

Syllabus

IN THE MATTER OF

RUSSEKS FIFTH AVENUE, INC., AND FASHION FIRSTS, INC.

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

Docket 3226. Complaint, Sept. 14, 1937—Decision, Feb. 12, 1938

Where a corporation, stock of which was owned by, and widely distributed to, general public, and which was engaged in advertisement, distribution, and sale of furs, coats, suits, dresses, hats, and other wearing apparel; and its corporate advertising agency, under common control, and engaged in designing, modeling, advertising, and fostering sale exclusively of such products as were offered by said first-named corporation in cooperation with others, and in publishing periodical "Fashion Firsts," sold to first corporation as principal subscriber and to other retail dealers throughout the United States for distribution to their patrons under aforesaid title and with imprint thereon of particular retailer, and depictions of live models of furs, coats, dresses, hats, and other articles of wearing apparel selected by such agency from group of manufacturers who, in cooperation with, and at instance and request of, said first-named corporation and itself manufacture, sell, and distribute said merchandise exclusively to it and other retail dealer subscribers to said "Fashion Firsts," with exclusive right in their respective localities to sell merchandise therein depicted; in soliciting sale and in sale and distribution of garments and wearing apparel sold by said first corporation, and of aforesaid "Fashion Firsts" magazine, and cooperating together and with others—

Represented and implied that the garments and wearing apparel described and advertised in said magazines were designed, fabricated, tailored, and made in England through use in magazine in question of pictorial representations of the British Royal Coat of Arms and depictions of the Royal Hussars and of rural and other parts of the British Isles, together with illustrations of garments and other wearing apparel thus offered, and designated and described by distinctively English names, together with statements referring to some part of the aforesaid Isles, such as "Buckingham," "What would a collection of English coats be without a highbuttoning reefer?"; "York House," "Knize has made one (a coat) for Fashion Firsts in a new hairy Scottish woolen" and other references and names of similar tenor and implication, along with frequent references to England and English taste, styling, garments, and places, and thereby indicated to retail dealers and to consuming public, and especially to persons of English blood or origin and to other purchasers with preference for goods manufactured or tailored in England, that the garments and other wearing apparel designated, described, and represented as aforesaid were designed, made and tailored in England upon authority of the Royal Warrant Holders Association or members thereof or by the British Government or members of the British royal family;

Notwithstanding fact neither said first named corporation nor its corporate advertising agency were members of said Association and neither the British Government nor said Association or any member of said family or of said Association having right to use said Royal Coat of Arms had ever granted or

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consented to use thereof by them, and their aforesaid use thereof was without authority, warrant or consent of the legal owners and users;

With tendency and capacity to cause retail dealers and members of purchasing public to form erroneous belief that their said garments and wearing apparel were designed, tailored and made in, and imported from, England and with result of placing in the hands of others means whereby public might be deceived, and result that many retailers and members of purchasing public, acting under such erroneous beliefs induced by aforesaid misrepresentations, bought their said garments and wearing apparel and trade was unfairly diverted to them from competitors engaged in selling in commerce among the various States similar garments and wearing apparel truthfully advertised; to the substantial injury of competition in commerce:

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

Mr. Carrel F. Rhodes for the Commission.

Weisman, Quinn, Allan & Spett, of New York City, for respondents.

COMPLAINT

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission, having reason to believe that Russeks Fifth Avenue, Incorporated, and Fashion Firsts, Incorporated, corporations, hereinafter referred to as respondents, have been, for more than 1 year last past and are now, using unfair methods of competition in commerce as "commerce" is defined in said act of Congress; and it appearing to the Commission that a proceeding by it in respect thereof would be to the public interest hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Russeks Fifth Avenue, Incorporated, and Fashion Firsts, Incorporated, are corporations, organized, existing, and doing business under and by virtue of the laws of the State of New York with their principal offices and places of business located at 390 5th Avenue, New York City, N. Y.

