

IN THE MATTER OF
WOOD & HYDE COMPANY

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

Docket 4235. Complaint, Aug. 14, 1940—Decision, May 29, 1941

Where a corporation engaged in the manufacture and interstate sale and distribution to glove manufacturers of capeskin and cabretta glove leather made by an improved and secret process of tanning the skin of the South African capeskin sheep and the Brazil cabretta, member of the sheep family, whereby there was produced instead of the theretofore heavy, coarse-appearing leather, one so similar in appearance to kid that only experts could distinguish gloves made therefrom from those made of genuine kid—

- (a) Made use of trade name "Kinkid" in connection with the branding, labeling, advertising, and sale of its capeskin and cabretta leathers, with no indication on such leathers or in gloves made therefrom or in the advertising thereof of their true nature as produced from sheep skins and not from skins of young goats; and sold and shipped many of its best pieces, thus labeled, to glove manufacturers, various of whom it supplied with "Kinkid" transfer stamps to be used on the inside of gloves made from leathers in question; and
- (b) With a view to creating consumer demand for "Kinkid" gloves, advertised its said capeskin and cabretta glove leathers extensively in various well-known and widely circulated magazines and in trade publications, and mailed reprints of magazine advertisements to department stores, which it also supplied with envelope stuffers, to be enclosed by them in letters to their customers;

Notwithstanding fact that said leathers were not the light weight, fine grain, thin and flexible leather, made from the skin of young goats, long favorably associated in minds of the consuming public with the word "kid" as applied to leather and the more costly and preferred gloves made therefrom, but were made, as aforesaid, from the skins of the South African capeskin sheep and Brazil cabretta;

With effect of leading a substantial portion of the consuming public into the mistaken belief that gloves made from said last named leathers were made from genuine kidskin, and with consequence, as result of such belief, that members of such public were induced to buy substantial quantities of its said "Kinkid" products, and with further effect of placing in the hands of manufacturers and retailers means whereby they might mislead and deceive the purchasing public as to the true origin and character of said products:

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. Merle P. Lyon for the Commission.

Mr. James H. Wood, of Gloversville, N. Y., for respondent.

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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 Wood & Hyde Co., a corporation, hereinafter referred to as the 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 Wood & Hyde Co. is a New York Corporation, having its principal office and place of business in the city of Gloversville, State of New York. It is now, and for some time past has been, engaged in the manufacture of capeskin and cabretta glove leathers and in the sale and distribution thereof between and among the various States of the United States and in the District of Columbia. Said respondent causes said glove leathers, when sold, to be shipped from its place of business in the State of New York to purchasers thereof located in a State or States other than that in which said shipments have their origin. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in its said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. "Kid" gloves are made from the skin of the young of goats, usually a sucking animal, or one which is killed before it grazes or feeds on grass. The leather is light weight and fine grained, naturally thin and flexible, and is used exclusively for ladies' dress gloves. The word "kid" or any compound word composed in part of the word "kid" or any phrase containing the word "kid," has had for many years, and still has, in the minds of the consuming public generally, a definite and specific meaning, to wit, a product made from the skin of a young goat. Gloves which are made from genuine kidskins are known as kid gloves or "real kid" gloves. "Kid" gloves for many years have held, and still hold, great public esteem and confidence for their preeminent qualities of fine appearance, delicate grain, light weight, and flexibility. The cost of producing genuine kid gloves greatly exceeds the cost of producing gloves from the skins of sheep, and the general public has a decided preference for kid gloves over gloves produced from the skins of sheep or similar animals.

"Capeskin" leather, of which gloves are also made, is made from the skin of a South African haired sheep found in the vicinity of

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Capetown, South Africa, from which it takes its name. Another glove leather known as "cabretta" is produced from the skin of a straight-haired sheep found in Brazil. Formerly capeskin and cabretta leathers, due to the inferior method of processing and tanning, had a heavy and coarse appearance and gloves made from such leathers met considerable sales resistance from women customers. About 5 years ago, the respondent began tanning such skins by an improved and secret process which produces a leather so similar in appearance to that of kid that only experts can distinguish gloves made by such leathers from those made of genuine kid.

