

Syllabus

IN THE MATTER OF

CANADIAN CHAMOIS & LEATHER CORPORATION

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

Docket 3691. Complaint, Jan. 24, 1939—Decision, Apr. 18, 1939

Where a corporation engaged in sale, under trade name "Cham-O-Line," of leather interlinings for coats and similar garments, to purchasers in commerce between the several States and in the District of Columbia, in substantial competition with others engaged in manufacture, sale and distribution of leather interlinings for coats, and also with those thus engaged in such manufacture, sale and distribution of coat linings not of leather, in commerce as aforesaid and in said District, and including, among such competitors, manufacturers of products similar to those made and sold by it who do not in any wise designate same as "chamois" or represent their said products, through use of words and phrases such as "Cham-O-Line," with view to misleading and deceiving purchasers and prospective purchasers into belief they are chamois—

Made use of its corporate name, including word "Chamois," in offer and sale of its said product as aforesaid, and stamped on said product, which it thus invoiced and sold, word "Cham-O-Line," and made use of tags featuring head of a goat and, conspicuously, words "Interlined with 'CHAM-O-LINE,'" together with, in smaller, less conspicuous type, words "The New Chamois-Like Animal Hide Interlining * * *" and, at bottom, "'Cham-O-Line' will not shrivel or dry up like ordinary Chamois," which it furnished to purchasers and customers by whom coats and garments made by them with its said product were advertised as having interlinings as represented by it, and tags furnished as aforesaid were affixed to such coats and garments, and by some of whom said garments, thus tagged and interlined, were advertised in said connection as "a new Chamois interlining—especially treated to prevent it becoming stiff when cleaned" or as "chamois-lined Back";

Notwithstanding fact that product dealt in and represented by it as above set forth was not in fact the skin of the chamois antelope or the oil-tanned inner skin of the sheep, as long commercially known and understood from word "chamois" as meaning very soft and pliable product commercially sold under said name, but was made from wild pig and skins other than oil-tanned inner sheepskin or the practically extinct chamois antelope, and, while having same general appearance, did not have peculiar qualities or properties of articles known to trade and public as chamois;

With effect of misleading and deceiving purchasers of said product, through use of its aforesaid designations, advertisements, letterheads, invoices, price lists, and tags as above set forth, into the belief that it was the skin of the chamois antelope or oil-tanned inner skin of the sheep, or chamois, and into purchase of said product in such erroneous belief in preference to products of its competitors, and with result of placing in hands of dealers and retailers means of misleading and deceiving pur-

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chasing public, and with capacity and tendency to deceive and mislead purchasers and prospective purchasers as above set forth, and with result of thereby unfairly diverting trade to it from competitors likewise engaged in sale and distribution of similar products in commerce and in said District:

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

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

Mr. Joseph C. Fehr for the Commission.

Mr. Victor F. Boire, of Plattsburgh, N. Y., for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that Canadian Chamois & Leather Corporation, hereinafter referred to as respondent, has violated the provisions of the said act, and it appearing to the 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, Canadian Chamois & Leather Corporation, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York with its principal place of business located at 220 West Nineteenth Street in the city of New York, in the State of New York.

Respondent is now, and for some time past has been, engaged in the business of selling leather interlinings for coats and similar garments under the trade name "Cham-O-Line" in commerce between and among the State of New York and the several States of the United States and in the District of Columbia. When said product is sold respondent transports it from its place of business in the State of New York to the purchasers thereof located in States other than the State of New York and in the District of Columbia.

There is now and for some time past there has been a current of trade and commerce in said products thus sold and distributed by respondent between and among the various States of the United States and in the District of Columbia. Respondent is now and for some time past has been in substantial competition with other corporations and with persons, firms, and partnerships engaged in the manufacture, sale, and distribution of leather interlining for coats, as well as others engaged in the manufacture, sale and distribution of coat linings not of leather, in commerce among the several States of the United States and in the District of Columbia.

