

IN THE MATTER OF
TRIPPE MANUFACTURING COMPANY AND TRIPPE
SALES COMPANY

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

Docket 4037. Complaint, Feb. 20, 1940—Decision, Aug. 14, 1940

Where two corporations engaged in sale and distribution of an electric auxiliary light for use on motor vehicles, through automotive fleet owners, jobbers, and automobile dealers; in describing quality and effectiveness of their said product through circulars, letters, advertisements in newspapers, and other publications of general circulation among the prospective purchasers throughout the United States and in the District of Columbia, and through salesmen traveling through the various States and in said District—

- (a) Represented that their said light would penetrate and conquer fog, regardless of density thereof, and that fog close to ground was thin and less dense in all cases, and that said light in all cases cut under and stayed under fog blanket, facts being light in question would not penetrate all fog, regardless of density, nor was all fog thin and less dense close to ground, and it did not cut through all fog so as to give visibility to driver of motor vehicle to which it was attached;
- (b) Represented that said light gave adequate illumination in fog, rain, mist, or snow, regardless of density thereof, and afforded user 1,000 feet of visibility ahead under all conditions, facts being it would not give such illumination in fog, etc., regardless of density, nor provide operator with visibility as above represented under all conditions; and
- (c) Represented that said light had been purchased and used by the United States Coast Guard, facts being it had not been purchased and used officially by said establishment, unit or organization;

With effect of misleading and deceiving purchasers and prospective purchasers of lights in question, and of causing them erroneously and mistakenly to believe that such statements and representations were true, and, as a result, to purchase substantial quantity of product in question:

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

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

Mr. Charles S. Cox for the Commission.

Mr. Lewis F. Mason, of Chicago, Ill., for respondents.

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 Trippe Manufacturing Co., a corporation, and Trippe Sales Co., a corporation, hereinafter referred

to as respondents, have 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, Trippe Manufacturing Co., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois and has its offices and principal place of business at 564 West Adams Street, Chicago, Ill. The respondent, Trippe Sales Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois and has its offices and principal place of business at 600 West Jackson Boulevard, Chicago, Ill. Both of said respondents have branch offices and places of business at Toronto, Canada, and Halifax, England. Respondents are now and have been for more than 3 years last past, engaged in the business of selling and distributing an electric auxiliary light designed for use on motor vehicles, under the trade name "Trippe Safety Light" and "Trippe Speed Light." The respondents have acted in conjunction and cooperation with each other in carrying out the acts and practices hereinafter alleged.

PAR. 2. Respondents sell said product through automotive fleet owners, jobbers, and automobile dealers. Respondents cause said product when sold to be shipped from their aforesaid place of business in the State of Illinois to purchasers located in various States of the United States other than the State of Illinois and in the District of Columbia. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said product in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their said business, respondents are in active and substantial competition with other corporations and individuals, and with partnerships and firms engaged in the sale and distribution of electric auxiliary lights, designed for use on automobiles, in commerce between and among the various States of the United States and in the District of Columbia.

Among such competitors of respondents there are many who do not misrepresent or make false statements in connection with the sale and distribution of their respective products.

PAR. 4. In the course and conduct of their business as aforesaid, for the purpose of inducing the purchase of said product in said commerce, respondents have made many representations with respect to the quality and effectiveness of their said product by means of circulars, letters, and through advertisements inserted in newspapers and other

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publications, all circulated generally among prospective purchasers throughout the United States and in the District of Columbia, and through salesmen who travel through the various States of the United States and in the District of Columbia. Among and typical of said representations so made by the respondents are the following:

TRIPPE SAFETY LIGHT CONQUERS FOG.

Fog is a blanket of minute water particles—each a tiny mirror. Ordinary lights in fog are unavailing. But, close to the ground, fog is thin and the razor-sharp beam of Trippe Safety Light cuts under and stays under the fog blanket.

Adequate illumination in fog, rain, mist or snow.

1,000 feet of visibility ahead.

The Trippe beam CUTS UNDER fog to give visibility.

Using just your dim headlights and Trippe Safety Light you can drive 60 miles an hour at night with ample visibility of at least 1,000 feet ahead.

1,000 feet between you and danger.

Some well known commercial users of Trippe Safety Light—U. S. Coast Guard.

Many other statements of similar import and meaning but not herein set out are likewise used by said respondents.

