

IN THE MATTER OF

PETER SANDERS, HARRY SANDERS AND SAMUEL SANDERS, DOING BUSINESS AS THE PERFECT RECONDITION SPARK PLUG COMPANY, AND SAMUEL SANDERS, DOING BUSINESS AS ACE AUTO SUPPLY COMPANY

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

Docket 3392. Complaint, Jan. 24, 1939¹—Decision, June 25, 1940

Where three individuals engaged in sale of used and discarded spark plugs, for use in automotive gasoline engines, to dealers and wagon peddlers in various parts of the United States and in foreign countries for resale, and, as thus engaged, in transporting their said products to such purchasers in other States, in the District of Columbia, and in foreign countries as aforesaid, and in competition as above set forth with others engaged in manufacture and sale of spark plugs to dealers purchasing for resale and to members of public purchasing for use in various States and in said District of Columbia and foreign countries, and including among such competitors two manufacturers who respectively sold their products under identifying trade names, brands, or marks, "Champion" and "AC," placed as identifying marks on the exposed portion of the insulators of their said products and on cartons or containers in which packaged when offered and sold to purchasing public, and who had expended large sums in advertising their said respective trade-marks and spark plugs made thereunder, which were well known by large majority of motoring public and served to identify such plugs thus marked with two manufacturers aforesaid, and business in which "AC" and "Champion" spark plugs, sold to substantial extent by manufacturers thereof and by dealers therein in commerce in the various States and in said District and foreign countries, constituted a very substantial portion of the entire spark plug business in the United States;

In carrying on their aforesaid business of selling used and discarded spark plugs, consisting, substantially, almost entirely of such plugs originally made and sold by 2 manufacturers above referred to under brand names AC and Champion, as above set forth, in course of which said individuals made a practice of (1) obtaining such discarded spark plugs as junk and at small cost from garages, service stations, and other places where they had been abandoned by their owners as worthless; (2) of treating and refurbishing same by cleaning, sandblasting, filing, buffing, adjusting points, and painting metal shells with black paint; and (3) packing such plugs 10 to a box with cover bearing inscription "PERFECT RECONDITIONED REGISTERED"; and (4) selling, as hereinbefore set forth, such plugs, which, after having been treated and refurbished as aforesaid, had appearance of new and unused Champion and AC spark plugs, respectively, to small garages, dealers, and wagon peddlers for resale to public—

¹ Amended and supplemental

Sold and distributed said spark plugs, which, thus treated and refurbished, and individually wrapped in plain waxed paper with no identification or marking of any kind, bore no individually identifying marking to indicate said individuals' connection therewith, or used, second-hand, refurbished character thereof, but continued to carry brand names "Champion" and "AC," placed thereon originally by manufacturers thereof, and which brand names on porcelain ends thereof, when installed in motor by mechanic or some other person at garage or service station where purchase is made, as is custom in great majority of cases in which such plugs are sold to car owners, afforded, in such instances, no opportunity to see box from which plug is removed or to see plug until after installation, and constituted only visible part of said product;

Notwithstanding fact said refurbished, discarded Champion and AC spark plugs, due to use and wear to which they had been previously subjected, were inferior in functional qualities to new spark plugs from which they were practically indistinguishable in appearance, and did not comply with blueprints and specifications of the original manufacturers, who, in response to the exacting and meticulous technical requirements of different models of the various automotive manufacturers, made and supplied very large number of types of such products, varying often only in very minor but essential respects, and recommended, in the interest of proper and adequate motor performance, periodic installation of new plugs of proper type for particular year and model of car involved;

