

IN THE MATTER OF
BEN RANSOM, TRADING AS RANSOM ELECTRIC
COMPANY

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

Docket 3905. Complaint, Sept. 30, 1939—Decision, Dec. 20, 1939

Where an individual engaged in business of buying for resale and selling to retail trade, incandescent electric lamp bulbs, including certain of said products made in Japan and by him imported therefrom, and marked or branded as there made, and including also bulbs purchased by him from domestic manufacturers and certain products made under trade name "Elite Lamp Service," and, as thus engaged, in selling his said products to purchasers at various points in other States and in the District of Columbia, in competition with others engaged in sale and distribution of electric lamp bulbs, and including many competitors who do not in any manner misrepresent their products or the source or origin thereof—

- (a) Represented that said imported products were of domestic manufacture or origin, through removing therefrom words "Made in Japan" and packing same in cartons upon which were printed words "Made in U. S. A." and "Lednew Lamps" or "The Lednew Corporation," and selling and shipping, thus containered and marked, said bulbs to purchasers in commerce as aforesaid set out, with effect of misleading and deceiving purchasing public into erroneous and mistaken belief that bulbs manufactured in and imported from Japan were made in the United States; and
- (b) Represented that bulbs dealt in by him as aforesaid were made by other than the real or actual manufacturer, through setting forth, on cartons in which he placed certain bulbs brought from domestic makers, as name of purported manufacturer of product enclosed, name of which was not that of manufacturer of lamp bulbs enclosed therein, or, in some instances, name of any manufacturer of such products, with effect of misleading and deceiving purchasing public and causing it erroneously to believe that domestically manufactured bulbs were made by company whose name appeared on carton or container thereof, as above set forth, and that such products were of quality and grade of bulbs usually made and sold by concern whose name thus appeared; and
- (c) Represented that the Bureau of Standards had adopted and promulgated specifications for incandescent electric lamp bulbs, and that bulbs sold by him under trade name above set forth were made in conformity therewith, through statement "All the E. L. S. lamps are made in conformity with the specifications of the U. S. Bureau of Standards," facts being said bureau had not adopted or promulgated any such specifications with which his said product could conform;

With capacity and tendency to mislead substantial portion of purchasing public through such false, deceptive, and misleading acts and practices, and cause it to believe said statements and representations to be true, and with result, as direct consequence of such mistaken and erroneous beliefs induced by said acts and practices, that substantial number of consuming public pur-

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chased substantial volume of his said bulbs, and trade was thereby unfairly diverted to him from his competitors in commerce; to their substantial injury and that of the public:

Held, That such acts and practices 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.

Mr. Clark Nichols 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 Ben Ransom, an individual trading as Ransom Electric Co., 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 to the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Ben Ransom, is an individual trading as Ransom Electric Co., with his office and principal place of business located at 147 Second Avenue, North, Nashville, Tenn. The respondent is now, and has been for several years last past, engaged in the business of buying and selling incandescent electric lamp bulbs. A large part of the electric bulbs bought and sold by the respondent are manufactured in Japan and imported by the respondent into the United States. Respondent in the conduct of his business as aforesaid has been, and is, engaged in commerce, as commerce is defined in the Federal Trade Commission Act, by importing products from Japan and by causing his products, when sold, to be transported from his aforesaid place of business in the State of Tennessee to purchasers thereof at their respective points of location in the various States of the United States other than the State of Tennessee and in the District of Columbia.

PAR. 2. In the course and conduct of his aforesaid business, and at all times herein referred to, respondent has been, and is, in substantial competition with corporations, firms, partnerships, and other individuals engaged in the business of selling and distributing incandescent electric lamp bulbs in commerce among the various States of the United States and in the District of Columbia, who do not use the methods or engage in the unfair acts or practices herein alleged.

PAR. 3. In the course and conduct of his business aforesaid, the respondent has been, and is, engaged in importing from Japan Japanese-manufactured incandescent electric lamp bulbs marked or

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branded with the words "Made in Japan." Before selling, said Japanese-manufactured incandescent lamp bulbs, respondents has removed, and does remove, the original mark or brand, "Made in Japan" in order to conceal from prospective purchasers the source of origin of said electric bulbs. In order to further mislead and deceive prospective purchasers as to the source of origin of said electric bulbs, respondent has inserted said bulbs, and does insert said bulbs, into small sleeves or wrappers upon which are printed the words "Lednew Lamps," "Made in the U. S. A.," "The Lednew Corporation" so as to signify that they were manufactured in the United States by the Lednew Corporation. Said lamp bulbs, enclosed in wrappers as aforesaid, have been, and are being, packed by the respondent into cartons or containers marked or branded with words or letters similar to those on the wrappers, including the words and letters, "Made in U. S. A.," "Lednew Lamps," and "The Lednew Corporation" which likewise signify that said products were manufactured in the United States by the Lednew Corporation. Said incandescent electric lamp bulbs, deceptively packed and marked as described above, have been sold, and are being sold, by the respondent in commerce as heretofore alleged.

