

Complaint

IN THE MATTER OF

MORRIS WHITE MFG. CO., INC., AND STYLECRAFT
LEATHER GOODS 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 3052. Complaint, Feb. 8, 1937—Decision, Feb. 7, 1939*

Where a corporation and its subsidiary engaged in manufacture of leather handbags, and in sale thereof to purchasers in various States, in substantial competition with others engaged in manufacture, and in sale and distribution in interstate commerce of leather goods, including leather handbags—

- (a) Represented certain group of leather handbags or purses manufactured and marketed by them as being made from "imported French glove leather," facts being that, while kind of leather used was occasionally employed in manufacture of such articles, it was not that leather known to trade and accredited by industry as "glove leather," but lacked proper pliability usually credited to such last-named leather; and
- (b) Placed within leather handbags folder bearing words "THE FIFTH AVENUE VANITY, a Ladies' Vanity and Bag. Pat. No. 297634," facts being no patent had been applied for or issued on said product and figure given was that of a registration number owned by them;

With effect of misleading and deceiving portion of purchasing public into the erroneous beliefs that said products, as case might be, were made from same leather as gloves and were "glove leather," and that they were patented, and with result that, acting in such erroneous beliefs, said public was induced to purchase, and purchased, their said products and thereby diverted trade to them from competitors, among whom there are dealers and distributors of similar products used for similar purposes who do not in any way misrepresent the same to purchasers thereof:

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

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

Mr. Alden S. Bradley for the Commission.

Mr. Archibald Palmer, 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 Morris White Mfg. Co., Inc., and Stylecraft Leather Goods Co., Inc., have been and are now using unfair methods of competition in commerce as "commerce" is defined in said act, and it appearing to said Com-

mission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint and states its charges in that respect as follows:

PARAGRAPH 1. Respondent, Morris White Mfg. Co., Inc., is a corporation organized in 1932, existing and doing business under and by virtue of the laws of the State of New York, with its principal place of business at 362 Fifth Avenue, New York City, and its factory located at Bridgeport, Conn.

PAR. 2. Respondent, Stylecraft Leather Goods Co., Inc., is a corporation organized in 1933, existing and doing business under and by virtue of the laws of the State of New York, with its factory located at Scranton, Pa., and its principal place of business at 362 Fifth Avenue, New York City, N. Y.

PAR. 3. Both of said corporations are under one ownership and management, and both are engaged in the manufacture of ladies' handbags at the factories hereinabove designated. They occupy the same offices.

PAR. 4. In the course and conduct of said businesses, respondents ship, or cause to be shipped or transported their said products, when sold, from the said State of New York or the State of origin of the shipment, to purchasers thereof located at points in various States of the United States other than the State of New York, or in the State of origin of such shipment. There is now, and has been during all the times herein mentioned, a constant current of trade in commerce in the said products so sold by the respondents between and among the various States of the United States and in the District of Columbia.

PAR. 5. In the course and conduct of their said business, respondents are now and have been during all the time herein mentioned, engaged in substantial competition with various other corporations, firms, and individuals selling or offering for sale ladies' handbags to members of the general public in the manner set out in the preceding paragraph hereof in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 6. In the course and conduct of its business respondent, Morris White Mfg. Co., Inc. manufactured in its said factory at Bridgeport, Conn., ladies' leather hand bags and placed therein a folder bearing the following words:

THE FIFTH AVE. VANITY
A Handy Vanity Handbag
Pat. No. 297634

and delivered said products to said respondent, Stylecraft Leather Goods Co., Inc., which last-named company sold, shipped, and delivered

the same containing such folder to customers residing in States outside of the State of New York or in the State of the origin of such shipment. In truth and in fact, no patent has been applied for or issued on said product.

PAR. 7. The respondent, Morris White Mfg. Co., Inc. manufactures ladies' leather hand bags in several designs, to which product it causes to be attached a tag reading: "Imported French Glove Leather," and so tagged, labeled, designated, and represented, sold, and distributed said products among its said customers in various States of the United States. In truth and in fact, the products so tagged, labeled, designated, and represented are not and were not made of glove leather as the term is generally understood by the purchasing public.

PAR. 8. The above and foregoing representations of respondents, Morris White Mfg. Co., Inc., and Stylecraft Leather Goods Co., Inc., as described in paragraph 6 above have and have had the capacity and tendency to mislead and deceive and have misled and deceived a substantial portion of the purchasing public into the erroneous belief that such products are patented, when such is not the fact; and, acting in such erroneous belief, the said purchasing public have been induced to purchase and have purchased respondents' products, thereby diverting trade to the respondents from their said competitors.

