

IN THE MATTER OF
BENTON ANNOUNCEMENTS, INC.

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

Docket 3425. Complaint, May 13, 1938—Decision, Sept. 18, 1940

Where a corporation engaged in printing stationery for social and business purposes, including invitations, calling cards, letterheads, envelopes, and similar products, and in sale and distribution thereof to purchasers in other States and in the District of Columbia, in competition with others engaged in similar sale and distribution of stationery products for social and business purposes, and including those who produce and sell genuine engraved stationery products and truthfully advertise themselves as engravers and their products as engraving, and others who sell non-engraved stationery products and do not thus represent themselves; in circulars and other advertising matter such as letters of solicitation, price lists, sample books of wedding announcements, cards, and other social forms circulated throughout the United States to customers and prospective customers, including prospective brides and bridegrooms—

Represented itself as an engraver and its products as engraved and genuine plate engraving, through use of such words and statements as "You may have the finest plate engraved wedding stationery at half the usual cost," "Genuine plate engraving," "Compare this price with other fine engravers," "It is a pleasure indeed to send you these truly fine samples of engraving art, etc.," "The most economical method devised for producing genuine plate engraving";

Facts being its stationery was produced by printing on printing press with printing thereafter "bumped up" or embossed by use of plate, engraved by pantograph method, and it did not print from plate through inking same and printing therefrom as done by genuine engravers, but used same only for embossing or raising printed letters above plane of paper, plate was used dry and not inked for each impression as essential to true engraving process, involving taking of impression on blank paper from inked plate in one operation, and its said products could not properly be represented or described as engraving or engraved stationery, cost of which greatly exceeds that of producing stationery otherwise comparable, by process employed by it or any printing process, and was not such engraving as long understood from words "engraving" or "engraved," used in connection with business or social stationery, by trade and consuming public as meaning such products containing letters, etc., raised from general plane of the stationery surface through use under pressure of specially engraved, cut or carved metal plates, used as above indicated, and for which genuine engraved stationery substantial portion of purchasing public has decided preference over stationery produced by it or any similar process;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous belief that it owned or operated an engraving company and was in the business of producing and selling engraved or plate engraved stationery, with letters, words, and designs contained thereon engraved or

plate engraved, as result of process described above, and with result, as direct consequence of such mistaken and erroneous belief, induced by such acts, advertisements, and representations, that substantial number of consuming public purchased substantial volume of its said stationery products, and trade was unfairly diverted to it from its competitors aforesaid who do not misrepresent their business status, character, and nature of their products or process by which produced, to the injury of its competitors and that of public:

Held, That such acts and practices under the circumstances set forth are all to the prejudice and injury of the public and competitors and constitute unfair methods of competition.

Before *Mr. John J. Keenan*, trial examiner.

Mr. Merle P. Lyon for the Commission.

Bresnahan, Hoage & Eberly, of Washington, D. C., and *Mr. Carlton A. Fisher*, of Buffalo, N. Y., 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 Benton Announcements, Inc., a corporation, hereinafter referred to as the respondent, has violated the provisions of the said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Benton Announcements, Inc., is a corporation organized and doing business under and by virtue of the laws of the State of New York, and having its principal office and place of business at 16 East Tupper Street, in the city of Buffalo and State of New York. Respondent is now, and has been for more than a year last past, engaged in the business of printing, by a special process, stationery for social and business purposes, including invitations, announcements, calling cards, letterheads, envelopes, and similar products, and in selling said products in commerce as herein set out.

PAR. 2. Said respondent, being engaged in business as aforesaid, causes said stationery so printed, when sold, to be transported from its principal office and place of business in the State of New York to the purchasers thereof located in other States of the United States and in the District of Columbia. There is now, and has been at all times mentioned herein, a course of trade and commerce in said stationery so printed or produced and sold by respondent, between and among the various States of the United States and the District of Columbia.