PAR. 4. In the course and conduct of the business aforesaid, the respondent has purchased, and does purchase, incandescent lamp bulbs from various manufacturers in the United States; and said American-manufactured bulbs have been, and are being, packed and sold by respondent in packages or containers branded or marked with the name of a manufacturing concern which is not the true manufacturer thereof.

PAR. 5. In the course and conduct of the business aforesaid, and in order to induce the purchase of certain of his lamp bulbs sold under the name or brand of "The Elite Lamp Service," the respondent has distributed, and is now distributing, and causing to be distributed, to the purchasing public situated in the various States of the United States and in the District of Columbia, circulars, pamphlets, wrappers, and other advertising material containing statements and representations relative to the quality and efficiency of said electric lamp bulbs. Among and typical of the false and misleading statements, disseminated as aforesaid, is the following:

All the E. L. S. lamps are made in conformity with specifications of the
U. S. Bureau of Standards * * *

Through the use of the aforesaid statements and representations, and others of similar import and meaning not herein set forth, respondent has represented, directly and by implication, that the United States Bureau of Standards has adopted and promulgated specifi-

cations for incandescent electric lamp bulbs, and that respondent's electric lamp bulbs which have been and which are being sold by him under the trade name or brand of "The Elite Lamp Service" are made in conformity with such specifications.

The aforesaid statements and representations are false, misleading, and untrue. In truth and in fact, the United States Bureau of Standards has not adopted or promulgated any specifications for incandescent electric lamp bulbs with which respondent's said bulbs could conform.

PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations, and the aforesaid unfair and deceptive acts or practices, has had, and now has, the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations are true, and has caused, and now causes, a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's incandescent electric lamp bulbs. As a result thereof, trade in commerce among the various States of the United States and in the District of Columbia has been diverted unfairly to the respondent from his competitors who are likewise engaged in said commerce and who do not misrepresent the source or origin and quality of their incandescent electric lamp bulbs.

PAR. 7. The aforesaid methods, acts, or practices of the respondent, as herein alleged, 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 or 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 the 30th day of September 1939, issued and served its complaint in this proceeding upon the respondent, Ben Ransom, an individual, trading as Ransom Electric Co., charging him with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing by respondent of three answers dated October 5, October 9, and October 23, 1939, respectively, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answers and to substitute therefor an answer admitting all the material allegations of fact set forth in said complaint and waiv-

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ing 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. The respondent, Ben Ransom, is an individual and is the sole owner and operator of the Ransom Electric Co., and his business address is 211 Second Avenue North, Nashville, Tenn. The respondent is now, and has been for several years last past, engaged in the business of buying for resale and selling to the retail trade incandescent electric lamp bulbs.

PAR. 2. The respondent, in the conduct of such business, has caused said merchandise when sold to be shipped to purchasers thereof located at various points in the several States of the United States other than the State from which said shipments are made, and in the District of Columbia.

PAR. 3. In the conduct of such business, the respondent is, and has been, in competition with other persons, and with corporations, firms, and partnerships engaged in the sale and distribution of incandescent electric lamp bulbs in commerce among the various States of the United States and in the District of Columbia. Among said competitors are many who do not in any manner misrepresent their products or the source or origin thereof.

PAR. 4. In the course and conduct of his business, as aforesaid, the respondent has been, and is engaged in importing from Japan incandescent electric lamp bulbs, manufactured in Japan, which bulbs were marked or branded with the words "Made in Japan." Before selling such bulbs so marked and branded, the respondent buffed off, or otherwise removed from the bulbs, the words "Made in Japan." Respondent then packed the bulbs in cartons upon which were printed the words "Made in U. S. A.," "Lednew Lamps," or "The Lednew Corporation" and sold and shipped said bulbs in said cartons to purchasers in commerce, as aforesaid. In some instances respondent purchases incandescent electric lamp bulbs from domestic manufacturers and places such lamp bulbs, when offered for sale and sold to retailers for resale to the public, in cartons or containers upon which is placed or printed the name of the purported manufacture thereof, which name in truth and in fact is not the

name of the manufacturer of the lamp bulbs enclosed in said carton or container or, in some instances, the name of any manufacturer of such lamp bulbs.

The aforesaid acts and practices of the respondent have misled and deceived the purchasing public into the erroneous and mistaken belief that the bulbs manufactured in, and imported from, Japan were made and manufactured in the United States of America. Such acts and practices also misled and deceived the purchasing public and caused it erroneously to believe that domestically manufactured bulbs were made and manufactured by the company whose name appears on the carton or container in which such bulbs are offered for sale and sold, and that such bulbs were of the quality and grade of bulbs usually made and sold by the company whose name appeared on said carton or container.