With result that acts and practices of said individuals in selling such discarded, treated, and refurbished spark plugs, with said brand names and identifying marks of original manufacturers, and wholesale selling prices, which were about one-third of new products, and cleaning of which corresponded to service readily available to owners at service stations at a charge of 5 cents per plug (but additional treatment of which by said individuals in restoring appearance of newness altered the three highly important functional dimensions thereof), with their appearance of new plugs and possibilities of greater profits, afforded incentives to dealer to substitute said individuals' spark plugs for new ones, and with tendency and capacity, through such acts and practices, to deceive members of purchasing public into mistaken and erroneous belief that said plugs were new and unused, in same merchantable condition as when first sold and distributed, and backed by the guarantee of respective manufacturers, and with effect, as a consequence and direct result thereof, that trade and commerce among said States and in said District and foreign countries was diverted unfairly to said individuals from competitors engaged in sale of new and unused spark plugs, and also from those selling used plugs who may truthfully represent the quality and character thereof; to the 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. John W. Addison*, *Mr. Miles J. Furnas*, and *Mr. John L. Hornor*, trial examiners.

Mr. Joseph C. Fehr for the Commission.

Mr. John Wilson Hood, of New York City, for respondents.

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AMENDED AND SUPPLEMENTAL COMPLAINT

Whereas, The Federal Trade Commission did heretofore, to wit, on April 29, 1938, issue its complaint herein, charging that respondents herein were and have been using unfair methods of competition in interstate commerce within the intent and meaning of section 5 of the Federal Trade Commission Act;

Whereas, The Commission has reason to believe that the respondents herein are engaged in unfair methods of competition and unfair and deceptive acts and practices other than and in addition to those in relation to which the Commission issued its said original complaint and it appears to said Commission that a further proceeding by it in respect thereof would be in the public interest;

Now therefore, Acting in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission issues its amended and supplemental complaint charging that Peter Sanders, Harry Sanders, and Samuel Sanders, individuals, doing business as The Perfect Recondition Spark Plug Co., and Samuel Sanders, an individual, doing business as Ace Auto Supply Co., have been and now are using unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, as "commerce" is defined in said act, and states its charges in that respect as follows:

PARAGRAPH 1. The respondents, Peter Sanders, Harry Sanders, and Samuel Sanders, are individuals doing business as The Perfect Recondition Spark Plug Co., sometimes also referred to as The Perfect Reconditioned Spark Plug Co., with their principal office and place of business located at 1133-39 Bedford Avenue, in the Borough of Brooklyn, in the city of New York, in the State of New York. The aforementioned respondent, Samuel Sanders, also does business as the Ace Auto Supply Co., with his principal office and place of business located at 161 B Avenue in the city of New York, in the State of New York.

PAR. 2. In the course and conduct of their businesses, said respondents have been for a period of more than 1 year last past, and are now, engaged in the sale of used and reconditioned spark plugs for use in gasoline engines. Respondents have sold and still sell said spark plugs to dealers located in various parts of the United States and in foreign countries who purchase for resale. Respondents have caused and now cause said spark plugs, when so sold by them, to be transported from their respective places of business in the State of New York to said purchasers located in States other than the State of New York, in the District of Columbia, and in foreign countries.

PAR. 3. During all the times above mentioned, other individuals, partnerships, firms, and corporations have been, and are now, engaged in the business of manufacturing and selling spark plugs to dealers who purchase for resale and to members of the public who purchase for use, residing in various States of the United States, in the District of Columbia and in foreign countries. Said manufacturers and sellers, respectively, have caused and now cause said spark plugs, when so sold by them, to be transported from their respective places of business to purchasers thereof located in States other than the State of origin of said shipments, in the District of Columbia and in foreign countries.

The respondents, during all the times above mentioned and referred to have been, and still are, in competition in the sale of spark plugs in commerce among and between the various States of the United States and in the District of Columbia with such other individuals, partnerships, firms, and corporations manufacturing, selling, and distributing spark plugs.

PAR. 4. Among the manufacturers and sellers of spark plugs referred to in paragraph 3 hereof are certain manufacturers who are, and have been, making and selling spark plugs, respectively, under the brands or trade names "Champion" and "A-C" in such commerce. Such spark plugs are respectively marked and branded with the names "Champion" and "A-C." The spark plugs made and sold under the brand and trade names "Champion" and "A-C" are well and favorably known among the trade and the public generally as being of superior quality and as being in constant demand by users of spark plugs.

