

IN THE MATTER OF

J. E. BERNARD & COMPANY, INC.

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

Docket 3534. Complaint, Aug. 12, 1938—Decision, July 8, 1940

Where a corporation engaged in purchase, chiefly, of used and discarded spark plugs which were originally made and sold by manufacturers thereof under well-known and widely advertised brand names and trade marks "Champion" and "AC," and which had been refurbished under process so as to give them appearance of new and unused "Champion" and "AC" spark plugs, respectively, and in sale and distribution of such refurbished and processed plugs, for use in automotive gasoline engines, to dealers in foreign countries, and in competition, as thus engaged, with those engaged in manufacture and sale of such products to dealers purchasing for resale and to members of the public purchasing for use, in the various States, the District of Columbia, and in foreign countries, principally non-English speaking, including Brazil, British India, and others in which it made sales as above set forth of its said reconditioned products, cleaning of which was substantially equivalent to that available to car owners generally through garages and service stations at charge of 5 cents a plug before abandonment of product—

Sold such spark plugs, which were originally obtained by its vendors, as discarded products and junk and at small cost, from garages, service stations and other places where they had been abandoned by owners as worthless, and which, as above set forth, were thereafter treated and refurbished by process giving them, as above described, appearance of new plugs, and which, in some instances, continued to carry aforesaid brand names originally placed thereon by manufacturers thereof, displayed, under common practice of installation for owner by mechanic or other garage or service station employee on only visible remaining part of product; with no individual marking on individual plugs to indicate its connection therewith or used character thereof, to dealers in foreign countries, as above described, and in which purchasers who did not understand English were compelled to rely solely on appearance of plug itself and trade mark or brand name appearing thereon;

Facts being process employed resulted in important impairment of functional quality of product, some of plugs were obsolete and often did not contain type indicated in accordance with manufacturers' practice of making such products in very large numbers of types adapted to different makes and models of cars for which made and sold, and were not of type or in condition to render satisfactory or adequate service in accordance with manufacturers' further practice of subjecting to rigid tests various plugs made by them for different makes and models and recommending discarding thereof after certain specified use, and said reconditioned products did not compare with blue prints and specifications of original manufacturers thereof and were not considered by them as a satisfactory product;

With tendency and capacity, through sale of such discarded and much less costly refurbished spark plugs, with their greater profit incentive to dealer for substitution for new product, to deceive purchasers into erroneous and

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mistaken belief that said plugs were new and unused, and in same merchantable condition as when first sold to distributor by manufacturer and backed by reputation and guarantee thereof, and with result, as direct consequence, that trade in commerce with foreign countries was diverted unfairly to it from competitors in such commerce engaged in sale of new and unused plugs and from those selling used plugs who truthfully represent character and quality thereof; to injury of competitors in commerce aforesaid:

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.

Mr. Joseph C. Fehr for the Commission.

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

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that J. E. Bernard & Co., Inc., a corporation, 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, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, J. E. Bernard & Co., Inc., is a corporation organized, existing and doing business under the laws of the State of New York, with its principal place of business located at 27 Pearl Street, in the city of New York, in the State of New York.

PAR. 2. In the course and conduct of its business, said respondent has been for a period of more than 1 year last past, and is now engaged in the sale of used and reconditioned spark plugs for use in gasoline engines. Respondent has sold and still sells such spark plugs to dealers located in various parts of the United States and in foreign countries who purchase for resale. Respondent has caused and now causes said spark plugs, when so sold by it, to be transported from its place 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. The respondent, during all the times above mentioned and referred to has been, and still is, 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 other corporations, firms, partnerships, and individuals manufacturing, selling, and distributing spark plugs.

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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 "AC" in such commerce. Such spark plugs are respectively marked and branded with the names "Champion" and "AC." The spark plugs made and sold under the brand and trade names "Champion" and "AC" 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 "AC" 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, in the District of Columbia, and in foreign countries. The business of the sale of such spark plugs branded as "Champion" and "AC" spark plugs, respectively, in such commerce has constituted a very substantial portion of the entire spark plug business.