Respondent also purchased for resale certain incandescent electric lamp bulbs manufactured under the trade name "The Elite Lamp Service," and sold and distributed such lamps to retailers in commerce as above described for resale to the consuming public, and as a part of the sale and distribution of such lamps furnished to such retailers, advertising matter, circulars and pamphlets upon which was printed, among other things, the following statement with reference to the bulbs sold under said trade name:

All the E. L. S. lamps are made in conformity with the specifications of the U. S. Bureau of Standards

Through the use of the aforesaid statement and representation, respondent has represented, directly and by implication, that the United States Bureau of Standards has adopted and promulgated specifications for incandescent electric lamp bulbs and that respondent's said bulbs sold under said trade name are made in conformity with such specifications. The aforesaid statement and representation is false, misleading, and deceptive, for in truth and in fact the United States Bureau of Standards has not adopted or promulgated any specifications for incandescent electric lamp bulbs with which respondent's said bulbs could conform.

PAR. 5. Respondent's acts and practices as hereinabove described are false, deceptive and misleading and were and are calculated to and have the capacity and tendency to mislead a substantial portion of the purchasing public and cause it to believe that said statements and representations are true. As a direct consequence of such mistaken and erroneous beliefs induced by the acts and practices of the respondent as aforesaid, a substantial number of the consuming public has purchased a substantial volume of respondent's incan-

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descent electric lamp bulbs with the result that trade has been unfairly diverted to respondent from his competitors in commerce, as commerce is defined in the Federal Trade Commission Act, and substantial injury has been, and is now being, done by respondent to its competitors and to the public.

CONCLUSION

The aforesaid acts and practices of the respondent, Ben Ransom, trading as Ransom Electric Co., 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, and states that he 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, Ben Ransom, an individual, trading as Ransom Electric Co., his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of incandescent electric lamp bulbs in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, through removal from bulbs of the words "Made in Japan" or the removal of any other words indicating foreign origin of bulbs, or by placing bulbs imported from Japan or any other foreign country in cartons or containers bearing the words "Made in the U. S. A.," "Lednew Lamps," or "The Lednew Corporation," or any other names indicating domestic manufacture of such bulbs or any other word or words indicating domestic origin, or in any other manner, that bulbs made or manufactured in Japan or any other foreign country are made or manufactured in the United States of America.

2. Representing, through names of purported manufacturers placed on the cartons or containers in which bulbs are offered for sale and sold, or in any other manner, that bulbs are manufactured or made by anyone other than the real or actual manufacturer thereof.

3. Representing, through the use of the statement "All of the E. L. S. lamps are made in conformity with the specifications of the U. S. Bureau of Standards," or any other words of similar import and meaning, that the bulbs offered for sale and sold by the respondent conform to specifications of the United States Bureau of Standards or any other bureau or division of the United States Government, unless and until such bureau or division has promulgated specifications for incandescent electric lamp bulbs and the products so represented conform thereto.

It is further ordered, That the respondent shall, within 60 days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

IN THE MATTER OF
JOHNSON & JOHNSON, THE KENDALL COMPANY, AND
THE BAY COMPANY

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

Docket 3393. Complaint, Apr. 29, 1938—Decision, Dec. 21, 1939

Where three corporations which (1) were engaged at their respective places of business in manufacture of medical supplies, such as gauze, bandages, bandage rolls, cotton sponges, napkins, pads, adhesives, and similar products, and in sale thereof among the various States of the United States, the Territories thereof, and in the District of Columbia, to purchasers in other States, (2) made, in the aggregate, about 85 percent of all such products manufactured in the United States and sold therein, with balance divided among 12 others, output of no one of which equalled that of any of the aforesaid three, and (3) were and, but for acts below set forth, would be, in competition with one another as to price in sale of said various products between and among the various States of the United States, etc.—

Entered into and carried out an agreement, combination, understanding, and conspiracy among themselves to fix and maintain, and by which they did fix and maintain, uniform prices to be exacted, and which they did exact, from purchasers of their said gauze, bandages, bandage rolls, and other products, as above set forth; and, in pursuance of said combination, agreement, etc.—

- (a) Concertedly fixed and maintained uniform prices for their said products, and communicated with one another proposed changes therein, in advance of trade notification thereof, and maintained for products aforesaid published list prices; and
- (b) Agreed to and did divide the United States into zones for which they fixed and maintained, concertedly, uniform prices exacted by them from purchasers of their said gauze bandages, bandage rolls, and other products, as above set forth;

With result that said acts and practices hindered and prevented price competition between and among said corporations in sale of said various products in commerce, and had a dangerous tendency so to do, and placed in such corporations power to control and enhance prices, and created in them a monopoly in sale of said various products and unreasonably restrained commerce therein:

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

Before *Mr. Robert S. Hall*, trial examiner.

Mr. Edward L. Smith for the Commission.

Hurd, Hamlin & Hubbell, of New York City, and *Mr. Kenneth Perry*, of New Brunswick, N. J., for Johnson & Johnson.

Ropes, Gray, Boyden & Perkins, of Boston, Mass., for The Kendall Co.