During all of the times above mentioned, the spark plugs manufactured, branded and sold under the trade names "Champion" and "A-C" have to a substantial extent been sold by the manufacturers thereof and by dealers therein in commerce among and between the various States of the United States and in the District of Columbia. The business of the sale of such spark plugs branded as "Champion" and "A-C" spark plugs, respectively, in commerce among and between the various States of the United States and in the District of Columbia, has constituted a very substantial portion of the entire spark plug business.

PAR. 5. Substantially all of the spark plugs sold by respondents are spark plugs which were manufactured and sold by the manufacturers under the brand names "Champion" and "A-C." Such spark plugs, carrying the aforesaid brand names, have been used by members of the public until they became worn out by use or became defective and unserviceable for further use. The respondents make a prac-

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tice of obtaining said worn out or defective and unserviceable spark plugs at small cost from garages, service stations, truck operators, and similar sources of supply. Respondents then repair or recondition such spark plugs for sale and use as herein detailed. When so repaired and reconditioned, such spark plugs have the appearance of new and unused "Champion" and "A-C" spark plugs, respectively. Respondent sell said used and reconditioned spark plugs with the brand names "Champion" and "A-C" appearing thereon without disclosing the purchasers thereof that said spark plugs are used, or defective spark plugs which have been repaired and reconditioned. The sale and distribution of said used and reconditioned spark plugs constitute the greater part of respondents' business in the sale of spark plugs.

The spark plugs thus sold and distributed by respondents were not and are not individually identified by suitable marking so as to indicate the used, second-hand, refurbished character thereof, but continue to have on their face the brand names "Champion" and "A-C," which said brand names were originally placed on said spark plugs by the manufacturers thereof. Said plugs are individually wrapped in plain waxed paper which carries no identification or mark to disclose the used or reconditioned nature thereof.

The acts and practices of the respondents as herein described place in the hands of retailers buying for resale an instrument and means whereby said retailers are enabled to represent and offer for sale and sell respondents' said reconditioned spark plugs as being new "Champion" or "A-C" spark plugs and thus commit a fraud upon a substantial portion of the purchasing public.

PAR. 6. The acts and practices of respondents in selling spark plugs bearing the brand names "Champion" and "A-C" which they have reconditioned and repaired without disclosing on the face of said spark plugs that said spark plugs were worn out or otherwise defective spark plugs repaired or reconditioned by the respondents, have had, and now have, the tendency and capacity to, and do, mislead and deceive dealers in spark plugs and members of the purchasing public, in the various States of the United States and in the District of Columbia, into the mistaken and erroneous belief that said spark plugs so sold by the respondents were, and are, new and unused spark plugs and are in the same merchantable condition as when manufactured and first sold and distributed by the respective manufacturers thereof, and into the purchase of such spark plugs in and on account of said mistaken and erroneous belief induced as aforesaid. As a result thereof, trade has been diverted unfairly to the respondents from competitors engaged in the sale of new and

unused "Champion" and "A-C" spark plugs and other spark plugs who truthfully represent the character and quality of said spark plugs and also from competitors who sell used and reconditioned spark plugs who truthfully represent the quality and character thereof. In consequence thereof, injury has been done and is being done by respondents to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 7. The aforesaid acts and practices of respondents as herein alleged are all to the prejudice of the public and of respondents' 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 April 29, 1938, issued and served its complaint in this proceeding upon the respondents Peter Sanders, Harry Sanders, and Samuel Sanders, and on January 24, 1939, issued and subsequently served its amended and supplemental complaint upon said respondents, charging them 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 filing of answers to said complaint and said amended and supplemental complaint by the respondents, testimony and other evidence in support of the allegations of said complaint and said amended and supplemental complaint were introduced by Joseph C. Fehr, attorney for the Commission, and in opposition to the allegations of said complaint and said amended and supplemental complaint by John Wilson Hood, attorney for the respondents, before John W. Addison, Miles J. Furnas, and John L. Hornor, trial examiners of the Commission theretofore duly designated by it. Said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on said complaint and said amended and supplemental complaint and the answers thereto, testimony and other evidence, briefs in support of the complaint and the amended and supplemental complaint and in opposition thereto, and upon oral argument; 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.