PAR. 3. In the course and conduct of its said business, respondent is now, and has been in substantial competition with other corpora-

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tions, and with firms, partnerships, and individuals likewise engaged in printing stationery for social and business purposes and in selling such stationery in commerce among and between the various States of the United States and in the District of Columbia, and also with individuals, partnerships, firms, and corporations engaged in producing engraved stationery for social and business purposes and in selling such stationery in commerce between the various States of the United States and in the District of Columbia.

PAR. 4. In the course of the operation of said business, and for the purpose of inducing individuals, firms, and corporations to purchase said stationery products, respondent has printed and circulated throughout the several States to customers and prospective customers a circular containing, among others, the following statements:

You May Have the Finest Plate Engraved Wedding Stationery at Half the Usual Cost.

Genuine plate engraving * * * for as little as \$7.95 for one hundred * * * Complete Including Engraving of the Plate.

Compare this price with that of other fine engravers.

The enclosed card which is to be signed and returned by the prospective customer contains the following: "Please send the Benton Specimen Portfolio of Plate Engraved Wedding Invitations and Announcements by return mail."

After the respondent receives a request for the Benton Specimen Portfolio, it mails to the prospective customer a sample book of its products together with prices, and an order blank for use by the prospective customer. All orders thus received are filled by respondent and the stationery delivered by mail to the customer prepaid or on a C. O. D. basis. The order blank used by respondent contains the heading, "Benton Announcements, Inc., Engravers and Embossers."

All of said statements, together with similar statements, purport to be descriptive of respondent's business and the products manufactured and sold by it. In all of its circulars, pamphlets, order forms, and advertising literature, respondent refers to the product manufactured by it as being "genuine plate engraving" and holds itself out to the public as being an "engraver."

PAR. 5. Respondent, in the course of its business, as described in paragraphs 1 to 4, inclusive, prints invitations, announcements, calling cards, letterheads, envelopes, and social and business stationery by a process which is designated by it as "plate engraving," although such process is not the process used in producing genuinely engraved stationery. Respondent does not own or operate an "engraving" company, and respondent is not engaged in the business of "engraving." The letters, words, or designs upon stationery products manufactured,

offered for sale, and sold by respondent, in the manner aforesaid, are not the result of "engraving" according to the trade and public understanding of the term.

PAR. 6. The word "engraving" as it is used in the graphic arts, may be applied either to an engraved intaglio plate upon which letters, words, or designs have been incised or cut, or to impressions made from such a plate. Such plates are cut or incised by hand, by machine, by etching with acid, by a transfer from other engravings, and by other means, but in all cases the letters, words, or designs so to be produced upon stationery are cut below the surface of the plate. To make impressions from such plate, the ink is applied to the plate, then the plate is wiped so that the ink remains only in the lines cut below the surface. The inked plate is then put upon a piece of stationery or article to be engraved, and pressure is applied sufficient to force the surface of the stationery into the lines cut in the plate, causing the ink in such lines to adhere to the paper on which the impression is to be made.

PAR. 7. The words "engraving" and "engraved," when used in connection with, or descriptive of, business or social stationery, mean, and the trade and consuming public understand, and for many years have understood them to mean, that the stationery products so being referred to or described contain letters, words, or designs which are raised from the general plane of the stationery surface, and are in relief, and are the result of the application thereto, under pressure, of inked metal plates which have been specially engraved, cut or carved for, and are used in, the production of such stationery by the process more particularly described herein in paragraph 6.

PAR. 8. The cost of genuine engraved stationery exceeds the cost of stationery of like stock, grade, or character produced by the process employed by the respondent, as set out herein, or produced by any printing process, and a substantial portion of the purchasing public has indicated, and has, a decided preference for engraved stationery over stationery produced by respondent's process or any similar process.

PAR. 9. The use by respondent of the words "engraving," "plate engraved," "plate engraving," or "engravers," as set out in paragraph 4 hereof, either in describing its product or designating its business, in offering for sale, or selling, its stationery products, was and is calculated to, and had, and now has, the tendency and capacity to, and did, and now does, mislead and deceive a substantial portion of the purchasing public into the erroneous beliefs that respondent owns or operates an "engraving" company; that respondent is in the business of producing and selling "engraved" or "plate engraved" sta-

tionery; and that the letters, words, or designs contained upon the said stationery offered for sale, and sold, by respondent were, and are, "engraved" or "plate engraved," and are the result of the engraving process described in paragraph 6.

