

IN THE MATTER OF
HILD FLOOR MACHINE COMPANY

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

Docket 3356. Complaint, Mar. 12, 1938—Decision, Feb. 16, 1939

Where a corporation engaged in assembling, selling, and distributing rug and carpet cleaning machines which operated through rotating action of a motor-driven brush, applying on rug or carpet shampoo solution fed to it from tank on machine, and in selling its said machines and devices to purchasers in other States and in the District of Columbia, in substantial competition with those likewise engaged in sale and distribution of carpet and rug cleaning machines and other similar devices in commerce and in said District; in soliciting sale of its said machines and devices in newspapers, magazines, pamphlets, circulars, letters, and other forms of advertising having interstate circulation, and in its booklet entitled "How to Make Money Cleaning Rugs and Carpets the Hild Way," distributed in large numbers to the public generally throughout the various States and in the District through its distributors, sales branches, and sales persons—

- (a) Represented that its said carpet and rug cleaning equipment, costing less than \$400, cleaned carpets and rugs without removal from floor as well as or better than the more expensive installations of cleaning equipment, costing as much as \$30,000, and usually installed and used in plants especially equipped for the cleaning of carpets and rugs after removal from floor;
- (b) Represented that only with its system could the dirtiest tacked-down rugs and carpets be flawlessly shampooed and cleaned, and that nothing remained in rug or carpet that needed rinsing out; and
- (c) Represented that its rug shampoo employed in operation and functioning of said equipment was highly volatile and evaporated completely, and that grease and grime evaporated with it;

Facts being its said machine and device did not, as claimed, do work of cleansing rugs and carpets as well as or better than the more expensive installations as above set forth, its said machine and device did not clean dirtiest tacked-down carpets and rugs flawlessly, nor remove all grime and grease from rugs and carpets without rinsing, and said shampoo did not evaporate completely from such rugs or carpets and leave them free from grease and grime, with nothing needing rinsing out;

With effect of confusing, misleading, and deceiving purchasing public into mistaken and erroneous belief that its said machine and device and shampoo fluid possessed properties claimed and would accomplish results thus represented, and without removal of rugs and carpets, and that they would accomplish such results as well as or better than more expensive installations used in plants especially equipped for such cleaning after removal from floor; and with capacity and tendency to induce members of purchasing public to buy and use its said products because of aforesaid erroneous beliefs thus engendered, and with result of placing in hands of others means and instrumentality whereby they might misrepresent to

Complaint

public efficacy of its said machine and rug cleaning solution, and of diverting trade unfairly to it and its licensees from competitors engaged in manufacture and sale, in commerce and in said District, of machines and solutions for cleaning rugs and carpets and for similar purposes for which it represented its said machine and solution:

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

Before *Mr. Arthur F. Thomas*, trial examiner.

Mr. Carrel F. Rhodes and *Mr. George Foulkes* for the Commission.

Mr. Samuel E. Davidson, of Chicago, Ill., for respondent.

COMPLAINT

Pursuant to the provisions of an Act of Congress dated 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 Hild Floor Machine Co., hereinafter referred to as respondent, has been and is 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. Respondent, Hild Floor Machine Co., is a corporation organized in 1928 under and by virtue of the laws of the State of Illinois. Respondent's office and principal place of business is located at 1313 West Randolph Street, Chicago, Ill. Said respondent is now, and at all times since its organization in 1928 has been, engaged in the business of assembling, selling, and distributing rug and carpet cleaning machines, essentially consisting of a round electric motor-driven brush to which a supply of shampoo solution is fed from a tank on the machine. When placed on a rug or carpet the rotating action of the brush works the shampoo solution into a foamy lather, thus washing or scrubbing the rug and carpet without removing it from the floor. Respondent now causes, and at all times since the date of its organization has caused, its said carpet cleaning machines and devices, when sold, to be shipped from its principal place of business in Chicago, Ill., to purchasers thereof, some located in the State of Illinois, others located in the various States of the United States other than Illinois and in the District of Columbia.

