

Syllabus

IN THE MATTER OF
JOHN GREY THE FUR DESIGNER, INC.

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

Docket 3658. Complaint, Dec. 9, 1938—Decision, Aug. 3, 1939

Where a corporation engaged in manufacture of patterns for fur coats and fur clothing, chiefly, and in sale and distribution thereof to purchasers in various States and in the District of Columbia, in substantial competition with others engaged in sale and distribution of such products in commerce and in said District, and including many who do not in any manner misrepresent the nature, origin, or design of their said patterns—

Represented, through statements in advertisements, circulars, and booklets distributed among prospective purchasers, and on labels and through use of purported signatures of, and telegrams and cablegrams from, well-known French couturiers, such as "Designed by Molyneux, Rue Royale, Paris," "Typical of Worth," "Silhouette sponsored by Jenny," and others of similar tenor, that their said patterns were manufactured and made in Paris and designed by French designers of said city;

Facts being said patterns were made at its place of business in New York from designs produced by its employees there located, and were not made in Paris or designed by the various famous and outstanding Parisian and French designers whose names were used as above indicated and set forth, and pretended telegrams or cablegrams from whom were wholly fictitious, or by any other person or persons in said city, and persons thus referred to had no connection with the designing or manufacturing of such patterns, which were not Paris fur fashions or patterns or designs of fashions from Paris;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that their said patterns were fashioned, designed, and made in Paris and by well-known French designers, for which higher-priced patterns, in the United States, and particularly those designed by persons named and indicated as aforesaid, and imported, there is a preference on the part of a substantial portion of the purchasing public, and into purchase of said patterns because of such belief, and of thereby diverting trade in commerce unfairly to it from its competitors who do not misrepresent the nature, origin, or design of their said products:

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

Before *Mr. Edward E. Reardon*, trial examiner.

Mr. B. G. Wilson for the Commission.

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 John Grey The Fur Designer, Inc., a corporation, hereinafter referred to as the respondent, has violated the provisions of 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, John Grey The Fur Designer, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business at 350 Seventh Avenue, New York City in said State. It is now, and for more than 1 year last past has been, engaged in the manufacture of patterns, chiefly for fur coats and fur clothing, and in the sale and distribution of such patterns in commerce between and among the various States of the United States and in the District of Columbia. Respondent causes such patterns, when sold, to be transported from its place of business in New York, N. Y., to the purchasers thereof, some located in the State of New York and others located in various other States of the United States and in the District of Columbia. There is now, and has been for more than 1 year last past, a constant current of trade in such patterns in commerce between and among the various States of the United States and in the District of Columbia. In the course and conduct of its business, respondent is now, and for more than 1 year last past has been, in substantial competition with other corporations and with persons, firms, and partnerships in the sale and distribution of patterns in commerce between and among the various States of the United States and in the District of Columbia. Among these competitors are many who do not in any manner misrepresent the nature, origin, or design of their products.

PAR. 2. In connection with the sale and distribution of said patterns in said commerce, the respondent now represents, and for more than 1 year last past has represented, through statements used in advertisements, in circulars, and in booklets distributed among prospective purchasers of said patterns, that the patterns offered for sale and sold by it were manufactured and made in Paris, France, and designed by French designers in Paris, France. Such representations are also made on labels and through the use of purported signatures of, and telegrams and cablegrams from, well-known French couturiers.

543

Complaint

Among others, and typical of the statements and representations so made and used by the respondent, the respondent has made and used the following statements and representations:

Designed by Molyneux, Rue Royale, Paris.

Designed by Schiaparelli, 21 Place Vendome, Paris.

Fourrures designed by Max, Paris.

301—Molyneux.

We call our designs fashions from Paris.

Paris Cables.

Paris 5683 January 6, 1938.

Sending you Paris fur fashions inspired by Paquin, Maggy, Rouff, Chanel, Jenny, Vionnet.

Jenny—Paris.

Use a Paris tie-up for your season's advertising.

Use Paris fur fashions.

Charming turned collar illustrates versatility of Vionnet inspirations.

Typical of Worth.

Silhouette sponsored by Jenny.

Dramatic short topper personifying gaiety of Chanel designs, sprightly rolled collar, trim elbow length, squared shoulder sleeves expression of new spring motif.

