 Boyd's Shorthand System which is used to a substantial degree throughout the United States. He publishes and sells in the United States and in certain British possessions shorthand text books and dictionaries embodying the principles of this system. Boyd's Shorthand System is taught in universities, high schools, business colleges and other educational institutions throughout the United States and in many foreign countries, and Boyd's system of shorthand enjoys widespread popularity and good will on

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the part of students and prospective students in the various States of the United States.

(c) Respondent offers for sale and sells to its students and prospective students and others a shorthand book upon the title page of which appears the following:

BOYD SHORTHAND
SYSTEM
A SYSTEM OF SHORTHAND IN WHICH
CHARACTERS REPRESENT
SYLLABLES.

This System Greatly Simplifies the Signs.
It May be Learned in One Fifth of the
Time Required for Other
Systems.

by
ROBT. BOYD, B. A.

Published by
BOYD PRESS
Chicago, Illinois—Sidney, Australia

BOYD BUSINESS UNIVERSITY—WASHINGTON, D. C.
F. P. BAKER & CO.—London, England.

In truth and in fact there is no connection now and there has never been any connection between respondent and F. P. Baker & Co., London, England. F. P. Baker & Co. is the London representative of the publisher of the Boyd text book. The use of the name F. P. Baker & Co., by respondent as hereinabove set out implies that respondent is in some way connected with F. P. Baker & Co., and imports that F. P. Baker & Co., is the London representative of the said text book, and that respondent is the exclusive American representative, when such is not the fact.

PAR. 3. The use of the portrait of Robt. Boyd in respondent's catalog and the facsimile of the diploma, as hereinbefore set out, and the reading matter in connection therewith, has the capacity and tendency to confuse, mislead and deceive the public into the belief that Robt. Boyd is the president of Boyd Business University and otherwise connected therewith, and to cause prospective students to attend the Boyd Business University in preference to some other institution, because of that belief, when, as a matter of fact, said Robt. Boyd has no connection with said institution. The manner in which the name "Boyd Business University, Washington, D. C." appears on the title page of the Boyd shorthand book sold and offered for sale to students and prospective students, has the capacity and tendency to lead the public to believe that there is a connection between

respondent and F. P. Baker & Co., London, England, when in truth and in fact there is no such connection. The use of the trade name, "Boyd Business University", as hereinabove set out has the capacity and tendency to confuse, mislead and deceive the public into the belief that respondent conducts an educational institution or extension thereof which is organized for teaching and study in the higher branches of learning and that it has the power to confer degrees in special departments, such as theology, law, medicine, and the arts.

PAR. 4. There are among the competitors of said respondent, referred to in paragraph 1 hereof, individuals, partnerships, and corporations who operate and conduct schools for business training similar to that of respondent who do not seek to add to their prestige by falsely representing connections with other persons or institutions, and who do not in any way falsely represent that they conduct universities.

Respondent's acts and practices, as in this complaint before set out, tend to unfairly divert business from and otherwise injure and prejudice said competitors.

PAR. 5. The above alleged acts and practices of the respondent are all to the prejudice of the public and respondent's competitors and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of an Act of Congress entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission on November 15, 1935, issued and served its complaint in this proceeding upon respondent, Jefferson Educational Company, trading as Boyd Business University, charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by Astor Hogg, attorney of the Commission, before John W. Norwood, an examiner of the Commission theretofore duly designated by it, and in opposition to the allegations of the complaint by George R. Jackson, attorney for the respondent; and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final

