

Syllabus

IN THE MATTER OF

AUTOMATIC RADIO MANUFACTURING COMPANY, INC.,
GALVIN MANUFACTURING CORPORATION, FERGUSON
RADIO AND TELEVISION COMPANY, INC., AND PEP
BOYS—MANNY, MOE, AND JACK, INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3762. Complaint, Apr. 14, 1939—Decision, Sept. 24, 1940*

Where name "Remington" was the name or part of the name of a number of corporations transacting and doing business in the United States, which were and had been well and favorably known to the purchasing public and were and had been long established in various industries, and was used by some of them as a trade name, mark, or brand for their products, and there was a preference among the purchasing public for products made and sold by the well and favorably known and long established concerns whose identity was connected with said name "Remington" and whose products were well and favorably known for quality, workmanship, and performance, and products bearing the names, marks, and brands adopted and used by said concerns had long been recognized by the purchasing public as being of superior quality, workmanship, and performance; and thereafter (1) corporation engaged in manufacture and sale of radio sets and radio parts bearing said name and sold exclusively by it to dealer operator engaged in sale through its fifty-two stores in seven states of radios, radio tubes and other radio parts, and (2) second manufacturers, engaged in manufacture and sale of such products, including automobile radios, on which it placed, at request of said dealer operator, name "Remington" and which, as thus named, it sold exclusively to said dealer operator, in furtherance of a scheme engaged in by them in cooperation with each other and with said dealer operator to deceive the public and compete unfairly with other distributors engaged in sale in commerce of radios, radio tubes and other radio parts—

(a) Adopted and used in cooperation with each other and with said dealer operator, name "Remington" to identify and designate radios sold by them to such operator for resale to purchasing public, without authority or consent of any of aforesaid corporations which had used word "Remington" in their corporate names or as trade or brand names, and with intent and effect of deceiving purchasing public into belief that their said radios were made or sold by one of said long established concerns using said name as trade name, mark or brand; and

Where said dealer operator, to carry into effect aforesaid scheme and with intent of inducing purchase of its said radios, radio tubes and other radio parts—

(b) Featured name "Remington" as brand name or mark of its said radios, radio tubes, and other radio parts in advertisements in catalogs and newspapers published and circulated among prospective customers throughout the United States and the District of Columbia and distributed by mail and otherwise; and

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- (c) Caused name "Remington," as identification thereof, to be placed upon the dials and name plates fixed and attached to said radios;
- With effect of deceiving and misleading members of purchasing public into the belief that their said radios, radio tubes, and other radio parts, marked and branded as aforesaid, were products of well known and long established concerns which rightfully used name "Remington," and of placing in the hands of dealers and others instrumentality and means whereby innocent as well as unscrupulous dealers or others reselling or otherwise disposing of such radios might also deceive and mislead purchasers into the belief that their radios, radio tubes, and other radio parts were products of one of well known concerns above referred to, and, as a result of erroneous belief aforesaid, of inducing public to purchase their said product in preference to radios of competitors and of thereby diverting trade to themselves from competitors, including those engaged, as aforesaid, in sale and distribution of such products in commerce and who do not misbrand or misrepresent their said products; to the substantial injury of competitors and the public:
- Held*, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and competitors, and constituted unfair methods of competition in commerce and unfair and deceptive acts and practices therein.

Before *Mr. Lewis C. Russell*, trial examiner.

Mr. Carrel F. Rhodes for the Commission.

Mr. Charles E. Green, of Chicago, Ill., for Galvin Manufacturing Corporation.

Mr. Daniel R. Forbes and *Mr. James O. Wrightson, Jr.*, of Washington, D. C., and *Mr. Edward A. Kelly*, of Philadelphia, Pa., for Pep Boys—Manny, Moe, and Jack, Inc.

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 Automatic Radio Manufacturing Co., Inc., Galvin Manufacturing Corporation, Ferguson Radio and Television Co., Inc., and Pep Boys—Manny, Moe and Jack, Inc., 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 Automatic Radio Manufacturing Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Massachusetts, with its offices and principal place of business located at 159 Brookline Avenue, Boston, Mass. Respondent Automatic Radio Manufacturing Co., Inc., is engaged in the manufacture of radio sets, radio parts, and

like products at its said place of business in Boston, Mass., and in the sale and distribution thereof to dealers and members of the purchasing public located in the United States and in foreign countries.

Respondent Galvin Manufacturing Corporation is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Massachusetts with its offices and principal place of business located at 4545 Augusta Street, Chicago, Ill. Respondent Galvin Manufacturing Corporation is engaged in the manufacture of radio sets, radio parts, and like products at its said place of business in Chicago, Ill., and in the sale and distribution thereof to dealers and members of the purchasing public located in the United States and in foreign countries.