Respondent is now, and at all times since the date of its organization has been, in substantial competition with other corporations and with persons, firms, and partnerships likewise engaged in the sale

and distribution of carpet and rug cleaning machines, and other devices similar to that sold by respondent in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In soliciting the sale of and selling its carpet and rug cleaning machines and devices, as herein detailed respondent now states, and has stated in newspapers, magazines, pamphlets, circulars, letters, radio broadcasts, and other forms of advertising media having an interstate circulation and in a booklet entitled "How to Make Money Cleaning Rugs and Carpets the Hild Way," which it distributes in large numbers to the public generally throughout the various States of the United States and in the District of Columbia through its distributors, sales branches, and sales people as follows:

Hild rug and carpet cleaning equipment, costing less than \$400.00, now does the work of installations, costing as much as \$30,000.00, and does it better, too.

Only with the Hild system can you render satisfactory on-the-floor service.

Tacked down carpets flawlessly shampooed.

Clean dirtiest carpets flawlessly.

Hild Rug Shampoo is highly volatile—Evaporates completely, leaving rugs and carpeting dry, bright and clean—Grease and grime evaporates with the shampoo.

With Hild Rug Shampoo nothing remains in the rug or carpet which needs rinsing out.

which representations are accompanied by a pictorial illustration of a man operating a machine in the act of running it over a rug on the floor, and other pictorial representations of like machines.

The aforesaid statements and representations on the part of the respondent serve as representations that respondent's aforesaid machine and liquid shampoo will flawlessly clean and remove all grease and grime from the dirtiest rugs and carpets while tacked down on the floor; that said machine and device of respondent costing less than \$400 will clean rugs and carpets as well as or better than installations costing up to \$30,000; that rugs and carpets can be satisfactorily cleaned on the floor only with respondent's machine; that respondent's shampoo solution has properties which enable it to evaporate completely carrying with it all grease and grime and leaving rugs and carpets dry, bright, and clean; and that when respondent's shampoo solution is used all grease and grime are evaporated so that nothing remains in the rugs or carpets which needs rinsing.

PAR. 3. In truth and in fact, the Hild carpet and rug cleansing machine and device does not clean the dirtiest tacked-down rugs and carpets flawlessly. The use of the Hild shampoo preparation applied by the Hild machine or device to rugs and carpets tacked

down on the floor does not remove all grime and grease therefrom without rinsing. The Hild rug shampoo does not evaporate completely from rugs or carpets tacked down on the floor leaving them free from grease and grime with nothing in them that needs rinsing. The Hild rug and carpet cleansing equipment costing less than \$400 does not do the work of cleansing rugs and carpets as well as or better than installations costing up to \$30,000.

PAR. 4. The representations of respondent as aforesaid are false and grossly exaggerated and have had, and do have, the capacity and tendency to and do confuse, mislead, and deceive members of the purchasing public into the mistaken and erroneous belief that respondent's said machine or device and fluid possess the properties claimed and will accomplish the results represented as aforesaid and to induce members of the purchasing public to buy and use respondent's said products because of the aforesaid erroneous beliefs engendered as above set forth.

The acts and practices of the respondent as herein detailed place in the hands of others a means and instrumentality whereby the public may be deceived and misled into the erroneous beliefs that respondent's said machine and fluid will accomplish the results claimed. As a result of the use of the aforementioned false, exaggerated, and misleading representations trade is unfairly diverted to the respondent from competitors who do not misrepresent the properties, functions, or merits of their respective products. In consequence thereof injury has been, and is now being, done by respondent to competition in commerce among and between the various States of the United States.

PAR. 5. The above alleged acts and practices of respondent are all to the prejudice and injury of the public and of respondent's 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."

REPORTS, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on the 12th day of March 1938, issued and thereafter served its complaint in this proceeding upon the respondent, Hild Floor Machine Co., charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act. The respondent filed a statement with exhibits attached as