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hearing before the Commission upon the said complaint, the answer thereto, testimony and other evidence, and briefs in support of the complaint and in defense thereto, the oral arguments of counsel aforesaid having been waived, and the Commission having duly considered the same and being now fully advised in the premises, finds that this proceeding is in the interest of the public, and makes this its findings as to the facts and conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Jefferson Educational Company, trading as Boyd Business University, is a corporation organized, existing, and doing business under the laws of the State of Delaware, with its office and principal place of business in the city of Washington, in the District of Columbia. It is now, and for more than 10 years last past has been engaged in conducting a business school in the District of Columbia under the name and style of "Boyd Business University", advertising and offering for sale and selling courses of instruction in such branches as accountancy, secretarial work, bookkeeping, stenographic courses, commercial law and other related branches. In the course and conduct of its said business it also advertises, offers for sale and sells to the members of the purchasing public certain textbooks, including one entitled "Boyd's Shorthand System". Respondent's school has from 400 to 500 students living in the District of Columbia, State of Virginia, and other nearby States. Its sales of textbooks, direct or by mail, amount to several thousand dollars annually. During all the times mentioned herein respondent has sold the textbooks in a constant course of trade and commerce between and among the various States of the United States, and in the District of Columbia. In the course and conduct of its said business it causes the said textbooks when sold to be transported from its place of business aforesaid into and through the District of Columbia and the various States of the United States to purchasers thereof, some located in the District of Columbia, and some located at various other points in the United States.

PAR. 2. In the course and conduct of its said business respondent is in substantial competition with other corporations, and with persons, firms, partnerships, and individuals likewise engaged in the sale of kindred courses of instruction, and of textbooks in the District of Columbia, and in the sale of textbooks in trade and commerce between and among the various States of the United States and the District of Columbia.

PAR. 3. In the course and conduct of its business as aforesaid respondent in soliciting the sale of, and selling its courses of instruction

and textbooks, adopted and used, and now uses as and for its trade name the words "Boyd Business University", and causes said trade name to be featured in radio broadcasts, newspapers, booklets, circulars, and other advertising media having circulation in the District of Columbia, and in many of the States of the United States.

It widely distributes in the District of Columbia to students and prospective students a catalogue, on the back of which appear the words:

BOYD BUSINESS UNIVERSITY,

WASHINGTON, D. C.

In said catalogue there appears the facsimile of a purported diploma given to students finishing their courses at said institution bearing the signature of "Robt. Boyd, President". There also appears in said catalogue a paragraph describing the Boyd Shorthand System, together with a picture of Robert Boyd. Robert Boyd conducts and maintains a business school in Chicago, Illinois. He originated a system of shorthand in the year 1901 known as "Boyd's Shorthand System", which system is used to a substantial extent throughout the United States. He publishes and sells in the United States certain shorthand books and dictionaries embodying the principles of his system. Such shorthand system is taught in universities, high schools, and other educational institutions throughout the United States and in many foreign countries, and it enjoys great popularity and goodwill on the part of students and prospective students throughout the United States. Robert Boyd is not the president of "Boyd Business University".

Among the textbooks offered for sale and sold by the respondent is a shorthand textbook on the title page of which appears the following:

BOYD SHORTHAND

SYSTEM

A SYSTEM OF SHORTHAND IN WHICH CHARACTERS

REPRESENT SYLLABLES

* * * *

BY ROBT. BOYD, B. A.

PUBLISHED BY

BOYD PRESS

CHICAGO, ILLINOIS, — SIDNEY, AUSTRALIA

BOYD BUSINESS UNIVERSITY, WASHINGTON, D. C.

F. P. BAKER & COMPANY, LONDON, ENGLAND.

In and by the use of the words set forth on said title page of said shorthand book respondent represents that there is a connection between it and F. P. Baker & Company, London, England, and that F. P. Baker & Company is the London representative of the said textbook and that respondent is the exclusive American representative of said textbook. There is no connection between respondent and F. P. Baker & Company, London, England, nor is the respondent the exclusive American representative of Boyd's Shorthand Textbook.

PAR. 4. The word "University" as understood by scholastic people and by the public generally means an educational institution of higher learning empowered to confer degrees in the courses of instruction offered, and where degrees are conferred in the higher branches of learning, including the special branches of law, medicine, theology, education, engineering and music. Respondent's courses of instruction are limited and confined to business subjects, such as shorthand, typewriting, accounting, penmanship, letter writing, secretarial practice, business English, business letter writing, spelling, business arithmetic, commercial law, commercial French and Spanish, and business administration.

Respondent does not offer instruction in any of the higher branches of learning; it does not confer degrees of any nature and it does not have the power to confer degrees; its instructors are not all graduates of colleges or universities. The respondent and its organization do not constitute a university.