PAR. 9. The use of the words "Glove Leather" as a brand, stamp, or label for the products of the respondent, Morris White Mfg. Co., Inc., as described in paragraph 7 above, has and has had the capacity and tendency to mislead and deceive and has misled and deceived a substantial portion of the purchasing public into the erroneous belief that the leather of which such products are manufactured is the same as that from which gloves are generally made and is glove leather, when such is not the fact; and, acting in such erroneous belief, the said purchasing public have been induced to purchase and have purchased respondent's products, thereby diverting trade to the respondent from its said competitors.

PAR. 10. There are among the competitors of respondent, mentioned in paragraph 5 hereof, dealers, and distributors of products similar in kind and used for the same purpose, who do not in any way misrepresent their said products to purchasers thereof.

PAR. 11. The above acts and things done or caused to be done by the said respondents were and are each and all to the prejudice of the public and of respondent's said competitors, and each and all constitute unfair methods of competition in interstate commerce within the meaning and intent of Section 5 of "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 the Federal Trade Commission Act, the Federal Trade Commission, on February 8, 1937, issued and served its complaint in this proceeding upon respondents Morris White Mfg. Co., Inc., and Stylecraft Leather Goods Co., Inc., charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. The respondents, through counsel, filed their answer to said complaint, which answer was received by the Commission February 27, 1937. Thereafter, on June 27, 1938, a hearing in New York City was set before a trial examiner theretofore duly appointed, and at said hearing respondents, Morris White Mfg. Co., Inc., and Stylecraft Leather Goods Co., Inc., being present by their respective presidents and vice presidents, and by their attorney of record, tendered a statement for the record in lieu of, and in substitution for all sworn evidence, and the attorney for the Commission having agreed to the entrance upon the record of said statement in lieu of, and in substitution for the taking of testimony, a stipulation, as shown in the record, was made and entered into.

Thereafter this proceeding came on for final hearing upon the record, and brief of the attorney for the Commission, respondents having filed no brief herein, although opportunity was given them therefore, and the Commission having duly considered the record, and being fully advised in the premises, makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Morris White Mfg. Co., Inc., is a corporation organized in 1932, under the laws of the State of New York. Respondent, Stylecraft Leather Goods Co., Inc., is a corporation organized in 1933 under and by virtue of the laws of the State of New York. Both of said corporations are under one ownership and management, and both are engaged in the manufacture of leather handbags at factories owned and operated by respondents located at Scranton, Pa., and Bridgeport, Conn. Respondents occupy the same offices, located at 362 Fifth Avenue, New York City, N. Y. Morris White is president of each respondent corporation, while Abe White is vice president of each. When sales of respondents' leather handbags are made, respondents cause said handbags to be transported from the place of manufacture thereof to the purchasers thereof located in various States of the United States.

In the course and conduct of their business, respondents Morris White Mfg. Co., Inc., and Stylecraft Leather Goods Co., Inc., are in substantial competition with other persons, copartnerships, and corporations likewise engaged in manufacturing, selling, and distributing leather goods, including leather handbags, in interstate commerce.

PAR. 2. The respondent, Morris White Mfg. Co., Inc., owns the principal amount of capital stock issued by respondent Stylecraft Leather Goods Co., Inc. Respondent, Stylecraft Leather Goods Co., Inc., is effectually a subsidiary corporation of respondent Morris White Mfg. Co., Inc., having the same principal office, the same principal address, and conducting a manufacturing business in the identical industry.

PAR. 3. Respondents, Morris White Mfg. Co., Inc. and Stylecraft Leather Goods Co., Inc., in 1935 manufactured and marketed certain leather handbags or purses designated by respondents as "Catalogue No. 606." These handbags or purses were manufactured at respondents' place of business in Bridgeport, Conn., and shipped from that point by respondents through use of common public carrier to respondents' customers, some of which were located in States other than the State of Connecticut. This particular group of leather handbags or purses were further represented as being made from "imported French glove leather." The leather used in the manufacture of this particular group of handbags or purses, although occasionally used in the manufacture of such articles, is not that leather known to the trade and accredited by the industry as "glove leather." The distinction between the leather used in the manufacture of said articles and "glove leather" is that such leather lacks the proper pliability usually accredited to "glove leather."

