

IN THE MATTER OF
•
INTERWOVEN STOCKING COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914

Docket 4179. Complaint, July 11, 1940—Decision, Oct. 4, 1940

Where a corporation engaged in manufacture of men's hosiery of various designs and patterns, and in sale and distribution thereof from its factories in Maryland, Pennsylvania, Tennessee, and West Virginia, to purchasers in various other States and in the District of Columbia, and including department stores and retailers by whom said product was in turn resold to purchasing public—

Caused certain of its said hosiery to be marked, stamped, branded, or labeled "Made on Machinery Imported From England Genuine 6×3 Ribbed" and "Made on Machinery Imported From England Entirely Hand Embroidered," with words "Imported From England" stamped in large conspicuous type inside oval in such manner that words "Imported From" appeared immediately above, and were read in conjunction with, word "England," and with words "Made on Machinery" appearing inside top rim of such oval, so as to be capable of indicating merely that product in question was made by machinery, or thus made and "Imported from England," and, in some instances, superimposed above such oval, the figure or simulation of the English crown, with words "Trade Mark" thereunder, and words, under oval, "Genuine 6×3 Ribbed," and in other instances placed underneath oval words "Entirely Hand Embroidered," notwithstanding fact hosiery thus marked, labeled and branded was not imported from England, but was domestically made on machinery which was imported therefrom;

With effect of creating false and erroneous impression on part of purchasing public that products thus branded or labeled were machine-made and imported from said country, in which, only, originally, 6×3 hose were manufactured, and of misleading and deceiving purchasers and prospective purchasers of its said product into erroneous and mistaken belief that such false, misleading, and deceptive representations and implications were true, and that said men's hosiery was made or manufactured in England, for which, especially, along with other hosiery made in foreign countries, there has long been marked preference by substantial part of consuming public in United States, and of causing substantial number of purchasing public, because of such mistaken and erroneous belief thus engendered, to purchase substantial number of its said product:

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

Mr. Charles S. Cox for the Commission.

Mr. J. E. Hutchinson, Jr., of Washington, D. C., and *Mr. Louis Prevost Whitaker*, 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 Interwoven Stocking Co., a corporation, 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, Interwoven Stocking Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New Jersey with its office and principal place of business located at New Brunswick, N. J., and owns, controls, or operates factories in the States of Maryland, Pennsylvania, Tennessee, and West Virginia.

PAR. 2. Respondent is now, and for more than five years last past has been, engaged in manufacturing, selling, and distributing men's hosiery of various designs and patterns. Respondent causes said men's hosiery when sold by it to be transported from its factories located in the States of Maryland, Pennsylvania, Tennessee, and West Virginia to purchasers thereof at their respective points of location in the various states of the United States other than the States of Maryland, Pennsylvania, Tennessee, and West Virginia, and in the District of Columbia.

PAR. 3. Respondent's said hosiery is sold to department stores and retailers who in turn resell the same to the purchasing public. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said men's hosiery in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of its business as aforesaid, the respondent causes certain of its hosiery to be marked, stamped, branded, or labeled as follows:

MADE ON MACHINERY
IMPORTED FROM
ENGLAND

GENUINE 6 X 3 RIBBED

MADE ON MACHINERY
IMPORTED FROM
ENGLAND

ENTIRELY HAND EMBROIDERED

The words "Imported from England" are stamped in large conspicuous type inside an oval in such a manner that the words "Imported from" appear immediately above and are read in conjunction with the

word "England," and the words "Made on Machinery" appearing inside the top rim of said oval can be read in such a sense as to indicate merely that the hose were made by machinery, or were made by machinery and are "Imported from England." In some instances respondent has superimposed above said oval the figure or simulation of the English Crown with the words "Trade Mark" appearing thereunder and just above said oval, while underneath said oval appear the words "Genuine 6x3 Ribbed."

In other instances, respondent has placed the words "Entirely Hand Embroidered" underneath said oval.