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FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondents Peter Sanders and Harry Sanders are individuals doing business as The Perfect Recondition Spark Plug Co., sometimes also referred to as The Perfect Reconditioned Spark Plug Co., with their principal office and place of business located at 1133-39 Bedford Avenue, in the Borough of Brooklyn, in the city and State of New York; and respondent Samuel Sanders is an individual doing business as the Ace Auto Supply Co., with his principal office and place of business located at 161 B Avenue in the city and State of New York.

PAR. 2. In the course and conduct of their businesses, said respondents have been, for a period of more than 1 year last past, and now are, engaged in the sale of used and discarded spark plugs for use in gasoline engines of automobiles. Respondents have sold and still sell said spark plugs to dealers and wagon peddlers located in various parts of the United States and in foreign countries who purchase for resale. Respondents have caused and now cause said spark plugs, when so sold by them, to be transported from their respective places of business in the State of New York to said purchasers located in States other than the State of New York, in the District of Columbia, and in foreign countries.

PAR. 3. During all of the times above mentioned, other individuals, partnerships, firms, and corporations have been, and now are, engaged in the business of manufacturing and selling spark plugs to dealers who purchase for resale and to members of the public who purchase for use, residing in various States of the United States, in the District of Columbia and in foreign countries. Said manufacturers and sellers, respectively, have caused and now cause said spark plugs, when so sold by them, to be transported from their respective places of business to purchasers thereof located in States other than the State of origin of said shipments, in the District of Columbia and in foreign countries.

The respondents, during all of the times above mentioned, have been, and still are, in competition in the sale of spark plugs in commerce among and between the various States of the United States, in the District of Columbia and in foreign countries with such other individuals, partnerships, firms, and corporations, manufacturing, selling, and distributing spark plugs.

PAR. 4. Among the manufacturers and sellers of spark plugs referred to in paragraph 3 hereof are the Champion Spark Plug Co., a corporation, which manufactures and sells spark plugs under the brand or trade name "Champion," and the AC Spark Plug Co., a corporation,

which manufactures and sells spark plugs under the brand or trade name "AC." These brand or trade names and identifying marks are placed on the exposed portion of the insulators of the products of each of these companies and on the cartons or containers in which the respective products are packaged when offered for sale and sold to the purchasing public. Said trade-marks "AC" and "Champion" are well known by a large majority of the motoring public and serve to identify the spark plugs so marked with the two said corporations. Large sums of money have been expended by the two said corporations in advertising their respective trade marks "AC" and "Champion" and the spark plugs made and sold under those marks.

During all of the times above mentioned, the spark plugs so manufactured and branded under the trade-marks "AC" and "Champion" have been sold to a substantial extent by the manufacturers thereof and by dealers therein in commerce among and between the various States of the United States, in the District of Columbia, and in foreign countries. The business of selling such spark plugs branded as "AC" and "Champion" spark plugs, respectively, in commerce among and between the various States of the United States, in the District of Columbia and in foreign countries, has constituted a very substantial portion of the entire spark plug business in the United States.