Respondent Ferguson Radio and Television Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York with its offices and principal place of business located at 745 Broadway, New York, N. Y. Respondent Ferguson Radio and Television Co., Inc. is engaged in the manufacture of radio sets, radio parts, and like products at its said place of business in the city of New York, N. Y., and in the sale and distribution thereof to dealers and members of the purchasing public located in the United States and in foreign countries.

The respondents named and described in this paragraph are hereinafter referred to as respondent manufacturers. Said respondent manufacturers cause their respective products, when sold, to be transported from their said places of business, located as aforesaid, to the purchasers of said products at their various points of location in the several States of the United States, in the District of Columbia and in foreign countries.

PAR. 2. Respondent Pep Boys—Manny, Moe and Jack, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business located at Tenth Street and Somerville Avenue, Philadelphia, Pa. Said respondent is engaged in the sale and distribution of a line of automotive accessories including radio sets, radio parts, and like products. It sells and distributes said products through branch stores located in the several States of the United States and in the District of Columbia. It causes said products, when sold, to be transported from its various stores at their respective points of location to the purchasers of said products, many of whom are located in States other than the State of origin of said shipments. Said respondent conducts stores in the District of Columbia and makes sales of said products from said stores to purchasers located in the District of Columbia and in various States

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of the United States and it causes such products, when sold, to be transported from said stores in the District of Columbia to said purchasers at their respective points of location.

PAR. 3. All of said respondents now maintain, and for more than 1 year last past have maintained, a course of trade in said products so sold and distributed by them in commerce among and between the various States of the United States, in the District of Columbia and with foreign countries.

In the course and conduct of their said businesses, the respondents are now, and for more than one year last past have been, in competition with other corporations and with individuals and partnerships engaged in the business of manufacturing, selling, and distributing, and in the business of selling and distributing, radio sets, radio parts, and like products in commerce among and between the various States of the United States, in the District of Columbia and with foreign countries.

PAR. 4. Each of the respondent manufacturers and the respondent Pep Boys—Manny, Moe and Jack, Inc., in cooperation with each other, have been for the several years last past, and are now, engaged in a scheme to deceive the public and to compete unfairly with other distributors of radio sets, radio parts, and like products who are in competition with all of said respondents in commerce among and between the several States of the United States, in the District of Columbia and with foreign countries. In furtherance of said scheme, said respondent manufacturers have cooperated with the respondent Pep Boys—Manny, Moe, and Jack, Inc., by adopting and using as marks or brands to designate radio sets, radio parts, and like products, sold to respondent Pep Boys—Manny, Moe, and Jack, Inc., for distribution to the purchasing public, the names, marks and brands of corporations, partnerships, and individuals well and favorably known to the purchasing public and long established in various industries, which names, marks, and brands were adopted and used, and are now being used, by the respondents without the authority or consent of the legal owners and users thereof, for the purpose and with the effect of deceiving the purchasing public and injuring competitors. Among the names, marks, and brands so adopted and used by the respondents to identify their said radio sets, radio parts, and like products is the name "Remington."

PAR. 5. In the course and conduct of their business as aforesaid, and for the purpose of inducing the purchase of their said radio sets, radio parts, and like products, respondents have published and have circulated among prospective customers throughout the United States, in the District of Columbia and in foreign countries, adver-

tisements in letters, pamphlets, circulars, and newspapers, distributed by mail and otherwise, in which the name "Remington" is featured as a brand name or mark on radio sets, radio parts, and like products, referred to in said advertisements, and they have placed upon the dials and name plates fixed and attached to said radio sets, radio parts, and like products, to identify said products, the name "Remington." The radio sets, radio parts, and like products to which reference is made in said advertisements and upon which are placed dials and name plates bearing the word "Remington" are not manufactured and sold by one of the legal owners and users of said name Remington who are well and favorably known to the public and long established in industry, but are manufactured and sold by said respondent manufacturers and sold by the respondent Pep Boys—Manny, Moe and Jack, Inc., as hereinabove alleged.