The names Molyneux, Schiaparelli, Max, Paquin, Maggy, Rouff, Chanel, Jenny, Vionnet, and Worth, used in said advertising matter are those of famous and well-known French designers located in Paris, France, with outstanding reputations, both in the trade and with the general public, as designers of patterns for fur garments or apparel. The use of such names and the statements in connection therewith as hereinabove set out misleads and deceives prospective purchasers of said patterns into the erroneous belief that the patterns referred to were made or manufactured in Paris, France, from designs produced by the designers named, or that the designs of said patterns were produced by the designers named. In truth and in fact, the patterns referred to in the advertising matter containing the names of said designers and the other statements hereinabove set out were made and manufactured in respondent's place of business in New York, N. Y., from designs produced by employees of the respondent at its said place of business in New York, N. Y., and were not and are not made or manufactured in Paris, France, or designed by either Molyneux, Schiaparelli, Max, Paquin, Maggy, Rouff, Chanel, Jenny, Vionnet, or Worth, or any other person or persons in Paris, France, and no such persons had any connection with the designing or manufacturing of such patterns and such patterns were not and are not Paris fur fashions or patterns of designs of fashions from Paris, France.

Findings

29 F. T. C.

Purported telegrams or cablegrams from well-known French designers quoted in said advertisements were and are wholly fictitious and false, having no foundation, in fact, no such telegrams or cablegrams having been received by the respondent.

PAR. 3. There is a preference on the part of a substantial portion of the purchasing public for patterns designed, created and originating in Paris, France, by French designers, more especially those named by the respondent in said advertising matter, and imported into this country, and such patterns command a higher price in the United States than do patterns for fur coats and fur clothes designed and made in the United States.

PAR. 4. The acts and practices of the respondent in making and using the false statements and representations hereinabove alleged have the capacity and tendency to, and do, mislead and deceive a substantial portion of the purchasing public and cause it erroneously and mistakenly to believe that said patterns are fashioned, designed, or made in Paris, France, by well-known French designers and, because of said erroneous and mistaken belief, to purchase respondent's said patterns. Thereby trade in said commerce is diverted unfairly to the respondent from its competitors who do not misrepresent the nature, origin, or design of their patterns, to the injury of said competitors and to the injury of the public.

PAR. 5. 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 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 December 9, 1938, issued and on December 10, 1938, served its complaint in this proceeding upon respondent, John Grey The Fur Designer, Inc., a corporation, charging it with the use of unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts, which

substitute answer 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 substitute answer, 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 John Grey The Fur Designer, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business at 350 Seventh Avenue, New York City in said State. It is now, and for more than 1 year last past has been, engaged in the manufacture of patterns, chiefly for fur coats and fur clothing, and in the sale and distribution of such patterns in commerce between and among the various States of the United States and in the District of Columbia. Respondent causes such patterns, when sold, to be transported from its place of business in New York, N. Y., to the purchasers thereof, some located in the State of New York and others located in various other States of the United States and in the District of Columbia. There is now, and has been for more than 1 year last past, a constant current of trade in such patterns in commerce between and among the various States of the United States and in the District of Columbia. In the course and conduct of its business, respondent is now, and for more than 1 year last past has been, in substantial competition with other corporations and with persons, firms, and partnerships in the sale and distribution of patterns in commerce between and among the various States of the United States and in the District of Columbia. Among these competitors are many who do not in any manner misrepresent the nature, origin, or design of their products.

PAR. 2. In connection with the sale and distribution of said patterns in said commerce, the respondent now represents, and for more than 1 year last past has represented, through statements used in advertisements, in circulars, and in booklets distributed among prospective purchasers of said patterns, that the patterns offered for sale and sold by it were manufactured and made in Paris, France, and designed by French designers in Paris, France. Such representations are also made on labels and through the use of purported signatures of, and telegrams and cablegrams from, well-known French couturiers.

Findings

29 F. T. C.

Among others, and typical of the statements and representations so made and used by the respondent, the respondent has made and used the following statements and representations:

Designed by Molyneux, Rue Royale, Paris.

Designed by Schiaparelli, 21 Place Vendome, Paris.

Fourrures designed by Max, Paris.

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We call our designs fashions from Paris.

Paris Cables.

Paris 5083 January 6, 1938.

Sending you Paris fur fashions inspired by Paquin, Maggy, Rouff, Chanel, Jenny, Vionnet.

Jenny—Paris.

Use a Paris tie-up for your season's advertising.

Use Paris fur fashions.

Charming turned collar illustrates versatility of Vionnet inspirations.

Typical of Worth.

Silhouette sponsored by Jenny.

Dramatic short topper personifying gaiety of Chanel designs, sprightly rolled collar, trim elbow length, squared shoulder sleeves expression of new spring motif.

The names Molyneux, Schiaparelli, Max, Paquin, Maggy, Rouff, Chanel, Jenny, Vionnet, and Worth, used in said advertising matter are those of famous and well-known French designers located in Paris, France, with outstanding reputations, both in the trade and with the general public, as designers of patterns for fur garments or apparel. The use of such names and the statements in connection therewith as hereinabove set-out misleads and deceives prospective purchasers of said patterns into the erroneous belief that the patterns referred to were made or manufactured in Paris, France, from designs produced by the designers named, or that the designs of said patterns were produced by the designers named. In truth and in fact, the patterns referred to in the advertising matter containing the names of said designers and the other statements hereinabove set-out were made and manufactured in respondent's place of business in New York, N. Y., from designs produced by employees of the respondent at its said place of business in New York, N. Y., and were not and are not made or manufactured in Paris, France, or designed by either Molyneux, Schiaparelli, Max, Paquin, Maggy, Rouff, Chanel, Jenny, Vionnet, or Worth, or any other person or persons in Paris, France, and no such persons had any connection with the designing or manufacturing of such patterns and such patterns were not and are not Paris fur fashions or patterns of designs of fashions from Paris, France.