PAR. 2. Respondent, in offering for sale and selling its said product between and among the various States of the United States and in the District of Columbia, now represents, and for some time past has represented through its corporate name containing the word "chamois" and by advertisements, price lists, letterheads, invoices, and in other ways, as hereinafter more fully set out, that the aforesaid product is chamois. Respondent sells and has sold its said interlining product to purchasers who used and now use said product in the manufacture of coats and similar garments, which coats and similar garments said purchasers in turn advertise as having interlinings as represented by respondent. The said interlining product thus sold and invoiced by respondent to such customers had and still has the name "Cham-O-Line" stamped thereon. Tags were and are furnished by respondent to purchasers for their use. Said customers use and have used said tags by affixing the same to coats and similar garments in which respondent's said product was and is attached as an interlining. Said tags feature the head of a goat and the conspicuously printed words "Interlined with 'CHAM-O-LINE.'" In smaller, less conspicuous type appear the words "The New Chamois-Like Animal Hide Interlining * * *" and, at the bottom of the tag, "'Cham-O-Line' will not shrivel or dry up like ordinary Chamois."

Respondent sold and now sells said interlining product to purchasers located in various States. Certain of said purchasers who used and now use the aforesaid tags on garments interlined with said product and which they offered and now offer for sale and sold, caused and now cause their said garments to be advertised as "a new Chamois interlining—especially treated to prevent it becoming stiff when cleaned" or as "chamois-lined back."

PAR. 3. Chamois has its origin in the name of an European antelope, the skin of which is made into a soft, pliable leather which is used in the manufacture of gloves and for the polishing of silver and metals, and makes a desirable leather lining in a coat. The chamois antelope is now practically extinct, and its skin is no longer an article of commerce. At the present and for a long time last past, the word "chamois" as commercially known is used to designate the inner part of a sheepskin which when oil dressed is a very soft and pliable product sold commercially under the name of "chamois." Said product likewise is valuable for polishing and cleaning purposes, and for coat interlinings, possessing particularly the power of quickly absorbing moisture and returning thereafter, when dried, to its original softness and pliable quality. The only trade name and designation given to the skin of a chamois antelope and to oil dressed

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sheepskin is the word "chamois," and the word "chamois" means to the retail trade and to the public either the skin of a chamois antelope or the oil-tanned skin of a sheep.

PAR. 4. In truth and in fact, the product dealt in and as represented by respondent, as set out in paragraphs one and two hereof is not in fact the skin of the chamosis antelope or the oil-tanned skin of the sheep, but is an article manufactured from wild pig, and skins other than oil-tanned sheepskin or the chamois antelope, and have the same general appearance but not the peculiar qualities or properties of articles known to the public and trade as "chamois."

PAR. 5. The use by respondent of the aforesaid designations of its product, and of the advertisements, letterheads, invoices, price lists and tags described in paragraph 2 hereof, has the capacity and tendency to mislead and deceive, and has misled and deceived purchasers of the aforesaid product of respondent into the belief that such product is chamois, to wit: the skin of the chamois antelope or the oil-tanned skin of the sheep, and into the purchase of said product of respondent in such erroneous belief in preference to the products of its said competitors, and has placed and places in the hands of dealers and retailers the means of misleading and deceiving the purchasing public.

PAR. 6. Among the competitors of respondent mentioned in paragraph 1 hereof, are manufacturers of products similar to those made and sold by respondent, but who do not in anywise designate such products as "chamois" or represent them, through the use of words and phrases such as "Cham-O-Line," with a view to misleading and deceiving purchasers and prospective purchasers into the belief that they are chamois.

PAR. 7. The above alleged acts and practices of respondent have the capacity and tendency to deceive and mislead purchasers and prospective purchasers into the erroneous belief that the interlining product sold by respondent is chamois and into the purchase of said product on account of such belief. Thereby trade is unfairly diverted to respondent from respondent's competitors in commerce as herein set out, referred to in paragraph 5 hereof and as a consequence thereof substantial injury is done, and has been done by respondent to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 8. The aforesaid acts and practices of respondent as herein alleged are all to the prejudice of the public and of respondent's competitors and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on January 24, 1939, issued, and on January 26, 1939, served, its complaint in this proceeding upon respondent, Canadian Chamois & Leather Corporation, charging it with the use of unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On March 29, 1939, the respondent filed its answer, in which answer it admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint and the answer thereto; and the Commission, having duly considered the matter, 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. Respondent, Canadian Chamois & Leather Corporation, is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York with its principal place of business located at 220 West Nineteenth Street in the city of New York, in the State of New York.