PAR. 3. Respondent herein has been engaged in the tanning and manufacture of glove leather since 1890. The company specializes in skins from straight-haired sheep known in the trade as capeskins, because they come from Capetown, South Africa, though some of its skins are purchased in Brazil, being taken from the animal known as the cabretta, which also belongs to the sheep family. The tanning of these skins is done at respondent's factory at Gloversville, N. Y. After the skins are tanned they are sold to glove manufacturers in various States of the United States.

The trade name "KinKid" is employed by respondent in connection with the branding, labeling, advertising and sale of its products made from and known as "capeskin" and "cabretta." Each piece of leather sold and shipped to a glove manufacturer bears the "KinKid" label, and various glove manufacturers using respondent's glove leathers are supplied with KinKid transfer stamps to be used in stamping the name "KinKid" on the inside of gloves manufactured by them from such products.

In the further course and conduct of its said business in connection with the sale and distribution of its "capeskin" and "cabretta" glove leathers, respondent has promoted the sale thereof by extensive advertising over a period of 5 years or more last past with a view to creating consumer demand for "KinKid" gloves. Advertisements have appeared in various well-known and widely circulated women's magazines and in trade publications. Direct advertising is done with department stores by mailing them reprints of magazine advertisements. Department stores are also supplied with envelope stuffers which they enclose with letters to their customer members of the consuming public.

PAR. 4. KinKid leathers and gloves are marketed with no indication thereon or in the advertising thereof that they are in fact produced from sheepskins and not from the skins of the suckling or immature young of goats. The use of the trade name "KinKid"

by respondent in labeling, branding, advertising and describing its leathers and gloves produced from the skins of sheep is misleading and deceptive and has the capacity and tendency to, and does, lead a substantial portion of the consuming public into the mistaken and erroneous belief that such gloves are made from genuine kidskin. As a result of such erroneous and mistaken belief so engendered members of the consuming public have been induced to purchase substantial quantities of respondent's said "KinKid" products.

The said acts and practices of respondent, as aforesaid, have placed in the hands of manufacturers, department stores, and retailers instruments whereby they may mislead and deceive members of the purchasing public as to the true origin and character of said products and, by reason of such deception, into the purchase of the same.

PAR. 5. The aforesaid 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 August 14, 1940, issued and subsequently served its complaint in this proceeding upon said respondent Wood & Hyde Co., a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On the 4th day of September 1940, the respondent filed its answer in this proceeding.

Thereafter, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by said respondent and by James H. Wood, attorney of record for said respondent, and W. T. Kelley, chief counsel for the Federal Trade Commission, subject to the approval of the Commission, may be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint or in opposition thereto, and that the said Commission may proceed upon said statement of facts to make its report stating its findings as to the facts and its conclusion based thereon and enter its order disposing of the proceeding. Respondent expressly waived the filing of report upon the evidence by a trial examiner but reserved the right to file a brief in opposition to the allegations of the complaint and to have oral argument before the Commission in this case.

Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint, answer, and stipulation,

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said stipulation having been approved, accepted, and filed, briefs in support of the complaint and in opposition thereto, and oral argument by counsel; 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, Wood & Hyde Co., is a New York corporation having its principal office and place of business in the city of Gloversville, State of New York. It is now, and for some time past has been, engaged in the manufacture of capeskin and cabretta glove leathers and in the sale and distribution thereof between and among the various States of the United States and in the District of Columbia. Said respondent causes said glove leathers, when sold, to be shipped from its place of business in the State of New York to purchasers thereof located in a State or States other than that in which said shipments have their origin. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in its said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 2. "Kid" gloves are made from the skin of the young of goats, usually a sucking animal, or one which is killed before it grazes or feeds on grass. The leather is light weight and fine grained, naturally thin and flexible, and is used chiefly for ladies' dress gloves. The word "kid," or any compound word composed in part of the word "kid" or any phrase containing the word "kid," has had for many years, and still has, in the minds of the consuming public generally, a definite and specific meaning, to wit, a product made from the skin of a young goat. Gloves which are made from genuine kidskins are known as kid gloves or "real kid" gloves. "Kid" gloves for many years have held, and still hold, great public esteem and confidence for their preeminent qualities of fine appearance, delicate grain, light weight, and flexibility. The cost of producing genuine kid gloves greatly exceeds the cost of producing gloves from the skins of sheep, and the general public has a decided preference for kid gloves over gloves produced from the skins of sheep or similar animals.