PAR. 2. Respondent, Russeks Fifth Avenue, Incorporated, hereinafter known and designated as "Russeks," is now and, for more than 1 year last past, has been engaged in the business of manufacturing, advertising, selling, and distributing furs, coats, suits, dresses, hats, and other wearing apparel. Said respondent now causes, and for more than 1 year last past has caused its said products, when manufactured and sold, to be transported from its principal place of business in New York City in said State, into the District of Columbia and through and into the several States of the United States other than the State of origin, where said products are delivered to retail stores, some of which are owned and operated by respondent, and to other purchasers thereof at their

respective points of location. Said respondent, in the course and conduct of its said business, has been and is now engaged in direct and substantial competition with various corporations, partnerships and individuals likewise engaged in the sale and distribution of furs, coats, suits, dresses, hats, and other articles of wearing apparel, and in offering such products for sale in commerce between and among the various States of the United States and in the District of Columbia.

Said respondent, Russeks, in the course and conduct of its said business, caused to be organized and incorporated, and controls respondent, Fashion Firsts, Incorporated, and uses said corporation as a medium or agency to design, fashion, model, and advertise the said furs, coats, suits, dresses, hats, and other merchandise manufactured, sold, and distributed by respondent Russeks.

PAR. 3. Respondent, Fashion Firsts, Incorporated, is a corporation wholly managed, controlled, and operated by respondent, Russeks. Said respondent, Fashion Firsts, Incorporated, in the course and conduct of its business designs, fashions, models, and advertises the said products manufactured and sold by said respondent, Russeks. Said respondent, Fashion Firsts, Incorporated, in the course and conduct of the business of designing, fashioning, modeling, and advertising the said furs, coats, suits, dresses, hats, and other products manufactured, sold, and distributed by said respondent, Russeks, has caused and now causes to be published, under the title "Fashion Firsts," certain magazines, booklets, brochures, circulars, and other periodicals which it circulates, sells, distributes, and transports through the mail and otherwise in interstate commerce from its principal place of business in the State of New York through and into other States of the United States and in the District of Columbia to retail dealers and other purchasers thereof at their several places of location.

PAR. 4. In the course and conduct of their said business as aforesaid, the said respondents, cooperating with each other and with others, in soliciting the sale, and in the sale and distribution of said products so manufactured and sold by the respondent Russeks and in the sale and distribution of said magazines, booklets, brochures, circulars, and periodicals, advertising said products, now represent and imply, and for more than 1 year last past have represented and implied, through said advertising media so sold, circulated, and distributed to dealers and others in said commerce as above alleged, that the coats, suits, and other apparel described and advertised in said magazines, booklets, brochures, circulars, and periodicals were and are designed, fabricated, manufactured, made, or tailored in England. Said representations and implications are made by the said respondents through the use in said advertising media of a pictorial repre-

sentation of the British Royal Coat of Arms, consisting of a shield supported by a lion and a unicorn, upon which shield is superimposed a crown, underneath the whole of which is inscribed "Dieu et Mon Droit"; and pictorial representations and descriptions of typical English scenes, one of which shows soldiers standing at attention, dressed to represent the Royal Hussars, and others which show rural and other views of parts of the British Isles. These pictorial representations of the British Royal Coat of Arms and typical English scenes are used in connection with pictorial representations appearing in said advertising media of suits, coats, and other apparel designated and described by distinctively English names accompanied by statements referring to some part of the British Isles. These distinctively English names and the accompanying statements are, in part, as follows:

Buckingham

What would a collection of English coats be without a highbuttoning reefer?

Piccadilly

"Fashion Firsts" was delighted with its baby box coat suit when it arrived from the talented hands of Digby Morton.

Marlborough

No Spring wardrobe can possibly be complete without a buttondown-the-front coat of English homespun.

York House

Knize has made one (a coat) for "Fashion Firsts" in a new hairy Scottish woolen. * * *

Windsor

Peter Russel reflected the Paris feeling for pockets in this three piece Irish homespun suit * * *

Regent Street

* * * Digby Morton immediately set to work to make the perfect bolero suit for "Fashion Firsts." It's made of an English Twill * * *

Hyde Park

Debenham saddle stitched the very short Scottish homespun jacket suit he made for "Fashion Firsts" * * * and added a new touch to English tailoring * * *. It's a reigning British fashion translated into "Fashion Firsts" economy * * *

"Fashion Firsts" has captured the very feeling and atmosphere of England with this new Spring Collection of BRITISH COATS AND SUITS as featured in Vogue.