All of said statements purport to be descriptive of respondents' product and its effectiveness when used. In the manner aforesaid, respondents directly and indirectly represent that the light rays from said Trippe Safety Light will penetrate and conquer fog regardless of its density; that fog is thin and less dense close to the ground and that the light rays from the Trippe Safety Light will cut under and stay under the fog blanket thereby giving greater visibility; that said Trippe Safety Light will provide adequate illumination in fog, rain, mist, or snow regardless of density, and to the extent of 1,000 feet ahead; that a person using said light will have 1,000 feet distance of visibility between the user and danger; that said Trippe Safety Light has been officially purchased or used by the United States Coast Guard.

PAR. 5. In truth and in fact, said statements and representation are false and misleading in that Trippe Safety Light will not penetrate fog, regardless of its density, nor is fog close to the ground thin and less dense; Trippe Safety Light does not cut under and stay under the fog blanket; Trippe Safety Light does not give adequate illumination in fog, rain, mist, or snow regardless of density, nor does it afford the user thereof, 1,000 feet of visibility ahead under all conditions; said Trippe Safety Light has not been officially purchased or used by the United States Coast Guard.

PAR. 6. The aforesaid acts and practices of the respondents in connection with the offering for sale, sale, and distribution of said product have had, and now have, the capacity and tendency to, and

do, mislead and deceive purchasers of said product into the erroneous and mistaken belief that the aforesaid false, misleading, and deceptive representations and implications are true and tend to cause a substantial number of the purchasing public, because of said erroneous and mistaken belief, to purchase a substantial number of respondent's said product, and thus unfairly to divert trade to the respondents from their competitors in said commerce, as described in paragraph 3 hereof, who do not make any misrepresentations or false statements in the manufacture, sale, and distribution of their respective products. In consequence thereof, injury has been, and is now 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 the respondents as herein alleged are all to the prejudice of the public and constitute 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 the 20th day of February 1940, issued, and subsequently served, its complaint in this proceeding charging respondents Trippe Manufacturing Co., a corporation, and Trippe Sales Co., a corporation, with the use of unfair and deceptive acts and practices in commerce, in violation of the provisions of said act. On March 11, 1940, the respondents filed their answer in this proceeding. Thereafter, at a hearing in this matter in Chicago, Ill., on April 10, 1940, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts read into the record, subject to the approval of the Commission, may be taken as the facts in this proceeding and in lieu of testimony in support of the charges of the complaint, or in opposition thereto, and that said Commission may proceed upon said statement of facts to make its report, stating its findings as to the facts and its conclusion based thereon, and disposing of the proceeding. Thereafter, the Commission having approved said stipulation, this proceeding regularly came on for final hearing before the Commission on said complaint, the answer thereto, and said stipulation as to the facts, and the Commission having duly considered the same and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Trippe Manufacturing Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois and has its office and principal place of business at 564 West Adams Street, Chicago, Ill.

The respondent, Trippe Sales Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois and has its office and principal place of business at 600 West Jackson Boulevard, Chicago, Ill.

Both of said respondents have branch offices and places of business in Toronto, Canada, and Halifax, England.

Respondents are now, and have been for more than 3 years last past, engaged in the business of selling and distributing an electric auxiliary light, designed for use on motor vehicles, under the trade names "Trippe Safety Light" and "Trippe Speed Light." The respondents have acted in conjunction and cooperation with each other in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents sell said product through automotive fleet owners, jobbers, and automobile dealers. Respondents cause said product, when sold, to be shipped from their aforesaid places of business in the State of Illinois to purchasers located in various States of the United States other than the State of Illinois and in the District of Columbia.

PAR. 3. In the course and conduct of their business as aforesaid, for the purpose of inducing the purchase of said product in said commerce, respondents have made many representations with respect to the quality and effectiveness of their said product, by means of circulars, letters, and through advertisements inserted in newspapers and other publications, all circulated generally among prospective purchasers throughout the United States and in the District of Columbia, and through salesmen who travel through the various States of the United States and in the District of Columbia.

Among and typical of said representations so made by the respondents are the following:

TRIPPE SAFETY LIGHT CONQUERS FOG.

Fog is a blanket of minute water particles—each a tiny mirror. Ordinary lights in fog are unavailing BUT, close to the ground, fog is thin and the razor-sharp beam of Trippe Safety Light cuts under and stays under the fog blanket.

Adequate illumination in fog, rain, mist or snow.

1,000 feet of visibility ahead.

The Trippe beam CUTS UNDER fog to give visibility.

Using just your dim headlights and Trippe Safety Light you can drive 60 miles an hour at night with ample visibility of at least 1,000 feet ahead.

1,000 feet between you and danger.

Some well-known commercial users of Trippe Safety Light—U. S. Coast Guard.