PAR. 6. There is a preference among the purchasing public for products manufactured and sold by well and favorably known and long established concerns whose products are well and favorably known for quality, workmanship, and performance, and the products bearing the names, marks, and brands adopted and used by the respondents as aforesaid, and more especially the products bearing the name "Remington," have long been recognized by the purchasing public as being of superior quality, workmanship, and performance produced by well and favorably known and long established concerns. Purchasers buy respondents' said radio sets, radio parts, and like products so marked and branded with the name "Remington" under the mistaken belief that they are buying the products of well known and long established concerns whose reputation for quality, workmanship, and performance they rely upon and to whom such purchasers look for satisfaction in the event of the failure of performance, or defect in quality or workmanship, of the products so purchased. Many purchasers have bought respondents' aforesaid products under the mistaken and erroneous belief, induced by respondents' said use of the said name "Remington" in the manner aforesaid, that the products so purchased were the products manufactured and sold by well known and long established legal owners and users of the name Remington, as a mark or brand to designate the products manufactured and sold by them.

PAR. 7. There are among the competitors of the respondents herein described other corporations, and individuals and partnerships, engaged in the business of selling and distributing radio sets, radio parts, and like products in commerce among and between the several States of the United States, in the District of Columbia, and in foreign countries, who do not misbrand or falsely represent

their said products. Among such competitors are legal owners and users of the name Remington, who use, and have used, said name as a mark or brand to identify products like or similar to those sold and distributed by the respondents.

The products bearing the name Remington, and known and described as Remington products, enjoy a favorable reputation among members of the purchasing public for quality, workmanship, and performance, and the name Remington has a great monetary good-will value to the manufacturers of such products.

PAR. 8. The use by the respondents of the name "Remington" in the manner aforesaid as a mark or brand to designate said radio sets, radio parts, and like products is deceptive and misleading, and has had, and now has, the capacity and tendency to, and does, mislead and deceive members of the purchasing public into the mistaken and erroneous belief that respondents' said products so marked and branded are the products of other well known and long established concerns who use, and have a lawful right to the use of, the name Remington. Said respondent manufacturers and the respondent Pep Boys—Manny, Moe and Jack, Inc., by the said use of the said name "Remington," have placed in the hands of others who deal in their said products a means and instrumentality whereby unscrupulous sellers may mislead and deceive purchasers into the aforementioned mistaken and erroneous belief. As a result of the mistaken and erroneous belief, induced by the respondents' said acts, practices, and representations as herein alleged, purchasers have purchased a substantial quantity of respondents' said products, with the result that trade has been, and is, unfairly diverted to the respondents from their competitors engaged in selling radio sets, radio parts, and like products in commerce among and between the several States of the United States, in the District of Columbia and in foreign countries, who do not misrepresent the nature, character, quality, and sources of their respective products. As a consequence thereof, substantial injury has been done, and is now being done, by the respondents to competitors in said commerce between and among the various States of the United States, in the District of Columbia and in foreign countries.

PAR. 9. The aforesaid acts and practices of respondents as herein alleged are all to the prejudice and injury 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 14, 1939, issued, and subsequently served, its complaint in this proceeding charging respondents, Automatic Radio Manufacturing Co., Inc., Galvin Manufacturing Corporation, Ferguson Radio and Television Co., Inc., and Pep Boys—Manny, Moe, and Jack, Inc., with the use of unfair methods of competition and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. Respondents, Automatic Radio Manufacturing Co., Inc., Galvin Manufacturing Corporation, and Pep Boys—Manny, Moe, and Jack, Inc., filed answers.

Thereafter, testimony and other evidence in support of the allegations of the complaint were introduced by Carrel F. Rhodes, attorney for the Commission, and in opposition thereto by Charles E. Green, attorney for respondent Galvin Manufacturing Corporation, and by Daniel R. Forbes and James O. Wrightson, Jr., attorneys for respondent Pep Boys—Manny, Moe, and Jack, Inc., before Lewis C. Russell, a trial examiner theretofore duly designated by the Commission, 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 on the complaint, the answers of respondents, said testimony and other evidence, brief of attorney for the Commission, brief of attorneys for respondent Pep Boys—Manny, Moe, and Jack, Inc., and the Commission having duly considered the matter, and being now fully advised in the premises, finds that the 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, Ferguson Radio and Television Co., Inc., was a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, and had its principal office and place of business at 745 Broadway, New York, N. Y. This respondent is no longer engaged in business and has discontinued all corporate activities, its business having been liquidated in a bankruptcy proceeding prior to the issuance of complaint herein.

PAR. 2. Respondent, Automatic Radio Manufacturing Co., Inc. (hereinafter referred to as Automatic Co.), a Massachusetts corporation, with its principal place of business at 122 Brookline Avenue,

Boston, Mass., has been engaged for several years last past in the manufacture and sale of radio sets and radio parts bearing the name "Remington" which were sold exclusively to respondent, Pep Boys—Manny, Moe, and Jack, Inc., and has caused its products, when so sold, to be transported in commerce from Boston, Mass., to respondent, Pep Boys—Manny, Moe, and Jack, Inc., at its branch places of business located in various States other than Massachusetts.