Respondent is now, and for some time past has been, engaged in the business of selling leather interlinings for coats and similar garments under the trade name "Cham-O-Line" in commerce between and among the State of New York and the several States of the United States and in the District of Columbia. When said product is sold respondent transports it from its place of business in the State of New York to the purchasers thereof located in States other than the State of New York and in the District of Columbia.

There is now and for some time past there has been a current of trade and commerce in said product thus sold and distributed by respondent between and among the various States of the United States and in the District of Columbia. Respondent is now and for some time past has been in substantial competition with other corporations and with persons, firms, and partnerships engaged in the manufacture, sale and distribution of leather interlining for coats, as well as others engaged in the manufacture, sale, and distribution of coat linings not of leather, in commerce among the several States of the United States and in the District of Columbia.

PAR. 2. Respondent, in offering for sale and selling its said product between and among the various States of the United States and in the District of Columbia, now represents, and for some time past has represented through its corporate name containing the word "chamois" and by advertisements, price lists, letterheads, invoices, and in other ways, as hereinafter more fully set out, that the aforesaid product is chamois. Respondent sells and has sold its said interlining product to purchasers who used and now use said product in the manufacture of coats and similar garments, which coats and similar garments said purchasers in turn advertise as having interlinings as represented by respondent. The said interlining product thus sold and invoiced by respondent to such customers had and still has the name "Cham-O-Line" stamped thereon. Tags were and are furnished by respondent to purchasers for their use. Said customers use and have used said tags by affixing the same to coats and similar garments in which respondent's said product was and is attached as an interlining. Said tags feature the head of a goat and the conspicuously printed words "Inter-lined with 'CHAM-O-LINE'." In smaller, less conspicuous type appear the words "The New Chamois-like Animal Hide Interlining * * *" and, at the bottom of the tag, "'Cham-O-Line' will not shrivel or dry up like ordinary Chamois."

Respondent sold and now sells said interlining product to purchasers located in various States. Certain of said purchasers who used and now use the aforesaid tags on garments interlined with said product and which they offered and now offer for sale and sold, caused and now cause their said garments to be advertised as "a new Chamois interlining—especially treated to prevent it becoming stiff when cleaned" or as "chamois-lined Back."

PAR. 3. Chamois has its origin in the name of an European antelope, the skin of which is made into a soft, pliable leather which is used in the manufacture of gloves and for the polishing of silver and metals, and makes a desirable leather lining in a coat. The chamois antelope is now practically extinct, and its skin is no longer an article of commerce. At the present and for a long time last past, the word "chamois" as commercially known is used to designate the inner part of a sheepskin which when oil dressed is a very soft and pliable product sold commercially under the name of "chamois." Said product likewise is valuable for polishing and cleaning purposes, and for coat interlinings, possessing particularly the power of quickly absorbing moisture and returning thereafter, when dried, to its original softness and pliable quality. The only trade name and designation given to the skin of a chamois antelope and to oil dressed sheepskin is the word "chamois," and the word "chamois" means to the retail trade and to the public

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either the skin of a chamois antelope or the oil-tanned skin of a sheep.

PAR. 4. In truth and in fact, the product dealt in and as represented by respondent, as set out in paragraphs 1 and 2 hereof, is not in fact the skin of the chamois antelope or the oil-tanned inner skin of the sheep, but is an article manufactured from wild pig, and the skins other than oil-tanned inner sheepskin or the chamois antelope, and have the same general appearance but not the peculiar qualities or properties of articles known to the public and trade as "chamois."

PAR. 5. The use by respondent of the aforesaid designations of its product, and of the advertisements, letterheads, invoices, price lists, and tags described in paragraph 2 hereof, has the capacity and tendency to mislead and deceive, and has misled and deceived purchasers of the aforesaid product of respondent into the belief that such product is chamois, to-wit: the skin of the chamois antelope or the oil-tanned inner skin of the sheep, and into the purchase of said product of respondent in such erroneous belief in preference to the products of its said competitors, and has placed and places in the hands of dealers and retailers the means of misleading and deceiving the purchasing public.