PAR. 4. Through the aforesaid statements, and many others of similar import and meaning not set out herein, all of which purport to be descriptive of respondents' said light and its effectiveness in use, respondents represent that said light will penetrate all fog, regardless of its density; that all fog is thin and less dense close to the ground, and that said light cuts through all fog and gives visibility to the driver of the motor vehicle to which said light is attached; that said light gives adequate illumination for visibility in fog, rain, mist, or snow, regardless of density, and affords the operator of the motor vehicle to which said light is attached 1,000 feet of visibility ahead under all conditions; and that said light has been purchased and used by the United States Coast Guard.

In truth and in fact, respondents' said light will not penetrate all fog, regardless of density; all fog is not thin and less dense close to the ground, and said light does not cut through all fog so as to give visibility to the driver of the motor vehicle to which it is attached; said light will not give adequate illumination for visibility in fog, rain, mist, or snow, regardless of density; said light will not provide the operator of the motor vehicle to which it is attached with visibility for a thousand feet ahead under all conditions; and said light has not been purchased and used by the United States Coast Guard officially.

PAR. 5. The use by the respondents of the statements and representations hereinabove set out is false, misleading, and deceptive, and has the tendency and capacity to, and does, mislead and deceive purchasers and prospective purchasers of said lights, and to cause them erroneously and mistakenly to believe that said statements and representations are true, and as a result thereof to purchase substantial quantities of said lights.

CONCLUSION

The aforesaid acts and practices of the respondents, as herein found, are all to the prejudice and injury of the public and constitute 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, the answer of respondents,

and a stipulation as to the facts entered into between the respondents herein and W. T. Kelley, Chief Counsel for the Commission, which provides, among other things, that without further hearing or other intervening procedure, the Commission may issue and serve upon the respondents herein findings as to the facts and conclusion based thereon, and an order disposing of the proceeding, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Trippe Manufacturing Co., a corporation, and Trippe Sales Co., a corporation, their officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of their electric auxiliary light designed for use on motor vehicles, now sold under the trade names "Trippe Safety Light" and "Trippe Speed Light," or any other light of similar construction and power, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing:

1. That said light will penetrate and conquer fog, regardless of its density; or that fog close to the ground is thin and less dense in all cases; or that said light cuts under and stays under the fog blanket in all cases.

2. That said light gives adequate illumination in fog, rain, mist, or snow, regardless of the density thereof; or that it affords the user thereof 1,000 feet of visibility ahead under all conditions.

3. That said light has been purchased or used by the United States Coast Guard officially, or by any other agency of the United States Government.

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
HENRY O. STRIKER, TRADING AS STROMBERG
IGNITION COMPANY

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

Docket 4064. Complaint, Mar. 13, 1940—Decision, Aug. 14, 1940

Where a corporation, and corporate successor to business thereof, had long engaged, under name "Stromberg," in manufacture of carburetors, coils, and various other automobile accessories sold under name aforesaid, to purchasers in the various States and in the District of Columbia, and valuable good will had been built up by said companies in such name as applied to their said products, and particularly those above set forth, and purchasers and prospective purchasers of automobiles and automobile accessories and members of respective trades dealing therein had, through long usage and over long period of time, identified automotive and other mechanical apparatus, devices, and accessories which bore name "Stromberg" as products of said well and favorably known companies; and, long thereafter, individual engaged in manufacture, sale and distribution of automotive device, or so-called "Condenser," sold and distributed as spark intensifier for use on all makes of automotive vehicles, in commerce among the various States and in the District of Columbia, to retailers and to agents or representatives of said individual in various States and in said District, for resale to consuming public, and direct to purchasers at various points of location throughout the United States through C. O. D. shipments—

- (a) Began use, without authority or consent of said companies, and for purpose of creating demand on part of purchasing public for his said products, of word "Stromberg" as trade name and brand therefor, and continued to make use thereof, and marked and branded therewith his said automotive device, and through statements and representations made by his agents or representatives and through circulars, handbills, and other similar printed or written matter, used and featured said word as such trade and brand name or designation, and in circulars and handbills, and in advertising matter displayed on sides of large trucks and trailers giving purported demonstrations at various places throughout the United States, featured word in question;

With capacity and tendency to confuse, mislead, and deceive purchasers and prospective purchasers into mistaken and erroneous belief that his said device was product of well and favorably known company above referred to, long manufacturer and seller, under said name, as aforesaid set forth, of automotive accessories and devices; and

- (b) Represented, through statements and representations relative to said device in circulars and handbills and on boxes or cartons containing same, and on device itself, and in other printed or written matter distributed generally to purchasers and prospective purchasers in various States and in said District, and through matter which he caused to be distributed