PAR. 10. There are among respondent's competitors many who produce "engraved" stationery products for business and social purposes, and who sell such "engraved" stationery products in commerce as herein described, properly represents and described as "engraved" stationery. There are others among respondent's competitors who produce stationery products for business and social purposes, and who sell such stationery products in commerce as herein described, but who do not manufacture or sell "engraved" stationery products, and who do not, by any means or in any manner, hold themselves out, or represent themselves to be, manufacturers of, or dealers in, "engraved" stationery products.

PAR. 11. As a direct consequence of the aforesaid mistaken and erroneous beliefs, induced by the acts, advertisements, and representations of respondent as hereinabove detailed, a number of the consuming public has purchased a volume of respondent's stationery products, with the result that trade has been unfairly diverted to respondent from its aforesaid competitors who do not misrepresent their business status, the character and nature of their respective products, or the processes by which they are produced. In consequence thereof injury has been done, and is now being done, by respondent to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 12. The aforesaid acts, practices, and representations of the respondent as herein alleged, have been, and are, all to the prejudice of the public and of respondent's competitors as aforesaid, 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 the 13th day of May 1938, issued and thereafter served its complaint in this proceeding upon the respondent Benton Announcements, Inc., charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer thereto, testimony and other evidence in support of the allegations of the said complaint were offered by Merle P. Lyon, Esq., attorney for the Commission, and in opposition to the allegations of the complaint by John A. Bresnahan, Esq.,

and Carlton A. Fisher, Esq., attorneys for the respondent, before John J. Keenan, an examiner of the Commission therefore duly designated by it, and 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 upon said complaint, the answer thereto, briefs in support of the complaint and in opposition thereto, and oral argument of counsel aforesaid. 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 conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent Benton Announcements, Inc., is a corporation duly organized and existing under and by virtue of the laws of the State of New York, with its office and principal place of business located at 16 East Tupper Street, Buffalo, N. Y. Said respondent is now engaged, and for more than 3 years has been engaged, in the business of printing stationery for social and business purposes, including invitations, calling cards, letterheads, envelopes, and similar products, and in the sale and distribution thereof in commerce between and among the various States of the United States and in the District of Columbia. Respondent causes said stationery so printed, when sold, to be transported from its principal office and place of business in the State of New York to the purchasers thereof located in States of the United States other than the State of New York, and in the District of Columbia.

PAR. 2. In the course and conduct of its said business, respondent has regularly advertised, solicited the sale of, and has sold its products through the use of circulars and other advertising matter which respondent has printed and circulated throughout the United States to customers and prospective customers. In contacting the public and its prospective customers, the respondent gathered from various newspapers and other publications the names of prospective brides and bridegrooms to whom it forwarded its literature through the United States mails. This literature consisted of letters of solicitation, price lists, sample books of wedding announcements, cards, other social forms. Among business people its efforts were confined to business forms, letterheads, envelopes, etc. Among and typical of the statements and representations made by the respondent in said letters, circulars, and literature, are the following:

You May Have the Finest Plate Engraved Wedding Stationery at Half the Usual Cost.

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Genuine plate engraving * * * for as little as \$7.95. For One Hundred * * * complete including engraving of the plate.

Compare this price with that of other fine engravers.

The above statements are contained in the original letter forwarded to prospective customers, which letter, while containing the name and address of the respondent, is signed, Mavis Dee, indicating that a Miss Dee is an authority on social forms and requirements. There is no such person as Mavis Dee in the employ of the respondent. The name is fictitious. With said letter is enclosed a card and self-addressed envelope for reply requesting sample of respondent's products.

In other letters and literature forwarded to prospective customers the following statements are made:

* * * It is a pleasure indeed to send you these truly fine examples of engraving art,—invitations and announcements by Benton.

* * * First and foremost, make certain that those offered are genuine plate engraved.