PAR. 5. Substantially all of the spark plugs sold by respondent are spark plugs which were manufactured and sold by the manufacturers under the brand names "Champion" and "AC." 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 respondent purchases said used and reconditioned spark plugs from another concern. Said concern obtains said used, worn out, or defective spark plugs at small cost from garages, service stations, truck operators, and similar sources of supply and after repairing and reconditioning them sells them to respondent and other dealers for resale. Said spark plugs when thus sold by respondent have the appearance of new and unused "Champion" or "AC" spark plugs. Respondent sells said used and reconditioned plugs thus obtained, with the brand names "Champion" and "AC" appearing thereon, without disclosing to purchasers thereof that said spark plugs are used, worn out, or defective spark plugs which have been repaired or reconditioned. The sale and distribution of said used and reconditioned spark plugs constitute the greater part of respondent's business in the sale of spark plugs.

The spark plugs thus sold and distributed by respondent were not and are not individually identified by suitable marking so as to indicate the used, second-hand, refurbished character thereof. Said spark plugs are individually wrapped in plain white, waxed paper which carries no identification or mark to disclose the used or reconditioned

nature thereof. Certain of said spark plugs so wrapped are placed in individual cartons on the face of which appears the words "Cooper Processed" printed in heavy conspicuous type and superimposed upon the word "RECONDITIONED" printed in light, less distinguishable type so as to make the word "RECONDITIONED" almost illegible. At one end of the carton appear the words "Make Champion." Certain other of said spark plugs are merely wrapped in plain paper and placed in flat cardboard containers which carry on one side a label reading "Perfect Reconditioned Registered" along with the size and number so packed.

PAR. 6. The aforesaid misleading and deceptive statements and representations and their implications on the part of the respondent place in the hands of retailers buying for resale an instrument and means whereby said retailers may commit a fraud upon a substantial portion of the purchasing public enabling such dealers to represent and offer for sale and sell respondent's said reconditioned spark plugs as being new "Champion" or "AC" spark plugs made by the manufacturer thereof with the intent and purpose of selling the said spark plugs in the usual course of trade to the general purchasing public at less than the retail price new "Champion" or "AC" spark plugs are usually sold for.

PAR. 7. The acts and practices of respondent in selling spark plugs bearing the brand names "Champion" and "AC" which have been reconditioned and repaired without disclosing that said spark plugs were and are worn out or otherwise defective spark plugs repaired or reconditioned by another concern 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, in the District of Columbia, and in foreign countries using spark plugs, into the mistaken and erroneous belief that the spark plugs so sold by respondent 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 from respondent in and on account of said mistaken and erroneous belief induced as aforesaid. As a result thereof, trade has been diverted unfairly to the respondent from competitors engaged in the sale of new and unused "Champion" and "AC" 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 and who truthfully represent the quality and character thereof. In consequence thereof, injury has been done and is being done by respondent to competition in commerce among and

between the various States of the United States, in the District of Columbia, and in foreign countries.

PAR. 8. The aforesaid acts and practices of the respondent as herein alleged are all to the prejudice of the public and of respondent's competitors and constitute unfair methods of competition in commerce 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 August 12, 1938, issued its complaint against respondent and caused such complaint to be served as required by law, in which it was charged that said respondent was and had been using unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer thereto making certain admissions, the taking of testimony and other evidence herein was waived by stipulation entered into on December 12, 1939, between W. T. Kelley, chief counsel for the Federal Trade Commission, and John Wilson Hood, attorney for respondent herein, and thereafter duly approved by the Commission and filed in the office of the Commission, whereby it was agreed that the facts in this proceeding, except as to the identity of parties, are the same as the facts in the proceeding by the Commission styled "In the Matter of 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., Docket No. 3392"; that the testimony and evidence in support of and in opposition to the allegations of the complaint, as amended, in said Docket No. 3392, and appearing in the stenographic record of the testimony herein, be made testimony and evidence in support of and in opposition to the allegations of the complaint in this proceeding, with the same force and effect as if such testimony and evidence had been given and such agreements and stipulations as to the facts had been entered into originally in this proceeding; that all testimony, evidence, agreements, and stipulations as to the facts in said Docket No. 3392 relative to the operations of the respondent herein and relative to the relations existing between the respondents in said Docket No. 3392 and the respondent herein be adopted and accepted as the facts herein, and that such briefs as may be filed in support of the allegations of the complaint as amended in said Docket No. 3392, and in opposition thereto, and such oral arguments as may be made in support of the allegations of the complaint, as amended, and in opposition thereto in said Docket

No. 3392, shall be applicable also to this proceeding, separate oral argument and separate briefs herein being expressly waived.