Findings

28 F. T. C.

an answer to the complaint. Thereafter, to wit, on June 4, 1938, testimony and other evidence in support of the allegations of said complaint were introduced by George Foulkes, attorney for the Commission, before Arthur F. Thomas, an examiner of this Commission, duly appointed for that purpose and in opposition to the allegations of said complaint by Samuel E. Davidson, attorney for the respondent, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, to expedite the proceedings and to dispense with taking of further oral testimony, respondent's attorney and the Chief Counsel for the Commission agreed upon a statement of facts to be made a part of the record in addition to the testimony already of record, and said stipulated statement of facts was approved January 3, 1939, by the Commission, and made part of the record. 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. The respondent, Hild Floor Machine Co., is a corporation organized in 1928 and existing under and by virtue of the laws of the State of Illinois. Respondent's office and principal place of business is located in Chicago, Ill. Said respondent is now, and at all times since its organization in 1928 has been, engaged in the business of assembling, selling, and distributing rug and carpet cleaning machines essentially consisting of a round electric motor-driven brush to which a supply of shampoo solution is fed from a tank on the machine. When placed on a rug or carpet, the rotating action of the brush works the shampoo solution into a foamy lather, thus washing or scrubbing the rug or carpet without removing it from the floor. Respondent now causes, and at all times since the date of its organization has caused, its said carpet cleaning machines and devices, when sold, to be shipped from its principal place of business in Chicago, Ill., to purchasers thereof, some located in the State of Illinois and others located in the various States of the United States other than Illinois, and in the District of Columbia.

Respondent is now, and at all times since the date of its organization has been, in substantial competition with other corporations and with persons, firms, and partnerships likewise engaged in the sale and distribution of carpet and rug-cleaning machines and other devices similar to that sold by respondent, in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In soliciting the sale of and selling its carpet and rug cleaning machines and devices, respondent now states and has stated in newspapers, magazines, pamphlets, circulars, letters, and other forms of advertising media having interstate circulation, and in its booklet entitled "How to Make Money Cleaning Rugs and Carpets the Hild Way," which it distributes in large numbers to the public generally, throughout the various States of the United States and in the District of Columbia through its distributors, sales branches, and sales persons, as follows:

Hild rug and carpet cleaning equipment costing less than \$400 now does the work of installations costing as much as \$30,000—and does it better, too.

Only with the Hild system can you render satisfactory on-the-floor service.

Tacked-down carpets flawlessly shampooed.

Clean dirtiest carpets flawlessly.

Hild rug shampoo is highly volatile—evaporates completely, leaving rugs and carpets dry, bright and clean—grease and grime evaporate with the shampoo.

With the Hild rug shampoo nothing remains in the rug or carpet which needs rinsing out.

These representations are accompanied by a pictorial illustration of a man operating a machine, in the act of running it over a rug on the floor, and other pictorial representations of like machines.

The said representations of respondent, as set out above, serve as representations that respondent's aforesaid machines and liquid shampoo will flawlessly clean and remove all grease and grime from the dirtiest rugs and carpets while tacked down on the floor; that said machine and device, costing less than \$400, will clean rugs and carpets better than installations costing up to \$30,000; that rugs and carpets can be satisfactorily cleaned on the floor only with respondent's machine; that respondent's shampoo solution has properties which enable it to evaporate completely, carrying with it all grease and grime and leaving the rugs and carpets dry, bright, and clean; that when respondent's shampoo solution is used, all grease and grime are evaporated, so that nothing remains in the rugs or carpets which needs rinsing out.

PAR. 3. In truth and in fact, the Hild carpet and rug cleaning machine and device does not clean the dirtiest tacked-down carpets and rugs flawlessly; the use of the Hild shampoo preparation, applied by the Hild machine and device to rugs and carpets tacked down on the floor, does not remove all grime and grease therefrom without rinsing; the Hild rug shampoo does not evaporate completely from rugs or carpets tacked down on the floor, leaving them free from grease and grime, with nothing in them that needs rinsing out; the Hild rug and carpet cleaning equipment costing

Order

28 F. T. C.

less than \$400, does not do the work of cleansing rugs and carpets as well as, or better than, installations costing up to \$30,000.

PAR. 4. The representations of respondent as aforesaid, are false and grossly exaggerated and have had and do have the capacity and tendency to, and do, confuse, mislead, and deceive the purchasing public into the mistaken and erroneous belief that respondent's said machine or device and shampoo fluid possess the properties claimed and will accomplish the results represented as aforesaid, and more particularly into the mistaken belief that respondent's equipment cleans carpets and rugs, without removal of such carpets and rugs from the floor where used, as well as, or better than, the more expensive installations of cleaning equipment usually installed and used in plants especially equipped for the cleaning of carpets and rugs after removal from the floor where used, and to induce members of the purchasing public to buy and use respondent's said products because of the aforesaid erroneous beliefs, engendered as above set forth.

