

Complaint

IN THE MATTER OF
PARFUMS LENGYEL, LTD.

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

Docket 3666. Complaint, Dec. 17, 1938—Decision, Sept. 26, 1939

Where a corporation engaged, as "Parfums Lengyel, Ltd.," in selling and distributing perfumes, toilet waters, and other cosmetic preparations—

Represented, through advertising folders, price lists and advertisements in periodicals and newspapers of general circulation among the various States and in the District of Columbia, that its said products were made or compounded in France and imported into the United States, facts being they were not made or compounded in France or in any other foreign country and imported, but were made and compounded in the United States from essential ingredients which were imported from France and other European countries;

With tendency and capacity to mislead and deceive substantial part of purchasing public into erroneous and mistaken belief that said products were made or compounded in France and imported into the United States, for which products, as imported from foreign countries, and particularly for the higher-priced French products, there is a preference on the part of the purchasing public, and with result, as consequence of such belief, that number of said public purchased substantial portion of its products and trade was diverted unfairly to it from its competitors engaged in manufacture, sale, and distribution, or in sale and distribution, of perfumes, toilet waters, and other cosmetic preparations, and who truthfully represent the country or source of origin of their said products; to the substantial injury of competition in commerce:

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

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

Mr. S. Brodyne Teu, II 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 Parfums Lengyel, Ltd., hereinafter referred to as 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 setting forth its charges in that respect as follows:

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PARAGRAPH 1. Respondent, Parfums Lengyel, Ltd., is a corporation created by and existing under the laws of the State of New York, with its principal office and place of business located at 105 East Twenty-ninth Street, city of New York, State of New York.

PAR. 2. Respondent is now, and for more than one year last past has been, engaged in the business of selling and distributing perfumes, toilet waters, and other cosmetic preparations. Respondent causes said products, when sold, to be transported from its place of business in the State of New York to customers located in other States of the United States and in the District of Columbia.

Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said perfumes, toilet waters, and other cosmetic preparations, sold and distributed by it in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its business respondent is in active and substantial competition with other corporations and with partnerships and individuals engaged in the sale and distribution of perfumes, toilet waters and other cosmetic preparations in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of said business and for the purpose of inducing the purchase of said products, respondent has made representations concerning the country in which its said products are manufactured, the said representations having been made by means of advertising folders, price lists and by means of advertisements inserted in magazines and newspapers having a general circulation among and between the various States of the United States and in the District of Columbia. In all of its advertising literature and newspaper and magazine advertisements respondent directly or indirectly represents that the perfumes, toilet waters and other cosmetic preparations sold and distributed by it are manufactured in France and imported into the United States.

PAR. 5. The representations made by respondent with respect to the country in which its products are manufactured are grossly exaggerated, misleading and untrue. In truth and in fact, the perfumes, toilet waters, and other cosmetic preparations sold and distributed by respondent are not imported from France nor any other foreign country into the United States but are manufactured in the United States from essential ingredients among which are some imported from France.

PAR. 6. There is a preference on the part of the buying public for perfumes, toilet waters and other cosmetic preparations which are

manufactured in foreign countries and imported into the United States. This is particularly true regarding perfumes, toilet waters, and other cosmetic preparations manufactured in France, and such goods so manufactured and imported command and bring from the purchasing public a higher price in the markets of the United States than domestic perfumes, toilet waters and other cosmetic preparations of the same nature and descriptions.

PAR. 7. There are among respondent's competitors many who manufacture, distribute and sell perfumes, toilet waters, and other cosmetic preparations who truthfully represent the place, or country in which their products are manufactured.

PAR. 8. The use of the aforesaid false and misleading statements and misrepresentations by the respondent in designating and describing its products was and is calculated to have and now has a tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that all of the said misrepresentations are true.

