

Complaint

IN THE MATTER OF
VULCAN LAMP WORKS, INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket \$987. Complaint, Jan. 3, 1940—Decision, Dec. 2, 1940*

Where a corporation engaged in manufacturing flashlight and other incandescent electric light bulbs, and in selling same to retail trade, and in importing from Japan glass bulbs and assembling such products, along with other parts, into flashlight lamps, volume of business in which constituted about 3 percent of its total volume—

- (a) Sold to retail dealers finished lamps referred to, in which said imported glass bulbs, upon the necks of which were imprinted words "Made in Japan" or "Japan," were placed by it in bases which it bought from manufacturers and which bore thereon legend "Made in U. S. A.," with result that said Japanese word or words were entirely concealed and there remained visible only aforesaid legend, with no markings thereon to indicate that bulbs in question and basic part of such lamps were of Japanese or foreign, rather than domestic, origin; and
- (b) Placed such lamps, in packing and arranging same for shipment to retailers and for display and resale by such dealers to purchasing public, in cartons and on cards bearing legend "Made in U. S. A." or "American Made for American Trade," or other legends of similar import or meaning, representing said lamps as wholly of American origin;

With effect, through said practices in concealing such legends of origin and in representing, as above set forth, that said flashlight lamps were wholly of domestic origin, of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that said lamps were products wholly of domestic origin, for which there is decided preference among members of purchasing public over those composed in whole or to some extent of parts made in Japan or other foreign country, and with consequence, as result of such erroneous and mistaken belief as to said domestic origin of such lamps, engendered as above set forth, that substantial portion of purchasing public was induced to and did buy its said products, and with effect further, through use of such practices, of placing in hands of unscrupulous or uninformed dealers means and instrumentality whereby such dealers had been and were enabled to mislead and deceive members of purchasing public:

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

Mr. Clark Nichols for the Commission.

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Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said act, the Federal

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Trade Commission, having reason to believe that the Vulcan Lamp Works, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Vulcan Lamp Works, Inc., is a corporation organized under the laws of the State of New Jersey, with its office and principal place of business at 125 Jersey Street, Harrison, N. J. The respondent is now and has been for several years last past engaged in the business of purchasing small glass incandescent electric light bulbs and bases therefor, and assembling these into miniature incandescent lamps, automobile bulbs, flashlight bulbs, and other incandescent electric lamps, and offering for sale and selling such finished products to retail dealers for resale to the purchasing public.

Respondent causes its products, when sold, to be transported from its place of business in the State of New Jersey to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its said business the respondent imports many of its bulbs from the country of Japan, which bulbs when received by respondent have imprinted on the neck thereof the words "Made in Japan" or "Japan." In the manufacture of the finished lamps the respondent places such bulbs into bases which are purchased by respondent from manufacturers in the United States and which bear thereon the legend "Made in U. S. A." As a result of such process the words "Made in Japan" or "Japan" are entirely concealed and there remains visible only the legend "Made in U. S. A." Such finished lamps are then sold by respondent to retail dealers without any marking thereon to indicate that the bulbs of such lamps, which constitute the basic part thereof, are of Japanese or foreign origin rather than domestic origin.

In packing and arranging such lamps for shipment to retail dealers and for display and resale by such dealers to the purchasing public, the respondent places such lamps in cartons and on cards bearing the legend "Made in U. S. A." or "American Made for American Trade," or other legends of similar import or meaning, all of which represent that such lamps are wholly of American manufacture.

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Findings

PAR. 3. There is among the members of the purchasing public a decided preference for products which are manufactured in the United States over products manufactured in Japan or any other foreign country.

PAR. 4. The practices of the respondent in concealing the legends showing that such original bulbs were manufactured in Japan and in representing, by the means and in the manner aforesaid, that such finished lamps are wholly of domestic manufacture have the tendency and capacity to and do mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such lamps are wholly of domestic origin and manufacture rather than foreign origin and manufacture. As a result of such erroneous and mistaken belief, engendered as herein set forth, a substantial portion of the purchasing public is induced to and does purchase respondent's products.

By the use of the practices herein set forth the respondent has also placed in the hands of unscrupulous or uninformed dealers a means and instrumentality whereby such dealers have been and are enabled to mislead and deceive members of the purchasing public.

PAR. 5. The acts and practices of the respondent as herein alleged 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on January 3, 1940, issued and subsequently served its complaint in this proceeding upon respondent Vulcan Lamp Works, Inc., a corporation, 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 of 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. After the filing of said substitute answer, 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, Vulcan Lamp Works, Inc., is a corporation organized under the laws of the State of New Jersey, with its office and principal place of business at 125 Jersey Street, Harrison, N. J. The respondent is now and has been for several years last past engaged in the business of manufacturing flashlight bulbs and other incandescent electric light bulbs and selling such bulbs to the retail trade. Respondent is also engaged in the business of importing glass bulbs from Japan and of assembling such bulbs, along with other parts, into flashlight lamps.