And you will find everything that wedding stationery should be,—genuine plate engraving, of course,—but more than that, *superb* engraving by Benton's exclusive craftsmanship method.

Then when you look at Benton prices, you will receive your most pleasant surprise. For Benton engraving, despite its obvious quality, is by far the most reasonably priced genuine plate work obtainable anywhere.

Benton craftsmen have evolved the most economic method devised for producing genuine plate engraving.

All of the said statements, together with similar statements appearing in respondent's other advertising matter, purport to be descriptive of respondent's business and the sales methods used in disposing of the products manufactured and sold by it. In the various catalogs, letters, and other literature distributed by respondent, there appear numerous statements wherein the respondent refers to the process by which it prints letters, words, and designs on stationery as a process of engraving and refers to the products manufactured by it as being genuine plate engraving and to the respondent as an engraver.

PAR. 3. The word "engraving," as it is used in the graphic arts, may be applied either to an engraved intaglio plate upon which letters, words, or designs have been incised or cut or to the impressions made from such a plate. Such plates are cut or incised by hand, by machine, by etching with acid, by a transfer from other engraving, and by other means, but in all cases the letters, words, or designs so to be produced upon stationery are cut below the surface of the plate. To make impressions from such a plate, the ink is applied to the plate, then the plate is wiped so that the ink remains only in the lines cut below the surface. The inked plate is then put upon a piece of stationery or

article to be engraved, and pressure is applied sufficient to force the surface of the stationery into the lines cut in the plate, causing the ink in such lines to adhere to the paper on which the impression is to be made.

PAR. 4. The words "engraving" and "engraved," when used in connection with, or descriptive of, business or social stationery, mean, and the trade and consuming public understand, and for many years have understood them to mean, that the stationery products so being referred to or described contain letters, words, or designs which are raised from the general plane of the stationery surface, and are in relief, and are the result of the application, under pressure, of metal plates which have been specially engraved, cut or carved for, and are used in, the production of such stationery by the process more particularly described in the foregoing paragraph.

PAR. 5. The cost of producing genuine engraved stationery greatly exceeds the cost of producing stationery of like stock, grade, or character produced by the process employed by respondent, as set out herein, or produced by any printing process, and a substantial portion of the purchasing public has indicated, and has, a decided preference for engraved stationery over stationery produced by respondent's process or any similar process.

PAR. 6. The use by the respondent of the words "engraving," "plate engraved," "plate engraving," or "engravers," either in describing its products or designating its business, in offering for sale and selling its stationery products, had, and now has, the tendency and capacity to, and did, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous beliefs that respondent owns or operates an "engraving" company; that respondent is in the business of producing and selling "engraved" or "plate engraved" stationery; and that the letters, words, or designs contained upon the said stationery offered for sale, and sold, by respondent, were and are, "engraved" or "plate engraved," and are the result of the engraving process described in paragraph 3 hereof.

PAR. 7. In truth and in fact, all of the statements and representations made by respondent are false and misleading. The respondent is not an engraver and the stationery offered for sale and sold by it is not engraved stationery, but is, in truth and in fact, a printed product. Respondent's stationery is produced by printing on a printing press, and after it is printed it is allowed to dry for a day, and then the printing is "bumped up" or embossed by the use of a plate. The plate is engraved by the pantograph method, principally an acid etch, and an engraving tool is used only for touching up imperfections. The respondent does not print from the plate, by inking the plate and

printing therefrom in the manner employed by genuine engravers, but the plate is used only for embossing or raising the printed letters above the plane of the paper. The plate is used dry, and is not inked for each impression as is the practice of engravers. It is absolutely essential to the true engraving process that the plate be inked and the impression taken on a blank paper from the inked plate in one operation. Respondent's products are not produced in this manner, and cannot properly be represented or described as "engraving," but rather as "raised printing."