PAR. 3. Respondent, Galvin Manufacturing Corporation (hereinafter referred to as Galvin Co.), an Illinois corporation having its principal place of business at 4545 Augusta Boulevard, Chicago, Ill., is engaged, and has been engaged for several years last past, in the manufacture and sale of radios and radio parts, and during said times it sold automobile radios to respondent, Pep Boys—Manny, Moe, and Jack, Inc., bearing the name "Remington," which it placed thereon at the request of respondent, Pep Boys—Manny, Moe, and Jack, Inc. The respondent sold its radios bearing the name "Remington" exclusively to respondent, Pep Boys—Manny, Moe, and Jack, Inc., and caused such radios, when so sold, to be transported in commerce from Chicago, Ill., to respondent, Pep Boys—Manny, Moe, and Jack, Inc., at its branch places of business located in various States other than Illinois.

PAR. 4. Respondent, Pep Boys—Manny, Moe, and Jack, Inc., (hereinafter referred to as Pep Boys Co.) is a Pennsylvania corporation with its principal office and place of business at Tenth Street and Somerville Avenue, Philadelphia, Pa., and is now and for a number of years has been engaged in the sale of radios, radio tubes, and other radio parts, through 52 stores operated by it which are located in 7 of the States of the United States and in the District of Columbia. Said respondent causes said radios and other products when sold by it to be transported from its various stores to the purchasers thereof located in States other than the State of origin of the shipment and located in the District of Columbia. Many of the radios transported in said commerce between and among the various States of the United States and in the District of Columbia had plates affixed thereto carrying the name "Remington" and had been advertised by said respondent under the trade name "Remington." Said radios so distributed in said commerce were manufactured for this respondent by said respondents, Automatic Co. and Galvin Co., as hereinabove set out.

PAR. 5. Respondents, Automatic Co., Galvin Co., and Pep Boys Co., now maintain and for more than two years last past have maintained, a course of trade in radios, radio tubes, and other radio parts sold and

distributed by them in commerce among and between the various States of the United States and in the District of Columbia.

In the course and conduct of their said business, the above respondents are now, and for more than 1 year last past have been, in substantial competition with corporations, firms and individuals engaged in the sale and distribution of radios, radio tubes, and other radio parts in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 6. Each of the respondents named in paragraph 5 hereof has been for several years last past, and is now, in cooperation with the other two respondents, engaged in a scheme to deceive the public and to compete unfairly with other distributors of radios, radio tubes, and other radio parts, who are engaged in the sale of radios, radio tubes, and other radio parts in commerce. In furtherance of said scheme, said respondent manufacturers have cooperated with the respondent, Pep Boys Co., in adopting and using the name "Remington" to identify and designate radios sold by them to respondent, Pep Boys Co., for resale to the purchasing public. The name "Remington" is the name or part of the name of a number of corporations transacting and doing business in the United States which are and have been well and favorably known to the purchasing public and which are and have been long established in various industries. Some of these corporations use the name "Remington" as a trade name, mark, or brand for the products manufactured and sold by them. The trade name, mark, or brand "Remington" was adopted and used and is now being used by said respondents without the authority or consent of any of said corporations which have heretofore used the name "Remington" in their corporate name or as a trade or brand name and for the purpose and with the effect of deceiving the purchasing public into the belief that respondents' radios were made or sold by one of said long-established concerns using the name "Remington" as a trade name, mark, or brand.

PAR. 7. In the course and conduct of its business as aforesaid, and to carry into effect the scheme referred to above, and for the purpose of inducing the purchase of its said radios, radio tubes, and other radio parts, respondent, Pep Boys Co., has published and circulated among prospective customers throughout the United States and in the District of Columbia advertisements in catalogs and newspapers, distributed by mail and otherwise, in which the name "Remington" is and was featured as a brand name or mark of its radios, radio tubes, and other radio parts, and it has caused the name "Remington" to be placed upon the dials and name plates fixed and attached to said radios, to identify them.

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PAR. 8. There is a preference among the purchasing public for products manufactured and sold by the well and favorably known and long-established concerns whose identity is connected with the name "Remington," and whose products are well and favorably known for quality, workmanship and performance, and the products bearing the names, marks, and brands adopted and used by such concerns have long been recognized by the purchasing public as being of superior quality, workmanship, and performance.