PAR. 5. The acts and practices of the respondent, as herein set out, by distribution of circulars and pamphlets through the United States mail and otherwise, have placed in the hands of others a means and instrumentality whereby they may misrepresent to the public the efficacy and use of respondent's machine and its rug-cleaning solution. Said acts and practices on the part of respondent have the tendency and capacity to, and do, divert trade unfairly to the respondent and its licensees from competitors engaged in the manufacture and sale in commerce between and among the several States of the United States and in the District of Columbia of machines and solutions for cleaning rugs and carpets and for similar purposes for which respondent represents its machines and solutions are to be used.

CONCLUSION

The aforesaid acts and practices of the respondent, Hild Floor Machine Co., are all to the prejudice and injury of the public and of respondent's 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 respondent, testimony and other evidence taken before Arthur F.

Order

Thomas, an examiner of the Commission, theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, and the agreed stipulation of facts entered into between respondent herein, Hild Floor Machine Co., and W. T. Kelley, chief counsel for the Commission, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Hild Floor Machine Co., its officers, representatives, agents, and employees in connection with its offering for sale, sale, and distribution of its rug and carpet cleaning system, now known as "Hild Rug and Carpet Cleaning Machine" and "Hild Rug Shampoo," in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that its carpet and rug cleaning equipment cleans carpets and rugs, without removal from the floor where used, as well as, or better than, the more expensive installations of cleaning equipment usually installed and used in plants especially equipped for the cleaning of carpets and rugs after removal from the floor where used.

2. Representing that only with its system can the dirtiest tacked-down rugs and carpets be flawlessly shampooed and cleaned and that nothing remains in the rug or carpet which needs rinsing out.

3. Representing that Hild Rug Shampoo is highly volatile, evaporates completely, and that grease and grime evaporate with the shampoo.

It is further ordered, That the respondent shall, within 60 days after 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 this order.

IN THE MATTER OF
STORYK BROS., INC.

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

Docket 3600. Complaint, Sept. 21, 1938—Decision, Feb. 16, 1939

Where a corporation engaged in sale and distribution of women's dresses and other wearing apparel for women, and in offer and sale, as thus engaged, under group trade name, of dresses and garments made wholly of silk, and also of those made in whole or in part of rayon, but with appearance and feel of silk, and in offering and selling, as thus engaged, its said products to purchasers in other States and in the District of Columbia, in substantial competition with others likewise engaged in sale and distribution of such dresses and apparel among the various States and in said District, and including many who sell and distribute such dresses and apparel without in any way misrepresenting the material of which their garments are made or the point of origin thereof, and who properly disclose the materials of which their said products are composed—

- (a) Described certain dresses, in their advertisements thereof under its said group trade name in newspapers and other publications of general circulation throughout the United States, as "crepe, storycord, and satin," and also thus described and referred to said garments under said trade name and in such advertisements and otherwise, as "crepes," "organdies," and "satins," without qualification of any character, and thereby represented, through use of words "satin" and "crepe" as aforesaid, long associated in minds of public with material of product of cocoon of silk worm, and highly esteemed as such and in the fabrics in which used for preeminent qualities thereof, that such dresses or garments were silk; and

- (b) Described in such advertisements, under said group trade name, and also on labels affixed to such garments, certain of its products thus offered as "imported" and as "celanese storycord" and "celanese fabric," and thereby represented, through use of terms aforesaid, directly and by inference, that all of its said products thus described, designated, and referred to were made of silk, product of cocoon of silk worm, and were imported;

Facts being, while some of garments described and designated as hereinabove set forth were made wholly of silk, product of cocoon of silk worm, long held, in products thereof, in great public esteem and confidence for their preeminent qualities, and associated with such products by words "satin" and "crepe," as used in connection with designation and description of women's dresses and other garments of wearing apparel, many of garments designated and described as aforesaid were not made of silk, but were made in whole or in part of rayon or other nonsilk materials, and none of garments aforesaid were imported, but were all domestically made in Puerto Rico, insular possession of United States;

With effect of misleading and deceiving, through such representations and intermingling of rayon and part-rayon garments, as above set forth, with garments made wholly of silk, substantial portion of purchasing public into belief that all of products aforesaid were composed of silk wholly, and