As a result of this mistaken and erroneous belief a number of the consuming public have purchased a substantial volume of respondent's products with the result that trade has been diverted unfairly to respondent from its competitors likewise engaged in the business of distributing and selling perfumes, toilet waters, and other cosmetic preparations, who truthfully advertise their products. As a consequence thereof injury has been done and is now being done by respondent to competition in commerce between and among the various States of the United States and in the District of Columbia.

The aforesaid acts and practices of respondent, as herein alleged, are all to the prejudice and injury of the public and to 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 17, 1938, issued and served it complaint in this proceeding upon said respondent, Parfums Lengyel, Ltd., 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. The respondent filed no answer in this proceeding. Thereafter, this cause came on for the taking of testimony, and a stipulation as to the facts to be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint or in opposition thereto

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was entered into by and between S. Brogdyne Teu, II, counsel for the Commission, and Georges Lengyel, vice president of the respondent corporation, and made a part of the record in this cause. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint, the stipulation as to the facts, and brief in support of the allegations of the complaint (respondent not having filed brief and not having requested oral argument); 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. Parfums Lengyel, Ltd., is a corporation created by and existing under the laws of the State of Delaware. It has its principal office and place of business located at 680 Fifth Avenue, New York, N. Y.

PAR. 2. The respondent has for more than 1 year last past been engaged in the business of selling and distributing perfumes, toilet waters, and other cosmetic preparations. When the respondent's products are sold, it causes them to be transported from its place of business in New York to customers located in other States of the United States and in the District of Columbia.

PAR. 3. The respondent has at all times mentioned herein maintained and still maintains a course of trade in its products sold and distributed by it in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 4. The respondent has been and is now in active and substantial competition with other corporations and with partnerships and individuals engaged in the sale and distribution of perfumes, toilet waters, and other cosmetic preparations in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 5. In the course and conduct of its business and for the purpose of inducing the purchase of its products, the respondent has made representations concerning the country in which its products are made or compounded. The representations have been made by means of advertising folders, price lists and by advertisements inserted in magazines and newspapers having a general circulation among and between the various States of the United States and in the District of Columbia. In all of the advertising literature and newspaper and magazine advertisements the respondent has represented

that the perfumes, toilet waters and other cosmetic preparations sold and distributed by it are made or compounded in France and imported into the United States.

PAR. 6. The representations made by respondent with respect to the country in which its products are made or compounded are misleading and confusing. Perfumes, toilet waters, and other cosmetic preparations sold and distributed by the respondent are not made or compounded in France or any other foreign country and imported into the United States, but are made or compounded in the United States from essential ingredients which are imported from France and other European countries.

PAR. 7. There is a preference on the part of the purchasing public for perfumes, toilet waters, and other cosmetic preparations made or compounded in foreign countries and imported into the United States. This is particularly true regarding perfumes, toilet waters, and other cosmetic preparations made or compounded in France and imported into the United States. Such products, so made or compounded, and imported as above stated command and bring from the purchasing public a higher price in the markets of the United States than domestic perfumes, toilet waters, and other cosmetic preparations of the same nature and description.

PAR. 8. There are among competitors of the respondent many who manufacture, distribute and sell perfumes, toilet waters, and other cosmetic preparations who truthfully represent the place or country in which their products are manufactured.

PAR. 9. The use of the statements and representations by respondent as herein set forth in connection with the sale and distribution of its products, has had and now has the tendency and capacity to mislead and deceive a substantial part of the purchasing public into the erroneous and mistaken belief that the said products are made or compounded in France and imported into the United States.

As a result of this erroneous and mistaken belief a number of the purchasing public have purchased a substantial portion of respondent's products, with the result that trade has been unfairly diverted to the respondent from its competitors engaged in the manufacture, sale, and distribution, or in the sale and distribution of perfumes, toilet waters, and other cosmetic preparations who truthfully represent the country or source of origin of their products. As a consequence thereof, substantial injury has been and is being done by respondent to competition in commerce between and among the various States of the United States and in the District of Columbia.