PAR. 4. Respondent Morris White Mfg. Co., Inc., in the course and conduct of its business, manufactured in its factory located at Bridgeport, Conn., ladies' leather handbags and placed within said ladies' leather handbags a folder bearing the following words: "THE FIFTH AVENUE VANITY a Ladies' Vanity and Bag. Pat. No. 297634." In truth and in fact no patent had been applied for or issued on said product. The number "297634" is that of a registration number owned by the respondent corporations.

PAR. 5. The Commission finds that the representations of respondents Morris White Mfg. Co., Inc., and Stylecraft Leather Goods Co., Inc., had, and now have the capacity and tendency to mislead and deceive, and have misled and deceived a portion of the purchasing public into the erroneous belief that such products are patented,

when such is not the fact; and, acting in such erroneous belief, the said purchasing public have been induced to purchase, and have purchased respondents' products, thereby diverting trade to the respondents from their competitors.

PAR. 6. The Commission further finds that the use by respondent Morris White Mfg. Co., Inc., of the words "Glove Leather" as a brand, stamp, or label, to describe its products, had, and now has the capacity and tendency to mislead and deceive, and has misled and deceived a portion of the purchasing public into the erroneous belief that the leather of which such products are manufactured is the same as that from which gloves are generally made, and is "Glove Leather," when such is not the fact; and, acting in such erroneous belief, the said purchasing public have been induced to purchase, and have purchased respondent's products, thereby diverting trade to respondent from its said competitors.

PAR. 7. There are, among the competitors of respondents, dealers and distributors of similar products used for similar purposes who do not in any way misrepresent their said products to purchasers thereof.

CONCLUSION

The aforesaid acts and practices of said respondents as herein found are all to the injury and prejudice of the public, and of respondents' competitors, and constitute unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondents, testimony and other evidence taken before W. W. Shepard, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, brief on behalf of the Commission filed herein by Alden S. Bradley, counsel for the Commission (respondents having filed no brief, and not having requested oral argument), and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Morris White Mfg. Co., Inc., and Stylecraft Leather Goods Co., Inc., their respective officers, representatives, agents, and employees, directly or through any corporate

or other device, in connection with the offering for sale, sale, and distribution of leather goods in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist:

(a) From representing, through the use of the words "Imported French Glove Leather," as descriptive of the leather of which their leather goods are made, that such leather is "glove leather" or has the pliability of "glove leather" unless and until "glove leather" is actually used in making such leather goods.

(b) From representing, through the use of the word "Pat.", in connection or conjunction with a number or numbers attached to or affixed upon leather goods, that the particular leather goods to which the same are attached or affixed, are patented, unless and until the same are actually patented.

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.

Complaint

28 F. T. C.

IN THE MATTER OF
ARGO PEN-PENCIL COMPANY, INC., AND HARRY
SACHNOFF

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

Docket 8169. Complaint, July 7, 1937—Decision, Feb. 7, 1939

Where a corporation and an individual engaged at same address in assembling fountain pens and pencils, and in selling assembled products to jobbers and dealers in other States, in competition with fountain pens and pencils of other dealers, assemblers, and manufacturers also engaged in interstate commerce—

Caused to be stamped or imprinted upon certain of the pen points used by them in the fountain pens which they assembled, figure and letters "14K" or "14KT," in prominent and conspicuous type, together with words "Durium" or "Duripoint," as case might be, and words "Gold plate" in type of approximately half the size of numbers and letters "14KT," and at a distance therefrom so as to be completely, or almost completely, obscured through insertion of pen points to sufficient degree within barrel of pens, and thus imitated and simulated the stamping or marking on gold pen points of 14 karat fineness and carried false impression that their said products were composed of some kind of gold or of gold alloy of such fineness, facts being they were made from stainless steel thinly gold plated;

With tendency and capacity to mislead and deceive a substantial portion of purchasing public into the erroneous belief that all said representations were true, and with result, as direct consequence of such belief thus induced, that a number of the consuming public purchased a substantial volume of its said products, and trade was unfairly diverted to it from those engaged in preparation, distribution and sale of fountain pens in commerce, and who truthfully brand or label the same; to the injury of competition in commerce among the States and in the District of Columbia:

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

Before *Mr. Miles J. Furnas*, trial examiner.

Mr. Morton Nesmith 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 the Argo Pen-Pencil Co., Inc., a corporation, and Harry Sachnoff, an individual, hereinafter referred to as respondents, have been and are using unfair methods of competition in commerce, as "commerce" is defined in said