A toast to England for the great success * * * sudden and dramatic * * * made by her young designers. "Fashion Firsts" salutes them once more, by devoting a whole collection of the first Spring coats and suits to British creators. Now, with England the cynosure of all eyes * * * the smart English woman emerges as a fashion figure * * * her superb poise to be imitated * * * her casual chic to be followed * * * her clothes to be copied. Recognizing this trend * * * "Fashion Firsts" has "done" England from the Scottish moors to Hyde Park * * * and has transplanted the very feeling and atmosphere of England, English fabrics and English fashions, into this superb group of "Fashion Firsts." Designers patronized by

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royalty have created these costumes * * * Digby Morton * * * Dorville
House * * * Debenham * * * Peter Russel * * * Knize * * *
Creed * * *

The said designations, descriptions, and representations hereinabove set out and described, and the pictorial representations of the British Coat of Arms and English scenes, as used and employed by said respondents, Russeks and Fashion Firsts, Incorporated, in cooperation with others, in describing the said products sold in interstate commerce are of English meaning, implication, and suggestion, and indicate to the retail dealers and to the consuming public, especially to persons of English blood or origin, and to other purchasers having a preference for goods fabricated, manufactured, tailored, or made in England, that the said furs, coats, suits, dresses, hats, and other wearing apparel thus designated, described, and represented were designed, fabricated, manufactured, made, or tailored in England by and upon authority of Royal Warranty Holders and members of the Royal Warrant Holders Association when in truth such is not the fact.

PAR. 5. The British Royal Coat of Arms is the property of the British Government and the right to its use and to the use of pictorial representations thereof is limited to the British Government and its functions and to the British Royal family and to Royal Warranty Holders, and members of the Royal Warrant Holders Association, that is to say those corporations, partnerships, and individuals, who as a result of long continued, faithful service to members of the British Royal family have, by them, been granted special permission so to use said Coat of Arms in recognition of said service.

The said respondents, Russeks and Fashion Firsts, Incorporated, have not rendered any conspicuous service to the British Government or to the British Royal family, and neither the British Government nor the British Royal family, nor any member thereof, has ever granted or consented to the use by said respondents of the British Coat of Arms and the use thereof by said respondents and others is without authority, warrant, or consent of the rightful owners and users thereof.

PAR. 6. The said representations of said respondents and others, as aforesaid, are false and misleading and have had and do have a tendency and capacity to mislead and deceive a substantial number of retail dealers and the purchasing public into the mistaken and erroneous belief that the furs, suits, coats, dresses, hats, and other wearing apparel so marked, branded, designated, advertised, and sold by respondents are manufactured by and with authority of the

British Government, the Royal British family, or British Royal Warranty Holders and are designed, fabricated, manufactured, tailored, or made in England and imported from England when such is not the truth in fact. The said representations of said respondents and others, have had and do have the capacity to induce retail dealers and members of the purchasing public to buy respondents' said merchandise because of the erroneous beliefs engendered by said false and misleading representations, and to divert trade unfairly from competitors, who are engaged in the sale of like merchandise to that sold by respondents in commerce in and among the various States of the United States and in the District of Columbia, who do not use such false and misleading representations. Said acts and practices deceive the public and injure competitors who do not misrepresent like products manufactured and sold by them and places in the hands of others the means whereby the public might be and are deceived.

PAR. 7. The above alleged acts and practices of respondents are all to the prejudice and injury of the public and of respondents' competitors and constitute unfair methods of competition in 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 September 14, 1937, issued, and on September 15, 1937, served its complaint in this proceeding upon the respondents, Russeks Fifth Avenue, Inc., and Fashion Firsts, Inc., corporations, charging them 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 respondents' answer, the Commission, by order entered herein, granted respondents' motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of the complaint to be true, and waiving the taking of further evidence and all other intervening procedure, which substitute answer, dated December 29, 1937, was duly filed in the office of the Commission.

Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and the substitute answer, briefs and oral arguments of counsel 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 its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondents, Russeks Fifth Avenue, Inc., and Fashion Firsts, Inc., are corporations organized, existing, and doing business under and by virtue of the laws of the State of New York, with their offices and principal place of business located at 390 Fifth Avenue, New York, N. Y.

PAR. 2. Respondent, Russeks Fifth Avenue, Inc., is now, and for more than 1 year prior to the 14th day of September 1937, has been engaged in the business of advertising, distributing, and selling furs, coats, suits, dresses, hats, and other wearing apparel. Said respondent now causes, and for more than 1 year prior to September 14, 1937, has caused its said products, when sold, to be transported and distributed from its aforesaid principal place of business in New York, and also from its branch outlet located in the city of Chicago, State of Illinois, to the purchasers thereof, at their respective points of location in the several States of the United States, other than the States of New York and Illinois, and in the District of Columbia.