PAR. 5. The effect of the aforesaid branding, labeling, stamping, or printing is to create the false and erroneous impression on part of the purchasing public that the products so branded or labeled are machine-made and were and are imported from England. The presence of the English Crown superimposed above the oval portion of the stamping or printing followed by the words "Genuine 6x3 Ribbed" thereunder further implies that the hose were "Imported from England" but "Made on Machinery." Originally 6x3 ribbed hose were made only in England, although later machinery therefor was imported into the United States from England and other countries, and American machinery was later devised for the manufacture of 6x3 ribbed hose. The use of the word "Genuine" before "6x3 Ribbed" gives the further impression and effect that said hose are imported from England, inasmuch as England was originally the only source through which a "6x3 Ribbed" hose could be obtained.

PAR. 6. For many years a substantial part of the consuming public of the United States has had, and still has, a marked preference for men's hosiery which are manufactured in foreign countries, especially in England, and then imported into the United States.

PAR. 7. In truth and in fact, respondent's said hosiery so marked, labeled, and branded is not imported from England but is domestically manufactured on machinery which was imported from England.

PAR. 8. The aforesaid acts and practices of the respondent in connection with the manufacture, offering for sale, sale, and distribution of said men's hosiery as set forth in paragraphs 4 and 5 hereof have had, and now have, a capacity and tendency to, and do, mislead and deceive purchasers and prospective purchasers of respondent's said products into the erroneous and mistaken belief that the aforesaid false, misleading, and deceptive representations and implications are true and that said products are made or manufactured in England, and cause a substantial number of the purchasing public because of said mistaken and erroneous belief so engendered to purchase a substantial number of respondent's said hosiery.

PAR. 9. The aforesaid acts and practices of the respondent 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 July 11, 1940, issued, and on July 12, 1940, served its complaint in this proceeding upon respondent, Interwoven Stocking Co., charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and substitute answer, and the Commission, having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Interwoven Stocking Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New Jersey with its office and principal place of business located at New Brunswick, N. J., and owns, controls, or operates factories in the States of Maryland, Pennsylvania, Tennessee, and West Virginia.

PAR. 2. Respondent is now, and for more than 5 years last past, has been engaged in manufacturing, selling, and distributing men's hosiery of various designs and patterns. Respondent causes said men's hosiery when sold by it to be transported from its factories located in the States of Maryland, Pennsylvania, Tennessee, and West Virginia to purchasers thereof at their respective points of location in the various States of the United States other than the States of Maryland, Pennsylvania, Tennessee, and West Virginia, and in the District of Columbia.

PAR. 3. Respondent's said hosiery is sold to department stores and retailers who in turn resell the same to the purchasing public. Re-

Findings

31 F. T. C.

spondent maintains, and at all times mentioned herein has maintained, a course of trade in said men's hosiery in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of its business as aforesaid, the respondent causes certain of its hosiery to be marked, stamped, branded, or labeled as follows:

MADE ON MACHINERY
IMPORTED FROM
ENGLAND
GENUINE 6 x 3 RIBBED

MADE ON MACHINERY
IMPORTED FROM
ENGLAND
ENTIRELY HAND EMBROIDERED

The words "Imported from England" are stamped in large conspicuous type inside an oval in such a manner that the words "Imported from" appear immediately above and are read in conjunction with the word "England," and the words "Made on Machinery" appearing inside the top rim of said oval can be read in such a sense as to indicate merely that the hose were made by machinery, or were made by machinery and are "Imported from England." In some instances respondent has superimposed above said oval the figure or simulation of the English Crown, with the words "Trade Mark" appearing thereunder and just above said oval, while underneath said oval appears the words "Genuine 6 x 3 Ribbed."

In other instances, respondent has placed the words "Entirely Hand Embroidered" underneath said oval.

PAR. 5. The effect of the aforesaid branding, labeling, stamping, or printing is to create the false and erroneous impression on part of the purchasing public that the products so branded or labeled are machine-made and were and are imported from England. The presence of the English Crown superimposed above the oval portion of the stamping or printing followed by the words "Genuine 6 x 3 Ribbed" thereunder further implies that the hose were "Imported from England" but "Made on Machinery." Originally 6 x 3 ribbed hose were made only in England although later machinery therefor was imported into the United States from England and other countries, and American machinery was later devised for the manufacture of 6 x 3 ribbed hose. The use of the word "Genuine" before "6 x 3 Ribbed" gives the further impression and effect that said hose are imported from England, inasmuch as England was originally the only source through which a "6 x 3 Ribbed" hose could be obtained.