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CONCLUSION

The aforesaid acts and practices of respondent as herein found 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 a stipulation as to the facts entered into between the respondent herein and S. Brogdyne Teu, II, counsel for the Commission, the said stipulation of facts being made of record and in lieu of testimony in support of or in opposition to the charges in the complaint brief filed in support of the allegations of the complaint (respondent not having filed brief and oral argument not having been requested), 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 respondent, Parfums Lengyel, Ltd., 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 its perfumes, toilet waters and other cosmetic preparations in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, through the use of any terms, words, symbols, or picturizations, indicative of French or other foreign origin of such products, or in any manner, that perfumes, toilet waters, or other cosmetic preparations which are made or compounded in the United States are made or compounded in France or in any other foreign country, provided however, that the country of origin of the various ingredients thereof may be stated when immediately accompanied with a statement that such products are made or compounded in the United States.

2. Using any French or other foreign terms or words except as provided in paragraph 3 hereof to designate, describe, or in any way refer to perfumes, toilet waters, or other cosmetic preparations made or compounded in the United States unless the English translation or equivalent thereof appears as conspicuously and in immediate connection therewith.

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3. Using any French or other foreign words or terms as brand or trade names for perfumes, toilet waters, or other cosmetic preparations made or compounded in the United States without clearly and conspicuously stating in immediate connection and conjunction therewith that such products are made or compounded in the United States.

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
CHANEL, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914

Docket 3096. Complaint, Apr. 3, 1937—Decision, Sept. 27, 1939

Where a domestic corporation engaged, under name "Chanel, Inc.," in making, in the United States, from compounded concentrates which it purchased from Les Parfums Chanel, S. A., of Paris and imported into the United States, its "Chanel" perfumes, through adding to such concentrates, in proper proportion to make usable and merchantable perfume, domestic alcohol, and in thus bottling, packaging, and selling its said "Chanel" perfumes, bottles, and some of cartons for which it imported from Paris, and various brands of which were blended by it to same formulae as were employed for identically named brands put up in Paris with French, instead of American, alcohol, and also to the same formulae as used for similarly named brands wherever sold, and which, as thus engaged, had no branch organization in London, Paris, or elsewhere, nor any material connection with other similarly named organizations selling "Chanel" brands under arrangement by which the famous dress maker owned 10 percent of stock of each in return for use of her name and approval of the formulae employed—

- (a) Labeled cartons and containers of different special brands of its said "Chanel" perfumes as "Glamour de Chanel, Paris, France," "Jasmin de Chanel, Paris," "No. 5, Chanel, Paris," "Gardenia de Chanel, Paris," and "Cuir de Russie, Chanel, Paris";
- (b) Made use of such brands and designations of origin in advertisements of its said products in such periodicals as "New Yorker," "Vogue," and "Toilet Requisites," and in such advertisements displayed conspicuously terms "Chanel, Paris," and nowhere name "Chanel, Inc.," though following, in some instances in some advertisements and in its catalog, word "Chanel" with its New York address;
- (c) Held out Chanel, the dress designer, as the maker of her famous perfumes, through such statements as "This most copied and popular couturiere, ardent sponsor of Youth and designs that keep you enchantingly young looking, had the same idea in mind when she made her famous perfumes * * *," there described as "romantic, alluring, youthful," and adding that "they add that last touch of real chic," and similarly stressed elsewhere association of ideas as aforesaid; and
- (d) Set forth on front cover of catalog and price list published and issued by it, "Chanel, Inc., 35 West 34th Street, New York—Paris—London," and sold individual bottles of perfume, packed for delivery to consumers, in cartons bearing words "Chanel—Paris—London—New York";

Facts being said perfumes were not made in Paris and imported, but part of ingredients were imported therefrom and other essential ingredients added in the United States, where final and essential step in manufacture was completed, and famous dressmaker referred to did not and never had made