In the course and conduct of its business, said respondent, at all times herein mentioned, has been, and is now, engaged in substantial competition with various other corporations, and with partnerships and individuals likewise engaged in the offering for sale, sale, and distribution of similar garments and other wearing apparel in commerce between and among the various States of the United States and in the District of Columbia.

The stock in respondent, Russeks Fifth Avenue, Inc., is owned and widely distributed to the general public.

PAR. 3. Respondent, Fashion Firsts, Inc., is a closed corporation sponsored by respondent, Russeks Fifth Avenue, Inc., and a majority of its stock is owned by a few of the stockholders of respondent, Russeks Fifth Avenue, Inc., which said stockholders direct and control the business and policies of said respondent, Russeks Fifth Avenue, Inc., and said respondent, Fashion Firsts, Inc.

Respondent, Fashion Firsts, Inc., is an advertising agency for respondent Russeks Fifth Avenue, Inc. Said respondent, Fashion Firsts, Inc., in its business, designs, models, advertises, and fosters the sale of only such products as are offered for sale and sold by said respondent, Russeks Fifth Avenue, Inc., in cooperation with others.

Respondent, Fashion Firsts, Inc., publishes monthly and quarterly magazines under the title "Fashion Firsts," which are sold to retail

dealers throughout the United States, including respondent, Russeks Fifth Avenue, Inc. Respondent, Russeks Fifth Avenue, Inc., is the principal subscriber of said magazine service. Said magazines so purchased by said Russeks Fifth Avenue, Inc., and said other retail dealers, are distributed to their patrons. When so distributed to the public, said magazines bear the imprint "Fashion Firsts, Inc.," and also the imprint of the particular retail dealer so distributing them.

Said "Fashion Firsts" magazines contain pictures and representations on live models of furs, coats, suits, dresses, hats, and other articles of wearing apparel selected by Fashion Firsts, Inc., from a selected group of manufacturers who, in cooperation with, and at the instance and request of said respondents, Russeks Fifth Avenue, Inc., and Fashion Firsts, Inc., manufacture and sell and distribute said merchandise exclusively to said respondent, Russeks Fifth Avenue, Inc., and other retail dealer subscribers to said "Fashion Firsts" magazines, who have the exclusive right, in their respective localities, for the sale of said merchandise so pictured and represented in said magazines, and who are advised by respondent, Fashion Firsts, Inc., of the names of the manufacturers from whom they may purchase said products.

Said respondent, Fashion Firsts, Inc., caused and now causes said magazine, which it sells and distributes, to be shipped, through the mail and otherwise, in commerce from its principal place of business in the city of New York to retail dealers at their respective places of location in the various States of the United States, other than New York and in the District of Columbia.

Said respondent, Fashion Firsts, Inc., is now, and at all times since more than 1 year prior to September 14, 1937, has been, engaged in substantial competition with other corporations and with partnerships and individuals engaged in designing, modeling, advertising, and fostering the sale of garments and wearing apparel similar to or like the aforesaid products sold by respondent, Russeks Fifth Avenue, Inc., and in publishing, circulating, selling, and distributing magazines and other periodicals and advertising media in connection therewith in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of their business, as aforesaid, respondents, Russeks Fifth Avenue, Inc., and Fashion Firsts, Inc., in soliciting the sale and in the sale and distribution of garments and wearing apparel sold by respondent, Russeks Fifth Avenue, Inc., and in the sale and distribution of said magazine "Fashion Firsts," cooperating together and with others, now represent, and have represented and implied, that the garments and wearing apparel described and

advertised in said magazines were designed, fabricated, tailored, and made in England. Said representations and implications are variously made by the said respondents through the use in said magazine, "Fashion Firsts," of pictorial representations displaying the British Royal Coat of Arms, consisting of a shield supported by a lion and a unicorn, upon which shield is superimposed a crown, under the whole of which is inscribed "Dieu et Mon Droit," and other pictorial representations and inscriptions of typical English scenes, one of which shows soldiers standing at attention, dressed to represent the Royal Hussars, and other scenes which show rural and other parts of the British Isles.