1062

Order

PAR. 6. For many years a substantial part of the consuming public of the United States has had, and still has, a marked preference for men's hosiery which are manufactured in foreign countries, especially in England, and then imported into the United States.

PAR. 7. In truth and in fact, respondent's said hosiery so marked, labeled, and branded is not imported from England but is domestically manufactured on machinery which was imported from England.

PAR. 8. The aforesaid acts and practices of the respondent in connection with the manufacture, offering for sale, sale, and distribution of said men's hosiery as set forth in paragraphs 4 and 5 hereof have had, and now have, a capacity and tendency to, and do, mislead and deceive purchasers and prospective purchasers of respondent's said products into the arroneous and mistaken belief that the aforesaid false, misleading, and deceptive representations and implications are true, and that said products are made or manufactured in England and cause a substantial number of the purchasing public, because of said mistaken and erroneous belief so engendered, to purchase a substantial number of respondent's said hosiery.

CONCLUSION

The aforesaid acts and practices of the respondent, as herein found, are all to the prejudice of the public and of respondent's competitors, 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 and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent Interwoven Stocking Co., its officers, representatives, agents, and employees, directly or indirectly, through any corporate or other device, in connection with the offering for sale, sale, and distribution of hosiery in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Order

31 F. T. C.

1. Using the term "Imported from England," except as provided in prohibition 2 hereof, either alone or in connection with any other term indicative of English or other foreign manufacture, to describe hosiery manufactured in the United States.

2. Using the term "Made on Machinery Imported from England," in any way to describe or refer to hosiery made in the United States on machinery imported from England, unless the words "Made on Machinery" appear in immediate connection with the words "Imported from England" in letters and type of equal prominence and conspicuousness.

3. Using a facsimile of the English crown, or any other symbol indicative of England, alone or in connection with the words, "Genuine 6 x 3 Ribbed," or in any other manner so as to import or imply that hosiery manufactured in the United States is imported from England.

4. Representing, in any manner, that hosiery made in the United States is imported from England or any other foreign country.

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.

Syllabus

IN THE MATTER OF
JORDAN STEVENS COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4269. Complaint, Aug. 27, 1940—Decision, Oct. 7, 1940*

Where a corporation engaged in sale and distribution of coffee, including certain assortments thereof which were so packed and assembled as to involve use of a lottery scheme when sold and distributed to the consumers thereof, and which included (1) 100 1-pound packages of said product and 25-piece set of dishes, together with advertising poster or card for use in sale and distribution of product and dishes under a plan in accordance with which that purchaser of pound of coffee whose name was placed on card opposite number corresponding to number concealed under card's seal received, without additional cost, such 25-piece set of dishes, and others not successful in so doing secured only coffee purchased by them; and (2) various other assortments of coffee involving lot or chance feature and sales plans or methods which were similar to that above described and from which they varied in detail only—

Sold said assortments to dealer or retailer purchasers, by whom, as direct or indirect buyers thereof, same were exposed and sold to purchasing public in accordance with such sales plans, involving game of chance or sale of a chance to procure set of dishes without cost, and thereby supplied to and placed in the hands of others means of conducting lotteries in sale of its said merchandise in accordance with such sales plans or methods, contrary to an established public policy of the United States Government and in violation of criminal laws, and in competition with many who sell and distribute coffee and are unwilling to adopt and use said or any method involving use of a game of chance or sale of a chance to win something by chance, or any other method contrary to public policy, and refrain therefrom;

With the result that many persons were attracted by its said methods and by element of chance involved in sale of coffee as above described, and were thereby induced to buy and sell its product in preference to that offered and sold by said competitors who do not use same or equivalent method, and with effect, through use of such methods and because of said game of chance, of unfairly diverting trade to it from its competitors aforesaid, who do not use such or equivalent methods; to the substantial injury of competition in commerce:

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.

Mr. D. C. Daniel for the Commission.