PAR. 8. In the conduct of its business as hereinbefore set out, respondent is in competition with various persons, partnerships, and corporations who are engaged in the sale and distribution of stationery products for social and business purposes. Said competitors cause said products, when sold, to be transported from their respective places of business to the purchasers thereof located in the various States of the United States other than the State of the origin of such shipments and located in the District of Columbia. Among such competitors in commerce between and among the several States and in the District of Columbia are those who produce and sell genuine engraved stationery products and truthfully describe themselves as engravers and their products as engraving. There are others who sell non-engraved stationery products who do not represent that they are engravers or that their products are engraving.

PAR. 9. The acts and practices of the respondent as above set out, in designating, describing, and referring to itself as an "engraver" and to its stationery products as "engraving," "engraved," or "genuine plate engraving" have the capacity and tendency to, and do, mislead and deceive a substantial number of the purchasing public into the mistaken belief that respondent is an engraver and that its stationery products are produced by the genuine engraving process known to the trade and public generally.

As a direct consequence of the aforesaid mistaken and erroneous beliefs induced by the acts, advertisements, and representations of respondent as hereinbefore set out, a substantial number of the consuming public has purchased a substantial volume of respondent's stationery products, with the result that trade has been unfairly diverted to respondent from its aforesaid competitors who do not misrepresent their business status, the character and nature of their respective products, or the process by which they are produced. As a result thereof, trade in said commerce has been, and is, unfairly diverted to the respondent from its competitors in said commerce to their injury, and to the injury of the public.

CONCLUSION

The aforesaid acts and practices of respondent as herein found are all to the prejudice and injury 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, testimony, and other evidence taken before John J. Keenan, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed herein, and oral arguments by Merle P. Lyon, counsel for the Commission, and by Carlton A. Fisher, counsel for the respondent, 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, Benton Announcements, Inc., a corporation, 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 stationery products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "engraved," "engraving," or "engravers," either alone or in conjunction with any other word or words, to designate, describe, or refer to stationery products on which the lettering, inscriptions, or designs have been printed from inked type faces, electrotypes, or similar devices, and which lettering, inscriptions, or designs have been given a raised letter effect by an embossing process wherein the plates used have not been previously inked so as to make an inked impression on the paper stock at the time the embossing impression is made.

2. Using the words "engraved," "engraving," or "engravers," either alone or in conjunction with any other word or words, to designate, describe, or refer to stationery products, or the nature or character of respondent's business, unless and until the respondent produces the stationery products so designated, described, or referred to by a process which consists essentially in the application of blank stationery to an inked intaglio plate under pressure sufficient to force the surface of the stationery into the letters or designs, which are cut or incised on the plate, so that the ink in such plate adheres to the sta-

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tionery to form letters, words, characters, or designs which are in relief and raised from the general plane of the surface of the stationery.

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

Complaint

IN THE MATTER OF

SAMUEL BENENSOHN AND L. BENENSOHN, TRADING AS
KANT-SLIP MANUFACTURING COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3963. Complaint, Dec. 7, 1939—Decision, Sept. 18, 1940*

Where two individuals engaged in the manufacture, sale, and distribution of their Kant-Slip Belt Dressing to purchasers in various other states and in the District of Columbia—

Represented, through circulars, pamphlets, folders, and other written or printed matter, distributed, or caused to be distributed to prospective purchasers, that their said product was a positive preservative for leather, canvas, and fiber belts, and that use thereof would prolong life of such belts and make and keep them soft and pliable, facts being product in question, which consisted principally of resin and denatured alcohol, would not accomplish such results by use thereof on leather belts, had solvent action on oils and greases of leather, and tended to remove same, and cause leather to become dry and brittle;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such statements, representations, and claims were true and causing substantial portion of such public, because of such belief, to purchase their said product:

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

Before *Mr. John W. Addison*, trial examiner.

Mr. Jesse D. Kash for the Commission.

Siegal, Charlens & Seyfarth, 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 Samuel Benelsohn and L. Benensohn, individuals, trading as Kant-Slip Manufacturing Co., 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. Respondents, Samuel Benensohn and L. Benensohn are individuals trading and doing business under the name of Kant-Slip Manufacturing Co., with their principal place of business located at 451 East Sixty-third Street, Chicago, Ill.