PAR. 5. Substantially all of the spark plugs sold by the respondents are used and discarded spark plugs which originally were manufactured and sold by the aforesaid corporations under the brand names "AC" and "Champion." Such spark plugs, carrying the aforesaid brand or trade names and identifying marks of said manufacturers, have been used by members of the public operating motor vehicles and have been discarded by them as worn-out or defective and unserviceable for further use before they are acquired by the respondents, who make a practice of obtaining such discarded spark plugs as junk and at small cost from garages, service stations, and other places where they have been abandoned by their owners as worthless. Respondents then treat and refurbish such spark plugs by cleaning, sandblasting, filing, buffing, adjusting the points and painting the metal shells with black paint. They then pack 10 of such plugs in a box, the cover of which bears the inscription "PERFECT RECONDITIONED REGISTERED" and sell the same to small garages, dealers, and wagon peddlers for resale to the public. When so treated and refurbished, such spark plugs have the appearance of new and unused "Champion" and "AC" spark plugs, respectively.

PAR. 6. The spark plugs thus sold and distributed by respondents were not and are not individually identified by any marking so as to

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indicate respondents' connection therewith or the used, second-hand, refurbished character thereof, but continue to carry the brand names "Champion" and "AC" which were originally placed thereon by the manufacturers thereof. Said plugs are individually wrapped in plain waxed paper which carries no identification or marking of any kind.

PAR. 7. In the great majority of cases, when spark plugs are sold to car owners they are installed in the motor by a mechanic or some other person at the garage or service station where the purchase is made. In such instances the car owner is not afforded any opportunity to see the box from which the spark plug is removed and often does not see the spark plug until after it has been installed in the motor of his car. When so installed, the only visible part of the spark plug is the upper part of the metal shell and the white ceramic insulator which bears the brand name of the manufacturer.

PAR. 8. In and during the process of manufacture, the firing end of the core of a "Champion" spark plug has been carefully worked out with a view to controlling the proper heat range of the plug and to shield the center electrode to a proper distance with respect to the end of the shell and the side electrode so that each spark may occur in proper position, the purpose of the spark plug being to ignite the compressed gas at the proper time and at a predetermined position within the cylinder of the engine. The spark plug is simultaneously subjected to many complex reactions under operation in an engine with temperature ranges from 1,200° to 1,500°. Explosion pressures are approximately 400 pounds per square inch and under detonation reach a 2,000-pound pressure. Chemical reaction is also encountered due to the various constituents of gasoline. Electrolytic reaction also accounts for much erosion of the center and side electrodes. The mechanical scouring action of gas at high temperatures and pressure have an erosive effect on the tip of the insulator, often changing its shape. The location of the spark in the cylinder of the motor is very important and this is determined by the location of the gap, different types of Champion plugs for different types or models of cars varying from each other in the position of the spark gap with relation to the gas stream within the cylinder. The spark plug manufacturer works very closely with the car manufacturers to insure that the plug will produce the spark at the right place, and car manufacturers often return plugs which have been sent to them with the wrong gap setting. It is very essential that not even one plug in a set leak an undue amount, since the leaky plug will get unduly hot and will often result in fusing the electrodes, causing serious harm to the engine. Car manufacturers invariably recom-

mend that new plugs be installed once each year or after approximately 10,000 miles of operation because from tests in their engineering division they know that the performance of a car can be jeopardized by old plugs. The Champion Spark Plug Co., in order to insure the accuracy of its spark plugs for various types of motor vehicles, causes an inspection and a reinspection to be made of all the spark plugs manufactured by it and causes special tests to be made by its engineering division of approximately 10 percent of its total production.

PAR. 9. Sixty so-called reconditioned "Champion" spark plugs purchased from respondents were given complete tests. There were 10 each of the following types: C-4, C-7, No. 7, C-15, J-5, and J-8. The C-4, the C-7, the No. 7, the C-15, the J-5 and the J-8 spark plugs were all obsolete. The box bearing the type No. C-4 contained 2 plugs which were of different type numbers. The box bearing the type No. J-5 contained 3 plugs which were of different type numbers. Of the 60 plugs there were 27 in which the relation of the side wire to the center wire was wrong. In connection with the center wires of the 60 plugs tested, 29 were slightly burned, 21 badly burned and 4 were satisfactory. Of the 60 plugs tested, 38 of the side wires had been either filed, burned, or bent so that they would not pass the inspection requirements of the Champion Spark Plug Co. for either a new or reconditioned plug and in 22 of the plugs the side wires were satisfactory. The gap spacing of the 60 plugs tested showed 36 to be improperly spaced and the semipetticoat of the core of the 60 plugs tested showed 49 badly damaged and in none of the 60 plugs was this feature in its original condition. The test showed that each had had more than 10,000 miles of service.