These representations of the British Royal Coat of Arms and typical English scenes are used in connection with pictorial representations of garments and other wearing apparel designated and described by distinctively English names, accompanied by statements referring to some part of the British Isles. These distinctively English names and accompanying statements, designations, descriptions, and representations are, in part, as follows:

Buckingham

What would a collection of English coats be without a highbuttoning reefer?

Piccadilly

"Fashion Firsts" was delighted with its baby box coat suit when it arrived from the talented hands of Digby Morton.

Marlborough

No spring wardrobe can possibly be complete without a buttondown-the-front coat of English homespun.

York House

Knize has made one (a coat) for "Fashion Firsts" in a new hairy Scottish woolen * * *.

Windsor

Peter Russel reflected the Paris feeling for pockets in this three-piece Irish homespun suit * * *.

Regent Street

* * * Digby Morton immediately set to work to make the perfect bolero suit for "Fashion Firsts." It's made of an English Twill * * *.

Hyde Park

Debenham saddle stitched the very short Scottish homespun jacket suit he made for "Fashion Firsts" * * * and added a new touch to English tailoring * * *. It's a reigning British fashion translated into "Fashion Firsts" economy * * *.

"Fashion Firsts" has captured the very feeling and atmosphere of England with this new Spring Collection of BRITISH COATS AND SUITS as featured in Vogue.

A toast to England for the great success * * * sudden and dramatic * * * made by her young designers. "Fashion Firsts" salutes them once more by devoting a whole collection of the first Spring coats and suits to British creators. Now, with England the cynosure of all eyes * * * the smart English woman emerges as a fashion figure * * * her superb poise to be

imitated * * * her casual chic to be followed * * * her clothes to be copied. Recognizing this trend * * * "Fashion Firsts" has "done" England from the Scottish moors to Hyde Park * * * and has transplanted the very feeling and atmosphere of England, English fabrics and English fashions, into this superb group of "Fashion Firsts." Designers patronized by royalty have created these costumes * * * Digby Morton * * * Dorville House * * * Debenham * * * Peter Russel * * * Knize * * * Creed * * *.

The aforesaid designations, descriptions, and representations hereinabove set out, and the pictorial representations of the British Royal Coat of Arms and English soldiery and scenes, as used and employed by said respondents, Russeks Fifth Avenue, Inc., and Fashion Firsts, Inc., in cooperation with others, in describing said garments and wearing apparel sold in commerce as herein set out, are of English meaning, implication, and suggestion. Such designations, descriptions, and representations indicate to the retail dealers and to the consuming public, especially to persons of English blood or origin and to other purchasers having a preference for goods fabricated, manufactured, tailored, or made in England, that said garments and other wearing apparel thus designated, described, and represented were designed, fabricated, manufactured, tailored, and made in England upon authority of said Royal Warrant Holders' Association or members thereof, or by the British Government, or members of the British Royal Family, when in truth such is not the fact.

PAR. 5. The British Royal Coat of Arms is the property of the British Government and the right to its use and to the use of pictorial representations thereof is limited to the British Government and its functions, to the British Royal Family, and to Royal Warranty Holders and to members of the Royal Warrant Holders' Association, that is to say, those corporations, partnerships, and individuals who, as a result of long continued, faithful service to members of the British Royal Family, have been granted by them special permission to use said Coat of Arms, in recognition of said service.

The said respondents, Russeks Fifth Avenue, Inc., and Fashion Firsts, Inc., are not members of the Royal Warrant Holders' Association; and neither the British Government, nor any member of the British Royal Family, nor the Royal Warrant Holders' Association, or any member thereof, having the right to use the British Royal Coat of Arms, has ever granted or consented to the use of said respondents of the British Royal Coat of Arms, and the aforesaid use thereof by said respondents is without authority, warrant, or consent of the legal owners and users thereof.

The use by respondents of said pictures of the British Royal Coat of Arms and English soldiery and scenes, and said names and

designations, in the manner hereinabove set out, serve as representations by respondents that the said garments and wearing apparel, so represented, sold, and transported, were designed, fabricated, manufactured, tailored, and made in England, and imported from England contrary to the facts.