"Capeskin" leather, of which gloves are also made, is made from the skin of a South African haired sheep found in the vicinity of Capetown, South Africa, from which it takes its name. Another glove leather known as "cabretta" is produced from the skin of a straight-haired sheep found in Brazil. Formerly capeskin and

cabretta leathers, due to the inferior methods of processing and tanning, had a heavy and coarse appearance and gloves made from such leather met considerable sales resistance from women customers. About 5 years ago, the respondent began tanning such skins by an improved and secret process which produces a leather so similar in appearance to that of kid that only experts can distinguish gloves made of such leather from those made of genuine kid.

PAR. 3. Respondent herein has been engaged in the tanning and manufacture of glove leather since 1890. The company specializes in skins from straight-haired sheep known in the trade as capeskins, because they come from Capetown, South Africa, though some of its skins are purchased in Brazil, being taken from the animal known as the cabretta, which also belongs to the sheep family. The tanning of these skins is done at respondent's factory at Gloversville, N. Y. After the skins are tanned they are sold to glove manufacturers in various States of the United States.

The trade name "Kinkid" is employed by respondent in connection with the branding, labeling, advertising, and sale of part of its products made from and known as "capeskin" and "cabretta." Many of the best pieces of its leather sold and shipped to glove manufacturers bear the "Kinkid" label, and various glove manufacturers using respondent's glove leathers are supplied with Kinkid transfer stamps to be used in stamping the name "Kinkid" on the inside of gloves manufactured by them from such products.

In the further course and conduct of its said business in connection with the sale and distribution of its "capeskin" and "cabretta" glove leathers, respondent has promoted the sale thereof by extensive advertising over a period of five years or more last past with a view to creating consumer demand for "Kinkid" gloves. Advertisements have appeared in various well-known and widely circulated women's magazines and in trade publications. Direct advertising is done with department stores by mailing them reprints of magazine advertisements. Department stores are also supplied with envelope stuffers which they enclose with letters to their customer members of the consuming public.

PAR. 4. Kinkid leathers and gloves are marketed with no indication thereon or in the advertising thereof that they are in fact produced from sheepskins and not from the skins of the suckling or immature young of goats. The use of the trade name "Kinkid" by respondent in labeling, branding, advertising and describing its leathers and gloves produced from the skins of sheep is misleading and deceptive and has the capacity and tendency to, and does, lead

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a substantial portion of the consuming public into the mistaken and erroneous belief that such gloves are made from genuine kidskin. As a result of such erroneous and mistaken belief so engendered, members of the consuming public have been induced to purchase substantial quantities of respondent's said "Kinkid" products.

The said acts and practices of respondent, as aforesaid, have placed in the hands of manufacturers, department stores and retailers the means whereby they may mislead and deceive members of the purchasing public as to the true origin and character of said products and, by reason of such deception, into the purchase of the same.

CONCLUSION

The aforesaid acts and practices of the respondent, as herein found, are all to the prejudice and injury of the public and constitute unfair 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, answer of the respondent, and a stipulation as to the facts entered into by the respondent herein and W. T. Kelley, chief counsel for the Commission, briefs filed in support of the complaint and in opposition thereto and oral arguments of counsel, 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, Wood & Hyde Co., 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 glove leathers and other similar products in commerce as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "kid" or by any other words of similar import and meaning, either alone or in combination with any other word or words, in advertising or otherwise, to describe, designate, or refer to any leather product which is not made from the skin of a young goat.

2. Using the term "Kinkid" or any other term which includes the word "kid" or any colorable simulation thereof, or using any other term of similar import or meaning on labels, or otherwise, to de-

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scribe, designate, or refer to any leather product which is not made from the skin of a young goat.

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.