Discarded "Champion" and "AC" spark plugs refurbished and resold by respondents, due to the use and wear to which they have been previously subjected, are inferior in functional qualities to new spark plugs from which they are practically indistinguishable in appearance.

PAR. 10. The reconditioned spark plugs sold by respondents do not comply with the blueprints and specifications of the original manufacturers thereof and are not considered by them to be a satisfactory product. Neither Champion Spark Plug Co. nor AC Spark Plug Co., nor any other spark plug manufacturer, engages in the practice of collecting, cleaning, and selling discarded spark plugs. The damage and wear which result from use of a spark plug are to the firing end of the plug, which is located within the cylinder of the motor. In addition to the wear which occurs to the firing end of a spark plug through use, the respondents remove additional

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material by their sandblasting and filing operations, which treatments alter the three important functional dimensions of the plug, which the manufacturers undertake to hold to very close limits in order to secure proper performance. These three dimensions are the distances from tip of insulator to end of center wire; from tip of insulator to end of shell; and from end of shell to end of center wire. Slight variations in one or more of these dimensions may make a spark plug incapable of rendering efficient service in the motors for which it is recommended by the manufacturer and result in waste of fuel and improper performance of the engine.

Because of the various requirements of different automobile engines over 70 types of spark plugs are supplied by 1 manufacturer. In some instances the differences in functional dimensions between various types of new Champion and AC plugs are less than the differences in functional dimensions between a used spark plug sold by respondents and a new one of the same type made by the same manufacturer. Spark plugs refurbished by respondents in which the functional dimensions have been altered to any material extent no longer correctly represent the type designation given them by the original manufacturer.

PAR. 11. The wholesale selling prices of used spark plugs refurbished by respondents are approximately one-third those of corresponding new spark plugs. Sales of respondents' plugs to car owners at the usual retail selling prices of new plugs would result in several times as much profit to the seller as the sale of a corresponding new plug. Sales of respondents' plugs at retail prices substantially lower than those of corresponding new plugs would still result in much greater profit to the seller. The appearance of respondents' spark plugs together with the possibilities of greater profits are incentives to the dealer to substitute respondents' spark plugs for new ones.

PAR. 12. Spark plug cleaning services are generally available to motorists throughout the United States. A large percentage of garages and service stations have spark plug cleaning machines which clean the firing end of the spark plug by sandblasting and such establishments also clean and adjust the points. A charge of 5 cents per plug is made for this service. The treatments thus available to motorists at garages and service stations before spark plugs are abandoned by their owners are substantially equivalent to those which respondents give to discarded, unserviceable, and worn out spark plugs, except for the additional steps performed by them having to do with restoring the appearance of newness.

PAR. 13. The acts and practices of respondents in selling discarded spark plugs treated and refurbished by them and bearing the brand names and other identifying marks of the original manufacturers have had and now have the tendency and capacity to deceive members of the purchasing public into the mistaken and erroneous belief that said spark plugs are new and unused spark plugs, in the same merchantable condition as when manufactured and first sold and distributed, and backed by the reputation and guarantee of the respective manufacturers thereof. As a direct result thereof, trade and commerce among and between the various States of the United States, in the District of Columbia, and in foreign countries has been diverted unfairly to the respondents from competitors engaged in the sale of new and unused spark plugs and also from competitors selling used spark plugs who may truthfully represent the quality and character thereof. In consequence thereof, injury has been done and is being done by respondents to competition in commerce among and between the various States of the United States, in the District of Columbia, and in foreign countries.