PAR. 6. There are, among the competitors of respondents as referred to hereinabove, corporations, partnerships, firms, and persons who are engaged in the sale of garments and wearing apparel similar to the garments and wearing apparel mentioned by respondents in their advertising, who do not advertise and represent that their garments and wearing apparel were designed, fabricated, tailored, or made in England, or imported from England, when such is not the fact.

PAR. 7. The use of the aforesaid false and misleading representations and practices on the part of respondents in the sale and offering for sale of their said furs, coats, suits, dresses, hats, and other wearing apparel, has had and now has, the tendency and capacity to cause retail dealers and members of the purchasing public to form the erroneous belief that respondents' said garments and wearing apparel are designed, fabricated, tailored, and made in England, and imported from England, when such is not the truth in fact. Such acts and practices also place in the hands of others a means whereby the public might be deceived. Acting under such erroneous beliefs, induced by the various misrepresentations of respondents as hereinabove detailed, many retail dealers and members of the purchasing public have purchased respondents' said garments and wearing apparel. As a result trade has been unfairly diverted to respondents from competitors engaged in selling, in commerce among and between the various States of the United States, similar garments and wearing apparel which are truthfully advertised and represented. Thereby, substantial injury has been done, and is being done, by respondents to competition in commerce among and between the various States of the United States and in the District of Columbia.

CONCLUSION

The aforesaid acts and practices of the respondents, Russeks Fifth Avenue, Inc., and Fashion Firsts, Inc., are to the prejudice and injury of the public and of respondents' competitors, and constitute unfair methods of competition in 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."

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ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer dated December 29, 1937, filed herein by respondents, admitting all the material allegations of the complaint to be true and waiving the taking of further evidence and all intervening procedure, 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 ordered, That the respondents, Russeks Fifth Avenue, Inc., and Fashion Firsts, Inc., their respective officers, representatives, agents, and employees, in connection with the offering for sale, sale, and distribution of furs, suits, coats, dresses, hats, and other garments and wearing apparel which were not designed, fabricated, tailored, or made in England, in interstate commerce or in the District of Columbia, do forthwith cease and desist from directly or indirectly:

Representing, through the unauthorized use of the British Royal Coat of Arms, or any simulation or imitation thereof, or through the unauthorized use of picturizations of English Royal Hussars or other English soldiery, or through the unauthorized use of the names of any of the members of the Royal Warrant Holders Association, or through use of any picturization of typically English scenes, places or people to designate, describe, or in any way refer to such garments and wearing apparel, or through any other means or device, or in any manner, that said garments and wearing apparel were designed, fabricated, tailored, or made in England.

It is further ordered, That the respondents shall, within 60 days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

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IN THE MATTER OF
SHEFFIELD SILVER COMPANY, INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2638. Complaint, Nov. 21, 1935—Decision, Feb. 14, 1938*

Where a corporation engaged in manufacture and sale, to retail jewelers located throughout the United States, of silver-plated hollow ware made by the electro-plating process, in purchase of products of which process, absent fixed standard for composition of base metal or fineness or quantity of silver to be applied generally, public is obliged to depend upon reputation of maker or of trade name or brand attached to product, or representations of maker or seller thereof—

Used, in conduct of its business, corporate name including words "Sheffield Silver," and featured its said name containing word "Sheffield" on letter-heads and invoices distributed in interstate commerce, and on labels affixed to cartons in which its said products were packed and shipped, and supplied salesmen, for presentation to prospects, with photographs of its said ware featuring corporate name as aforesaid, notwithstanding fact its said products were not made or manufactured in accordance with Sheffield process, long theretofore employed and identified by name "Sheffield" with ware of high sales value made by historic process in question;

With result that its said products were advertised as "Sheffield Silverware by Sheffield Company," and with tendency and capacity to confuse and deceive purchasing public with regard to true nature and quality thereof, and to induce purchasers to buy same in and on account of mistaken belief that they were made by aforesaid Sheffield process, and of thereby unfairly diverting trade to it from competitors engaged in sale in interstate commerce of products similar to those sold and distributed by it, and who truthfully and honestly advertise and represent the same, and of placing in hands of unscrupulous or uninformed retailers means and instrumentality whereby they might mislead members of purchasing public into erroneous belief that its said silver-plated hollow ware products were made in accordance with process aforesaid:

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

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

Mr. Alden S. Bradley and *Mr. Gerard A. Rault* for the Commission.

Mr. J. Leo Rothschild, 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