Respondent causes its products, when sold, to be transported from its place of business in the State of New Jersey to the purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. When received by respondent, the glass bulbs imported from Japan, as aforesaid, have imprinted on the neck thereof the words "Made in Japan" or "Japan." In assembling the finished flashlight bulbs, the respondent places such glass bulbs into bases which are purchased by respondent from manufacturers in the United States and which bear thereon the legend "Made in U. S. A." As a result of such process the words "Made in Japan" or "Japan" are entirely concealed and there remains visible only the legend "Made in U. S. A." Such finished lamps are then sold by respondent to retail dealers without any marking thereon to indicate that the bulbs of such lamps, which constitute the basic part thereof, are of Japanese or foreign origin rather than domestic origin.

In packing and arranging such flashlight lamps for shipment to retail dealers and for display and resale by such dealers to the purchasing public, the respondent places such lamps in cartons and on cards bearing the legend "Made in U. S. A." or "American Made for American Trade," or other legends of similar import or meaning, all of which represent that such lamps are wholly of American origin.

PAR. 3. There is among the members of the purchasing public a decided preference for products which are wholly of American origin over products composed in whole or in part of parts manufactured in Japan or any other foreign country.

PAR. 4. The bulbs imported by respondent from Japan, as aforesaid, are used by respondent only in three kinds of flashlight lamps, which are designated by the trade name "Service" and by the numbers

13, 14, and 31. No other lamps sold by respondent contain any parts imported from foreign countries. The volume of business done by respondent in the flashlight lamps referred to above constitutes about 3 percent of respondent's total volume of business. The last shipment of said Japanese bulbs used by the respondent was received about October 1939.

PAR. 5. The practices of the respondent in concealing the legends showing that such original flashlight bulbs were manufactured in Japan and in representing, by the means and in the manner aforesaid, that such finished flashlight lamps are wholly of domestic origin have the tendency and capacity to and do mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such lamps are wholly of domestic origin. As a result of such erroneous and mistaken belief, engendered as herein set forth, a substantial portion of the purchasing public is induced to and does purchase respondent's products.

By the use of the practices herein set forth the respondent has also placed in the hands of unscrupulous or uninformed dealers a means and instrumentality whereby such dealers have been and are enabled to mislead and deceive members of the purchasing public.

CONCLUSION

The acts and practices of the respondent 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 and the answer of the 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 its conclusion that respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Vulcan Lamp Works, 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 flashlight lamps or bulbs, or any other incandescent electric lamps, in commerce, as "commerce" is

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defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing in any manner that flashlight lamps or other incandescent electric lamps, are made or manufactured in the United States, when in fact such lamps or the basic parts thereof are manufactured in countries other than the United States,

2. Representing, through failure to disclose that the basic parts of flashlight lamps or other incandescent electric lamps are manufactured in countries other than the United States, that such flashlight lamps or other incandescent electric lamps are wholly of American manufacture,

3. Using the words "Made in U. S. A." or "American Made for American Trade," or any other word or words of similar import or meaning, to designate, describe or refer to any flashlight bulbs or other incandescent electric light bulbs the basic parts of which are manufactured in any country other than the United States.

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.

Complaint

IN THE MATTER OF

SCHOLL MANUFACTURING COMPANY, INC.

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

Docket 4241. Complaint, Aug. 20, 1940—Decision, Dec. 2, 1940

Where a corporation engaged in manufacture, interstate sale and distribution of its "Dr. Scholl's Zino-Pads" and "Dr. Scholl's Kurotex Foot Plasters" for treatment of corns, bunions, and other foot ailments, in advertisements of its said products which it disseminated and caused to be disseminated through the mails, and in various other ways in commerce, through newspaper and periodical advertisements and by radio continuities, and circulars, leaflets, pamphlets, and other advertising literature, and otherwise, and which were intended and likely to induce purchase of such products—

- (a) Represented that use of said pads stopped pain instantly and in 1 minute, and that corns and callouses could be lifted out after application thereof without use of surgery or other aids, and that they constituted a cure or remedy for said conditions and had healing properties, facts being said pads were not such a cure or remedy, any relief from pain afforded by their use would be gradual, and would not relieve pain as above claimed, and while, in some instances, through relief of pressure of shoes, it might be possible to peel off or remove layers of the corn, use thereof would not make it possible, without use of surgery, to lift out corns or callouses; and
- (b) Represented that use of said foot plaster instantly relieved pain caused by corns, sore toes, callouses, bunions, and tender spots on the feet or toes caused by new or tight shoes, facts being such plasters would give only such degree of relief as would follow from the protection from outside pressure and friction and only that as long as they were employed or worn for protective purposes, and they would not instantly relieve pain caused by various conditions above set forth, as claimed therefor;

With effect of misleading and deceiving substantial number of members of purchasing public into erroneous and mistaken belief that such false statements, representations, and advertisements were true, and of inducing portion of such public, because of said erroneous and mistaken belief, to purchase its said products or devices:

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

Mr. Donovan R. Divet for the Commission.

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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 Scholl Manufactur-