CONCLUSION

The aforesaid acts and practices of respondents as herein found, are all to the prejudice of the public and of respondents' 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 and the amended and supplemental complaint of the Commission, the answers of respondents Peter Sanders and Harry Sanders, individuals, doing business as The Perfect Recondition Spark Plug Co., and Samuel Sanders, an individual, doing business as Ace Auto Supply Co., testimony and other evidence, in support of the allegations of said complaint and said amended and supplemental complaint and in opposition thereto, briefs filed herein, and oral argument by Joseph C. Fehr, counsel for the Commission, and by John Wilson Hood, counsel for the respondents, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Peter Sanders and Harry Sanders, individuals, doing business as The Perfect Recondition

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Spark Plug Co., and Samuel Sanders, an individual, doing business as Ace Auto Supply Co., their representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of spark plugs in interstate or foreign commerce or in the District of Columbia, do forthwith cease and desist from:

Offering for sale, selling, or delivering to others for sale to the public, any spark plug which has been used and thereafter reconditioned in any manner unless the word "used" or "second-hand" or "reconditioned," or some other word or words of similar import and meaning, have been permanently stamped or fixed on each of such spark plugs in a color in contrast to the surface to which the word is applied and of a size and in such location as to be clearly legible to the purchasers thereof after the same shall have been installed, and unless there has been plainly printed or marked on the boxes, cartons, or other containers in which such spark plugs are sold or offered for sale a notice that said spark plugs are used, second-hand, or reconditioned.

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

Syllabus

IN THE MATTER OF
RETONGA MEDICINE COMPANY

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

Docket 3949. Complaint, Nov. 14, 1939—Decision, June 25, 1940

Where a corporation engaged in sale and distribution of its "Retonga" medicinal preparation as treatment for stomach disorders and various other ailments, to purchasers in various other States and in the District of Columbia; in advertisements of its said product which it disseminated and caused to be disseminated through the mails, by insertion in newspapers and periodicals of general circulation, and in circulars and other printed or written matter distributed in commerce among the States, and by other means in commerce, and which were intended or likely to induce purchase of said preparation, and in false advertisements which it also disseminated through the same means and through use of purported testimonial letters published in local newspapers in form of news items reciting various beneficial results claimed to have been obtained by parties in such testimonial letters, and through which it represented that its said product would cure, eliminate or alleviate various symptoms which were, in fact, indicative of diseases and disorders for which its preparation had no curative or therapeutic value—

- (a) Represented, through use of statements in such advertisements that its said "Retonga" was an alterative medicine and powerful stomachic, and cure or remedy for, or competent treatment of, nervousness, night rising, indigestion, headaches, sluggishness, pains, toxic poisoning, constipation, dizziness, muscular aches and pains, insomnia, biliousness, undernourishment, loss of weight, lack of strength, weak kidneys, and other long standing disorders, and was beneficial and effective in treatment of various diseases of which aforesaid disorders were symptoms, and relieved body of toxic poisons and cleansed system and renewed, restored and built up strength and appetite and body, and restored health and increased weight;

Facts being it was not a remedy or cure for nervousness and various other ailments or conditions above set forth, and would be of benefit in treatment of such conditions or symptoms only insofar as certain of them might be due to constipation or lack of appetite, it did not possess any therapeutic or beneficial value in treatment of diseases or disorders of which foregoing conditions might be symptoms, in excess of extent to which use of a mild laxative and gastric tonic might temporarily relieve symptoms due to constipation or lack of appetite, had no therapeutic value in treatment of former in excess of providing temporary relief therefrom, therapeutic properties thereof did not exceed those of a mild laxative and gastric tonic or stomachic, and it had no therapeutic value in healing, curing, or relieving functional or organic systemic disorders in excess of providing such relief as might be accomplished by administration of such a preparation as above indicated, and would not accomplish, except as aforesaid noted, various results claimed therefor as above set forth;