

Complaint

IN THE MATTER OF

DANIEL HECHTMAN AND STEVE MOORE, TRADING AS
H & H HAT COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT AND THE WOOL PRODUCTS
LABELING ACT OF 1939

Docket 4633. Complaint, Jan. 15, 1942¹—Decision, June 23, 1942

Where two individuals, engaged in the manufacture of women's hats from felt and other materials including old, worn or previously used felt hat bodies purchased by them, which, after being cleaned, shaped and fitted with new trimming, had the appearance of new hats made from new felt; and in the interstate sale and distribution of said products—

- (a) Sold their said hats with no labeling, markings, or designation to indicate that they were in fact made from old, used hat bodies, to jobbers, wholesalers, and retailers by whom they were resold to the purchasing public without disclosure of aforesaid fact;

With result that a substantial portion of said public was misled into believing that products in question were made entirely from new materials, and in consequence, into purchase of substantial quantities thereof; and with further result of thereby placing in the hands of dealers a means of deceiving or misleading members of the public into the mistaken belief that they were, contrary to the fact, purchasing new hats; and

Where said individuals, engaged as aforesaid in manufacture and sale of hats, including many which were wool products within the meaning of the Wool Products Labeling Act in that they were composed in part of wool, reprocessed wool, or reused wool, and other fibers—

- (b) Sold said products misbranded in violation of act in question in that they did not have on or affixed thereto a stamp, tag, label, or other means of identification showing the percentages of the total fiber weight required by the statute with respect to wool, reprocessed wool, reused wool, nonwool fibers, and aggregates thereof, addition of nonfibrous loading, and proper identification of the manufacturer or seller, under act in question:

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 within the intent and meaning of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939.

Mr. L. E. Creel, Jr., for the Commission.

Mr. Irving Block, of Chicago, Ill., for respondents.

AMENDED 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 Daniel Hechtman

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and Steve Moore, individually, and trading as H & H Hat Co., have violated the provisions of said act and the provisions of the Wool Products Labeling Act of 1939, and the rules and regulations promulgated thereunder, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its amended complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondents, Daniel Hechtman and Steve Moore, are individuals, trading as H & H Hat Co., and have their principal office and place of business at 1351 Milwaukee Avenue, Chicago, Ill.

PAR. 2. Respondents are now, and for several years last past have been, engaged in the business of manufacturing women's hats from felt and other materials. Some of said hats have been manufactured from felt obtained from old, worn, or previously used hats and others are made from felt not previously used as felt. Respondents sell said hats to retailers, jobbers, and wholesale dealers located in the various States of the United States and the District of Columbia. Respondents cause said hats, when sold, to be transported from their place of business in the State of Illinois to the aforesaid purchasers located in various States of the United States other than the State of Illinois. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said hats in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their business, prior to July 15, 1941, respondents bought old, worn, or previously used felt hats. The old, worn, or previously used felt hat bodies were cleaned and shaped and fitted with new trimmings and sold by respondents to dealers who in turn sold said hats to the purchasing public.

PAR. 4. The aforesaid hats manufactured from old, worn, or previously used hat bodies as hereinabove described had the appearance of new hats manufactured from new felts. When articles manufactured from old, worn, or previously used materials and having the appearance of being manufactured from new materials are offered to the purchasing public and are not clearly and conspicuously labeled as being manufactured from old, worn, or previously used materials, such articles are readily accepted by members of the purchasing public as being manufactured entirely from new materials.

Said hats were sold to retailers and other dealers without any label, marking, or designation stamped thereon, or attached thereto, to indicate to the purchasing public or to the dealers that said hats were, in fact, manufactured from old, worn, or previously used hat

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bodies. Said hats were resold to the purchasing public without the fact being disclosed that they were manufactured from old, worn, or previously used hat bodies, and a substantial portion of the purchasing public was thereby misled to believe that they were, in fact, new hats manufactured entirely from new materials. As a result of this erroneous and mistaken understanding and belief, substantial quantities of respondent's hats were purchased by members of the public.

PAR. 5. Through the use of the aforesaid acts and practices, the respondents placed in the hands of dealers the means and instrumentalities whereby said dealers may have deceived or misled members of the purchasing public into the erroneous and mistaken belief that they were purchasing hats manufactured from new materials when, in fact, said hats were composed entirely or in part of old, worn, or previously used hat bodies.

PAR. 6. Among the hats manufactured by the respondent from felt not previously used as felt, and which have been sold and distributed by respondents since July 15, 1941, are many which are wool products within the intent and meaning of the Wool Products Labeling Act of 1939, in that such hats are composed in part of wool, reprocessed wool, or reused wool, as those terms are defined in said act. Many of said wool products contain fibers other than wool, reprocessed wool, or reused wool.