The Commission having considered the record 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, J. E. Bernard & Co., Inc., is a corporation organized, existing, and doing business under the laws of the State of New York, with its principal place of business located at 27 Pearl Street in the city of New York, in the State of New York.

PAR. 2. Said respondent was, for more than 1 year prior to on or about January 1, 1938, engaged in the sale and distribution of used and discarded spark plugs for use in gasoline engines of automobiles, which plugs have been refurbished in the manner set forth in paragraph 5 hereof. Respondent has sold such spark plugs to dealers located in various foreign countries and has shipped them or caused them to be shipped to residents of foreign countries who purchase for resale. Respondent has caused and now causes said spark plugs, when so sold by it, to be transported from its place of business in the State of New York to said purchasers located in foreign countries.

PAR. 3. During all of the times above mentioned, various individuals, partnerships, firms, and corporations domiciled in the United States 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, including those countries wherein respondent has made sales. 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.

Respondent, during all of the times above mentioned, has been in competition in the sale of spark plugs in commerce in foreign countries with such 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 have been and are making and selling spark plugs in commerce under the brands or trade names "Champion" and "AC." Spark plugs

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manufactured and sold by AC Spark Plug Co. are identified by the trade-mark "AC" and those manufactured and sold by Champion Spark Plug Co. are identified by the trade-mark "Champion." Such marks are printed on the cartons and containers and are also displayed on the exposed portion of the insulators of the spark plugs themselves. 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, branded and sold 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 practically all foreign countries. The business of selling such spark plugs branded as "Champion" and "AC" spark plugs, respectively, in commerce among and between the various States of the United States and the District of Columbia and in foreign countries, has constituted a very substantial portion of the entire spark plug business.

PAR. 5. Substantially all of the spark plugs sold by respondent are used and discarded spark plugs which originally were manufactured and sold by the manufacturers under the brand names "Champion" and "AC." Such spark plugs, carrying the aforesaid brand names and other identifying markings of such original manufacturers have been used by members of the public and discarded by them as worn out or defective and unserviceable for further use before they are acquired by the so-called spark plug reconditioner from whom respondent purchases them. The used and refurbished spark plugs dealt in by respondent were purchased by it from Peter Sanders, Harry Sanders, and Samuel Sanders, doing business as The Perfect Recondition Spark Plug Co. These persons 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. Such discarded spark plugs were then treated and refurbished by cleaning, sandblasting, filing, buffing, adjusting the points, and painting the metal shells with black paint. After such treatment the spark plugs were purchased by respondent and sold by it to dealers in foreign countries. When so treated and refurbished and sold by respondent, such spark plugs had the appearance of new and unused Champion and AC spark plugs, respectively.

PAR. 6. The spark plugs thus sold and distributed by respondent were not individually identified by any marking thereon so as to indicate respondent's connection therewith or the used, second-hand, refurbished character thereof, and in some instances continued to carry the brand names "Champion" and "AC" which were originally placed thereon by the manufacturers thereof. In other instances the said brand names were removed at the request of respondent and such spark plugs were sold without any marking appearing thereon.

PAR. 7. Spark plugs reconditioned for respondent were sold by it principally in non-English speaking countries, including Brazil, British India, Colombia, Ecuador, Java, Latvia, Peru, New Zealand, and the Straits Settlements. In such countries purchasers of spark plugs who do not understand English are compelled to rely solely on the appearance of the plug itself and on the trade-mark or brand name appearing thereon. It does not appear that cartons or containers for respondent's refurbished spark plugs were printed in any language other than English.

PAR. 8. 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. 9. 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 plugs 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 recommend 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 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. 10. Sixty so-called reconditioned "Champion" spark plugs purchased from The Perfect Recondition Spark Plug Co., respondent's supplier, 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 two plugs which were of different type numbers. The box bearing the type No. J-5 contained three 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 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, burnt, or bent so that they would not pass the inspection requirements of the Champion Spark Plug Co. for either a new or repaired 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 semi-petticoat 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 respondent, due to the use and wear to which they have been previ-

ously subjected, are inferior in functional qualities to new spark plugs from which they are practically indistinguishable in appearance.