PAR. 9. The use by respondents of the name "Remington" in the manner aforesaid as a mark or brand to designate said radios is deceptive and misleading, and it has had, and now has, the capacity and tendency to deceive and mislead, and it has deceived and misled, members of the purchasing public into the belief that the respondents' radios, radio tubes and other radio parts marked and branded "Remington" were the products of well-known and long-established concerns which rightfully use "Remington." The respondent manufacturers and the respondent, Pep Boys Co., by the sale of their radios, radio tubes, and other radio parts with the name "Remington" thereon, have placed in the hands of dealers and others the instrumentality and the means whereby innocent, as well as unscrupulous dealers, or others, who resell or otherwise dispose of the radios, may also deceive and mislead purchasers into the belief that the respondents' radios, radio tubes, and other radio parts were the products of one of the well-known concerns referred to above. As a result of the erroneous belief above described, the public has been induced to purchase respondents' radios, radio tubes and other radio parts in preference to radios sold by competitors, and trade has been, and is, thereby diverted to the respondents from their competitors. As a consequence of the acts and practices of respondents set forth above, substantial injury has been done to competitors and to the public.

PAR. 10. There are among the competitors of said respondents herein described corporations, individuals, and partnerships engaged in the business of selling and distributing radios, radio tubes, and other radio parts in commerce among and between the several States of the United States and in the District of Columbia who do not misbrand or misrepresent their said products.

CONCLUSION

The aforesaid acts and practices of the respondents as herein found are all to the prejudice and injury 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 of the Commission, the answer of the respondents, Automatic Radio Manufacturing Co., Inc., Galvin Manufacturing Corporation, and Pep Boys—Manny, Moe, and Jack, Inc., testimony and other evidence taken before Lewis C. Russell, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint, and in opposition thereto, briefs filed therein and oral arguments by Carrel F. Rhodes, counsel for the Commission, and Daniel R. Forbes and James O. Wrightson, Jr., counsel for the respondent, Pep Boys—Manny, Moe, and Jack, Inc., and the Commission having made its findings as to the facts and its conclusion that said respondents, Automatic Radio Manufacturing Co., Inc., Galvin Manufacturing Corporation, and Pep Boys—Manny, Moe, and Jack, Inc., have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Automatic Radio Manufacturing Co., Inc., Galvin Manufacturing Corporation, and Pep Boys—Manny, Moe, and Jack, Inc., collectively and severally, their officers, representatives, agents, or employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of radio sets and radio tubes and parts in commerce as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from—

Using the word "Remington" or any simulation thereof, whether spelled the same or not, as a brand or name to mark, designate, describe, or refer to radios, radio tubes, or other radio parts.

It is further ordered, That said 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.

It is further ordered, That the complaint herein be, and the same hereby is, dismissed as to respondent Ferguson Radio and Television Co., Inc.

Modified Order

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IN THE MATTER OF
CENTURY METALCRAFT CORPORATION

MODIFIED CEASE AND DESIST ORDER

Docket 3601. Order, Sept. 25, 1940

Modified order, pursuant to provisions of Section 5 (i) of Federal Trade Commission Act, in proceeding in question, in which original order issued on April 29, 1939, 28 F. T. C. 1526, and in which Circuit Court of Appeals for the Seventh Circuit on May 18, 1940, in *Century Metalcraft Corporation v. Federal Trade Commission*, 112 F. (2d) 443, 30 F. T. C. 1676, rendered its opinion, and on June 15, 1940, issued its decree modifying order in question in certain particulars and affirming same in other particulars—

Requiring respondent, its officers, etc., in connection with offer, etc., in commerce, of kitchen utensils, to forthwith cease and desist from representing that doctors or hospitals have endorsed and recommended its said utensils, or that it manufactures same, or circulating, etc., unfair or disparaging statements concerning competitors or their products, or representing that food cooked in granite or aluminum utensils is dangerous, or that the usefulness, etc., of its utensils, sold under trade name "Silver Seal", is enhanced or affected by reason of silver therein contained, or that its said utensils contain no aluminum, etc., or are more durable and easily cleaned, etc., involve new or revolutionary method, insure improved health, or were used generally by the Army during the World War, as in said order below in detail specified.

Mr. Donovan Divet for the Commission.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding coming on for further hearing before the Federal Trade Commission and it appearing that on April 29, 1939, the Commission made its findings as to the facts herein and concluded therefrom that respondent had violated the provisions of the Federal Trade Commission Act and issued and subsequently served its order to cease and desist; and it further appearing that on May 18, 1940, the United States Circuit Court of Appeals for the Seventh Circuit rendered its opinion and on June 15, 1940, issued its decree modifying the aforesaid order of the Commission in certain particulars and affirming said order in other particulars.

Now therefore, Pursuant to the provisions of subsection (i) of Section 5 of the Federal Trade Commission Act, the Commission issues this its modified order to cease and desist in conformity with said decree.