Each of said wool products, when sold and distributed by the respondents in said commerce as aforesaid, was misbranded in violation of the Wool Products Labeling Act of 1939, in that said wool product did not have on or affixed thereto a stamp, tag, label, or any other means of identification, or a substitute in lieu thereof as provided by said act, showing (a) the percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 percentum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber was 5 percentum or more, and (5) the aggregate of all other fibers; (b) the maximum percentage of the total weight of the wool product of nonfibrous loading, filling, or adulterating matter; (c) the name of the manufacturer of the wool product, or a registered number in lieu thereof under the conditions provided in the rules and regulations promulgated under such act, or the name of one or more persons subject to section 3 of the said act with respect to such wool product.

PAR. 7. The aforesaid acts, practices, and methods of respondents, as herein alleged, are all to the prejudice and injury of the public

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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 the 14th day of November 1941, issued and subsequently served its complaint in this proceeding upon respondents, Daniel Hechtman and Steve Moore, individually; and trading as H & H Hat Co., charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act and the provisions of the Wool Products Labeling Act of 1939. Subsequently, on the 15th day of January 1942, the Commission issued and thereafter served upon the respondents its amended complaint in this proceeding. After the issuance of said amended complaint, the Commission by order entered herein granted respondents' motion for permission to withdraw their answer filed to the original complaint and to file an answer admitting all of the material allegations of fact set forth in said amended complaint and waiving all intervening procedure and further hearing as to said facts, which 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 amended complaint and respondents' answer thereto, 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. Respondents, Daniel Hechtman and Steve Moore, are individuals, trading as H & H Hat Co., and have their principal office and place of business at 1351 Milwaukee Avenue, Chicago, Ill.

PAR. 2. Respondents are now, and for several years last past have been, engaged in the business of manufacturing women's hats from felt and other materials. Some of said hats have been manufactured from felt obtained from old, worn, or previously used hats and others are made from felt not previously used as felt. Respondents sell said hats to retailers, jobbers, and wholesale dealers located in the various States of the United States and the District of Columbia. Respondents cause said hats, when sold, to be transported from their place of business in the State of Illinois to the aforesaid purchasers located in various States of the United States other than the State

of Illinois. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said hats in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their business, prior to July 15, 1941, respondents bought old, worn, or previously used felt hats. The old, worn, or previously used felt hat bodies were cleaned and shaped and fitted with new trimmings and sold by respondents to dealers who in turn sold said hats to the purchasing public.

PAR. 4. The aforesaid hats manufactured from old, worn, or previously used hat bodies as hereinabove described had the appearance of new hats manufactured from new felt. When articles manufactured from old, worn, or previously used materials and having the appearance of being manufactured from new materials are offered to the purchasing public and are not clearly and conspicuously labeled, as being manufactured from old, worn, or previously used materials, such articles are readily accepted by members of the purchasing public as being manufactured entirely from new materials.

Said hats were sold to retailers and other dealers without any label, marking, or designation stamped thereon, or attached thereto, to indicate to the purchasing public or to the dealers that said hats were, in fact, manufactured from old, worn, or previously used hat bodies. Said hats were resold to the purchasing public without the fact being disclosed that they were manufactured from old, worn, or previously used hat bodies, and a substantial portion of the purchasing public was thereby misled to believe that they were, in fact, new hats manufactured entirely from new materials. As a result of this erroneous and mistaken understanding and belief, substantial quantities of respondents' hats were purchased by members of the public.

PAR. 5. Through the use of the aforesaid acts and practices, the respondents placed in the hands of dealers the means and instrumentalities whereby said dealers may have deceived or misled members of the purchasing public into the erroneous and mistaken belief that they were purchasing hats manufactured from new materials when, in fact, said hats were composed entirely or in part of old, worn, or previously used hat bodies.

PAR. 6. Among the hats manufactured by the respondents from felt not previously used as felt, and which have been sold and distributed by respondents since July 15, 1941, are many which are wool products within the intent and meaning of the Wool Products Labeling Act of 1939, in that such hats are composed in part of wool, reprocessed wool, or reused wool, as those terms are defined in said act. Many of

said wool products also contain fibers other than wool, reprocessed wool, or reused wool.