PAR. 6. Among the competitors of respondent mentioned in paragraph 1 hereof, are manufacturers of products similar to those made and sold by respondent, but who do not in any wise designate such products as "chamois" or represent them, through the use of words and phrases such as "Cham-O-Line," with a view to misleading and deceiving purchasers and prospective purchasers into the belief that they are chamois.

PAR. 7. The above alleged acts and practices of respondent have the capacity and tendency to deceive and mislead purchasers and prospective purchasers into the erroneous belief that the interlining product sold by respondent is chamois and into the purchase of said product on account of such belief. Thereby trade is unfairly diverted to respondent from respondent's competitors likewise engaged in the sale and distribution of similar products 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 respondent as herein alleged are all to the prejudice of the public and of respondent's competitors, and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices 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, and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint to be true, and states that it waives all intervening procedure and further hearing as to said facts, 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, Canadian Chamois & Leather Corporation, its 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 interlinings for coats and similar garments in commerce as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, through the use of the word "Chamois" in its corporate or trade name or otherwise, or through the use of any words or terms of similar import or meaning, or through any other means or device, or in any other manner, that respondent is a manufacturer of leather products made of Chamois, unless said products are in fact made from the skin of the Alpine antelope or Chamois or the oil dressed inner part of a sheep's skin.

2. Using the words "Chamois," "Cham-O-Line" or any word or words, phrases, terms or names simulating the word "Chamois," alone or in conjunction with any other word or words, in any manner whatever, to describe, designate, or refer to leather products not made from the skin of the Alpine antelope or Chamois or the oil dressed inner part of a sheep's skin.

It is further ordered, That the said respondent shall, within 60 days from the date of service upon it of this order, file with this Commission a report in writing setting forth the manner and form in which it shall have complied with this order.

Syllabus

IN THE MATTER OF

AMERICAN MERCHANDISE CO., INC., AND HARRY GREENBERG AND LEO JOSEFSBERG, DOING BUSINESS AS GREENBERG AND JOSEFSBERG AND AS AMERICAN MERCHANDISE COMPANY, G & J MANUFACTURING CO., AND G & J PRODUCTS

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

Docket 2960. Complaint, Dec. 2, 1936¹—Decision, Apr. 19, 1939

Where a corporation and two partners, owners of the stock thereof and in control of its sales activities and policies as respects acts and practices below set forth, engaged, among other things, in importation of merchandise, including glove hands and thumbtacks, into the United States, and in the sale and distribution thereof to purchasers in the various other States and in the District of Columbia for resale to purchasing public, in substantial competition with others engaged in sale and distribution of such products—

- (a) Removed from glove hands, quantities of which they had thus imported from Japan and which, at time of entry, bore, in conformance with applicable laws of the United States, words "Made in Japan" or "Japan," and sold said products, to which they had attached cuffs made in the United States, with no words or marks thereon indicating foreign origin of said product to purchasers, by whom said gloves were resold to members of purchasing public, not informed by brand or mark as to origin thereof, and substantial number of members of which understand and believe that, absent indication of foreign origin on article of merchandise, such article was made or manufactured in the United States; and
- (b) Removed from their packages, upon which were set forth, in conformance with applicable laws of the United States, words "Made in Germany" or "Germany," said thumbtacks, and sold same repacked in new containers with no words or marks thereon indicating said products' foreign origin to purchasers, by whom such products were resold to members of purchasing public, not informed by brand or mark as to said thumbtacks' German origin, and substantial number of members of which understand and believe that, absent indication of foreign origin on article of merchandise, such article was made or manufactured in the United States;

With effect of misleading and deceiving members of purchasing public in various States and in said District into erroneous and mistaken belief that such merchandise was made in the United States, for purchase of which there is a preference on part of substantial number of dealers in said products and articles and members of purchasing public in the various States, and into buying substantial quantities of such merchandise because of such erroneous and mistaken belief, and with result that trade in commerce among the various States and in said District was unfairly diverted to them from competitors aforesaid who truthfully brand, represent and mark their respective products:

¹ Amended.