The word "University" even when coupled with the word "Business" is understood by the public to designate a higher type of school than the ordinary business school and carries with it a greater prestige in the field of business education than does the term "School". The competitors of respondent located in the District of Columbia offer courses of instruction in business education that are equal in every essential particular to those offered by respondent and most of those competitors do not represent in any manner that they conduct a "University" or a "Business University".

PAR. 5. Respondent's representations and statements, as hereinbefore set forth, have the capacity and tendency to mislead and deceive prospective students and purchasers of textbooks into the erroneous belief that respondent conducts a university in the sense that such term is ordinarily accepted and understood by the public; that Robert Boyd is the President of such University; that there is some connection between respondent and F. P. Baker & Company, of London, England, for which company respondent is the exclusive American representative of the Boyd Shorthand textbook; and such representations and statements have the capacity and tendency to

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induce prospective purchasers and students, acting in such erroneous belief, to enroll and pay for respondent's courses of instruction, attend respondent's school in preference to other schools, and purchase respondent's textbooks in preference to other textbooks, thereby unfairly diverting trade to respondent from its competitors who do not by the misuse of the term "University", or by falsely representing international connections, or by any other false and misleading statements misrepresent the exact nature, connections and character of the institutions of learning by them conducted, and thereby respondent does substantial injury to competition in interstate commerce.

CONCLUSION

The aforesaid acts and practices of said respondent under the conditions and circumstances described in the foregoing findings are to the injury and prejudice of the public and of respondent's competitors, and constitute unfair 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 of the Commission, the answer of respondent, testimony and other evidence taken before John W. Norwood, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, and briefs filed herein, and the Commission having made its findings as to the facts and its conclusion that said respondent has 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 ordered, That respondent Jefferson Educational Company, trading as Boyd Business University, its officers, directors, agents, representatives, servants and employees in connection with the offering for sale, sale, or distribution in commerce between or among the various States of the United States, and in the District of Columbia, of courses of instruction or textbooks, cease and desist from;

1. Representing, directly or indirectly, through the use of the word "University" in its trade name, or in any manner, that it conducts a university or institution of higher learning;

2. Representing, through the use of the name "Robert Boyd" or a portrait of Robert Boyd, or his signature on diplomas as President,

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or in any other manner, that Robert Boyd is President of respondent's educational institution;

3. Representing, directly or indirectly, through the use of the phrase "F. P. Baker & Company, London, England", or any other phrase, in conjunction with the name of respondent that respondent and said "F. P. Baker & Company, London, England", are connected or affiliated business or educational organizations or institutions.

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

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IN THE MATTER OF

M. BERGER AND A. BERGER, TRADING AS WEARWELL
KNITTING MILLSCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914*Docket 2670. Complaint, Dec. 26, 1935—Decision, Nov. 10, 1936*

Where partners engaged in sale and distribution of knitted goods, substantially all of which products were made in factories or mills owned by others, from yarn furnished by said firm, on a contract basis and at a specified price, and in which factories said firm owned no interest and over which they had no control of any nature—

Adopted and used a trade name including words "Knitting Mills" in connection with sale of their products, and made use of same on letterheads, order blanks, and otherwise, in soliciting sale of and selling such products;

Notwithstanding the fact that not more than 5 percent of the total amount of goods sold by them was made on a machine at their place of business and used solely for manufacture of heavy sweaters during the fall season, and remainder of goods which they sold was made for them by others, as hereinbefore set forth;

With capacity and tendency to mislead and deceive many of their customers and prospective customers into the erroneous belief that they owned, operated, or controlled a mill or factory in which their said products were made, and into the erroneous belief that persons and concerns buying their said garments were purchasing same directly from the manufacturer, as preferred by certain retailers as cheaper and as eliminating middleman's profit through dealing directly with mill owner or manufacturer, and as providing various other advantages not to be had by buying from others, and with effect of unfairly diverting business from and otherwise injuring and prejudicing their competitors, including those who make their garments and rightfully represent themselves as manufacturers thereof, and those who purchase such products dealt in by them and do not represent themselves as manufacturers thereof; to the substantial injury of competition:

Held, That such acts and practices 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.

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 M. Berger and A. Berger, copartners trading and doing business under the name and style of Wearwell Knitting Mills, hereinafter referred to