PAR. 11. The reconditioned spark plugs sold by respondent 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 the 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 the spark plug through use, the suppliers of such refurbished spark plugs to the respondent herein remove additional material by its 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 one 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 respondent and a new one of the same type made by the manufacturer. Spark plugs refurbished for respondent in which the functional dimensions have been altered to any material extent no longer correctly represent the type of designation given them by the original manufacturer.

PAR. 12. The wholesale selling prices of used spark plugs refurbished for respondent are approximately one-third those of corresponding new spark plugs. Sales of respondent's 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 respondent's 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 respondent's spark plugs together with the possibilities of greater profits are incentives to the dealer to substitute respondent's spark plugs for new ones.

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PAR. 13. 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 five 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 the suppliers of such refurbished spark plugs to the respondent herein give to discarded, unserviceable, and worn out spark plugs, except for the additional steps performed by said suppliers having to do with restoring the appearance of newness.

PAR. 14. The acts and practices of respondent in selling discarded spark plugs which have been treated and refurbished, and which bear the brand names and other identifying marks of the original manufacturers, have had and now have the tendency and capacity to deceive purchasers thereof 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 trade in commerce with foreign countries has been diverted unfairly to the respondent from competitors in said commerce engaged in the sale of new and unused spark plugs and from competitors selling used spark plugs who truthfully represent the quality and character thereof. In consequence thereof injury has been done to competitors in commerce with foreign countries.

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 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, the answer of respondent, J. E. Bernard & Co., Inc., and the stipulation as to the facts entered into by and between W. T. Kelley, chief counsel for the Federal Trade Commission, and John Wilson Hood, attorney for the respondent, and, pursuant to such stipulation, on the record, briefs, and arguments

in the matter of "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., Docket No. 3392,"¹ and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, J. E. Bernard & Co., Inc., 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 spark plugs in commerce with foreign countries, 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 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.

¹ See *ante*, p. 212.

IN THE MATTER OF
ALGREN MANUFACTURING COMPANY, INC.

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

Docket 3200. Complaint, Aug. 10, 1937—Decision, July 9, 1940

Where a corporation engaged in manufacture of jewelry findings, including wrist watch buckles, and in sale and distribution thereof to purchasers in various other States and in the District of Columbia, in substantial competition with others engaged in manufacture of such products, and in sale and distribution thereof to jobbers in commerce among the various States and in said District of Columbia—

Sold its said jewelry findings and buckles with words "Gold Filled," which it had caused to be stamped, branded, or imprinted thereon, to jobbers by whom they were offered and sold, thus branded, to consuming public, facts being, minimum standard for marking of gold-filled articles other than watch cases, as accepted by jewelry manufacturing trade, which had generally adopted use of certain terms in describing gold-covered articles as descriptive of process used in applying gold thereto and as designating quality, quantity, and character of gold thus applied, and as representations to general public that articles were made, and gold applied, in conformity with certain set standards, is one-twentieth by weight of 10-carat gold, and said wrist watch buckles did not contain a layer or coating of gold of such substantial thickness as to be properly and accurately represented, designated, or referred to as "Gold Filled," but contained 12-carat gold to extent only of one-fiftieth of their weight, and not equivalent to one-twentieth by weight of 10-carat gold, in accordance with minimum standard aforesaid for articles properly designated as "Gold Filled" and generally accepted by trade and substantial portion of general purchasing public as being of character and weight superior to articles made by processes designated as "Gold Plate" and "Gold Electro-Plate";

With result, through use of such false and misleading statement, of placing in hands of jewelry jobbers aforesaid, instrument and means whereby they might perpetrate a fraud upon substantial portion of retailers, and both jobbers and retailers upon substantial portion of consuming public, by enabling them falsely to represent, offer, and sell said wrist watch buckles as being superior to other articles not so branded, and as being of same quality and value as other articles truthfully branded "Gold Filled," and with effect that substantial portion of retailers aforesaid and of consuming public, believing that words "Gold Filled" denoted quality exceeded only by solid gold or carat gold, were led, because of such belief, to purchase its said product, and with further result that its said acts and practices constituted added inducements for substantial number of jobbers and retail and consuming purchasers to buy such product, and unfairly diverted substantial volume of trade from many competitors who conform to set standards above referred to and do not brand as "Gold Filled" wrist watch buckles or other jewelry findings which do not contain by weight at least 5 percent gold of a fineness of at least 10 carats; to the substantial injury of competition in commerce;