Purported telegrams or cablegrams from well-known French designers quoted in said advertisements were and are wholly fictitious and false, having no foundation, in fact, no such telegrams or cablegrams having been received by the respondent.

PAR. 3. There is a preference on the part of a substantial portion of the purchasing public for patterns designed, created, and originating in Paris, France, by French designers, more especially those named by the respondent in said advertising matter, and imported into this country, and such patterns command a higher price in the United States than do patterns for fur coats and fur clothes designed and made in the United States.

PAR. 4. The acts and practices of the respondent in making and using the false statements and representations hereinabove found have the capacity and tendency to, and do, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said patterns are fashioned, designed, or made in Paris, France, by well-known French designers and into the purchase of said patterns because of said erroneous and mistaken belief. As a direct result thereof, trade in commerce among and between the various States of the United States and in the District of Columbia has been diverted unfairly to the respondent from its said competitors who do not misrepresent the nature, origin, or design of their patterns.

CONCLUSION

The aforesaid acts and practices of respondent, as herein found, are all to the prejudice and injury 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, 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, John Grey The Fur Designer, Inc., a corporation, its officers, representatives, agents, and employees,

Order

29 F. T. C.

directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of its patterns or designs 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 "Paris," either alone or in conjunction with any other word or words, or through the use of any other term or terms indicative of French or other foreign origin, or in any other manner, that clothing patterns or designs which have been made in the United States, have been made in Paris, France; or in any other foreign country.

2. Representing in any manner that clothing patterns or designs which have not been made or designed by Molyneux, Schiaparelli, Max, Paquin, Maggy, Rouff, Chanel, Jenny, Vionnet, or Worth, have been made or designed by such person or persons, or representing that such patterns or designs have been made or designed by any person who is not in fact the actual maker or designer thereof.

3. Using the names of well-known designers of women's clothing, or any other term or terms having the capacity or tendency to deceive the purchasing public as to the identity of the maker or designer of the patterns or designs sold by respondent.

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.

Syllabus

IN THE MATTER OF

UNITED EDUCATORS, INC., GENERAL RESEARCH FOUNDATIONS, INC., PUBLISHERS FINANCE COMPANY, INC., WARREN T. DAVIS, JOSEPH J. RINK, AND ELMER C. WOLFORD

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

Docket 3428. Complaint, May 18, 1938—Decision, Aug. 5, 1939

Where three corporations, which were known as United Educators, Inc., General Research Foundation, Inc., and Publishers Finance Co., Inc., and which were carried on as different branches or departments of one business concern, and three individuals who were directors and owners of a controlling interest of said United Educators, Inc., and were general officers thereof, and who controlled and directed the policies and activities of said three companies; engaged in selling and distributing set of reference books known as the "American Educator Encyclopedia," and of certain research services and of loose leaf extension service for use in connection therewith, through numerous salesmen or solicitors whom they employed to canvass individual customers in various States and to forward orders and contracts secured to their office for shipment of books on such orders or contracts, and as thus engaged in making use of said United Educators, Inc., for publication of said encyclopedia and loose leaf service and distribution of units thereof, and of said General Research Foundation, Inc., for supplying said "research service," and of said Publishers Finance Co., Inc., as collection agency or department for United Educators, Inc.; and, as aforesaid engaged, in competition with others likewise engaged in similar business involving sale and distribution of books in interstate commerce—

- (a) Represented that the volumes of said encyclopedia were free and that the buyer was to pay for and did pay for only loose leaf extension service at stated price, or that said volumes were given free or at an especially low price as part of an advertising program because of prominence of prospective purchaser or for other reasons appealing thereto, or that price at which the units of the offer were being offered and sold was a special price;

Facts being said volumes were not given free nor offered or sold at especially low prices to selected individuals as part of an advertising scheme or otherwise but sales were made of said units, in which the bound volumes of the encyclopedia were an important element, at their then current and usual prices and alleged special prices were such current and usual prices;

- (b) Represented that instrument presented to prospects for their signature in connection with sale of such units was simply a receipt or an order blank, facts being such instruments were cleverly worded promises to pay certain sums in money, which were of same force and effect as promissory notes, and which purchasers were induced to and did sign in mistaken belief that they were signing simple receipts or orders which were not such notes;