Each of said wool products, when sold and distributed by the respondents in said commerce as aforesaid, was misbranded in violation of the Wool Products Labeling Act of 1939, in that said wool product did not have on or affixed thereto a stamp, tag, label, or any other means of identification, or a substitute in lieu thereof as provided by said act, showing (a) the percentage of the total fiber weight of the wool product, exclusive of ornamentation not exceeding 5 per centum of said total fiber weight, or (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber was 5 per centum or more, and (5) the aggregate of all other fibers; (b) the maximum percentage of the total weight of the wool product of nonfibrous loading, filling, or adulterating matter; (c) the name of the manufacturer of the wool product, or a registered number in lieu thereof under the conditions provided in the rules and regulations promulgated under such act, or the name of one or more persons manufacturing for introduction, introducing said wool product into, or engaged in the sale, transportation, or distribution of said wool product in, commerce as "commerce" is defined in the Federal Trade Commission Act and in the Wool Products Labeling Act of 1939.

CONCLUSION

The aforesaid acts and practices of respondents 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 and the Wool Products Labeling Act of 1939.

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 respondents, in which answer respondents admit all the material allegations of fact set forth in said complaint and state that they waive 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 respondents have violated the provisions of the Federal Trade Commission Act and the provisions of the Wool Products Labeling Act of 1939.

It is ordered, That the respondents, Daniel Hechtman and Steve Moore, individually, and trading as H & H Hat Co., or trading under

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any other name, their representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of hats in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that hats composed in whole or in part of used or second-hand materials are new, or are composed of new materials, by failure to stamp in some conspicuous place on the exposed surface of the inside of the hat, in conspicuous and legible terms which cannot be removed or obliterated without mutilating the hat itself, a statement that said hats are composed of second-hand or used materials: *Provided*, That if substantial bands, placed similarly to sweat bands in men's hats, are attached to said hats, then and in that event such statement may be stamped upon the exposed surface of such bands; *Provided further*, That said stampings are of such nature that they cannot be removed or obliterated without mutilating the band and the band itself cannot be removed without rendering the hat unserviceable.

2. Representing in any manner that hats made in whole or in part from old, used or second-hand materials are new or are composed of new materials.

It is further ordered, That the respondents, Daniel Hechtman and Steve Moore, individually, and trading as H & H Hat Co., or trading under any other name, their representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction of hats into commerce, or the sale, transportation, or distribution of hats in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding hats which contain, purport to contain or in any way are represented as containing wool, reprocessed wool or reused wool, as those terms are defined in the Wool Products Labeling Act of 1939, by failing to place on or affix to each hat a stamp, tag, label, or other means of identification showing:

(a) The percentage of the total fiber weight of the hat, exclusive of ornamentation not exceeding 5 percentum of said total fiber weight, of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is 5 per centum or more, and (5) the aggregate of all other fibers.

(b) The maximum percentage of the total weight of the hat of nonfibrous loading, filling, or adulterating matter.

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(c) The name of the manufacturer of the hat; or the manufacturer's registered identification number and the name of a subsequent seller of the hat; or the name of one or more persons introducing said hat into, or engaged in the sale, transportation, or distribution of said hat in, commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939.

Subsections (a), (b), and (c) of this order are subject to the provisions of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder and are not to be construed as limiting any applicable provision of said act or said rules and regulations.

It is further ordered, That the 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.

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IN THE MATTER OF
ROBERT W. IRWIN COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4701. Complaint, Feb. 5, 1942—Decision, June 23, 1942*

Where a corporation engaged in the manufacture of household furniture, and in the competitive interstate sale and distribution thereof—

Represented and implied that certain of its furniture was made in its entirety from walnut through use of words "Wood: Walnut" and other statements containing the word "Walnut" in catalogs, price lists, photogravure sheets, invoices, and labels distributed among prospective purchasers, and by other means; when in fact it used a walnut wood veneer on a portion of the flat surface of said furniture and pecan wood for some of the exposed structural parts, such as the legs and framing for cabinet doors;

With tendency and capacity to mislead a substantial portion of the purchasing public into the mistaken belief that such furniture was made entirely from walnut, for which it has a marked preference over that made from a combination of woods such as pecan and walnut, and thereby to induce its purchase of said product, to the substantial injury of competition in commerce:

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

Before *Mr. Clyde M. Hadley*, trial examiner.

Mr. B. G. Wilson for the Commission.

Travis, Merrick, Varnum & Riddering, of Grand Rapids, Mich., for respondent.

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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 Robert W. Irwin Co., 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, Robert W. Irwin Co., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its office and principal place of business at 23 Summer Avenue, Grand Rapids, Mich.

The respondent is now, and for more than 2 years last past has been, engaged in the manufacture of household furniture, such as