

Complaint

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IN THE MATTER OF

INDESTRO MANUFACTURING CORP.

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

Docket 4006. Complaint, Feb. 1, 1940—Decision, Sept. 10, 1942

Where a corporation, engaged in the manufacture and interstate sale and distribution of automobile tools—

Represented and described certain wrenches as being made from "Forged Alloy Steel," "Drop Forged Alloy Steel," "Special Alloy Steel," and "Carbon Alloy Steel" through application of such terms thereto in catalogues, price lists, and other advertising material, and on labels attached thereto;

The facts being that the quantity of chromium, vanadium, nickel, molybdenum and copper present in its said products was not sufficient, either alone or in combination, to have any appreciable effect upon the properties thereof or the steel contained therein, or to constitute "alloy steel," i. e., carbon steel to which such alloying elements have been added in quantities sufficient to affect its properties; and the small quantities of elements aforesaid found in its products indicated that they were residual only, resulting from the method of processing which included, probably, use of some alloy scrap;

With tendency and capacity to mislead and deceive the purchasing public into the mistaken belief that said wrenches were made from alloy steels— for which there is a decided preference in the industry, and among dealers and the purchasing public over those made from plain carbon steels— thereby inducing it to purchase substantial quantities 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.

Before *Mr. Edward E. Reardon* and *Mr. Andrew B. Duvall*, trial examiners.

Mr. William M. King, *Mr. James I. Rooney* and *Mr. S. F. Rose* for the Commission.

Mr. Albert G. McCaleb and *Mr. Arthur Nelson Cornell*, of Chicago, Ill., and *Mr. James H. Littlehales*, of Washington, D. C., 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 Indestro Manufacturing Corporation, 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

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the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. The respondent, Indestro Manufacturing Corporation, is a corporation, organized under the laws of the State of Illinois, with its principal office and place of business located at 2649 North Kildare Avenue, in the city of Chicago in said State of Illinois.

PAR. 2. Respondent is now, and for many years last past has been, engaged in the manufacture, sale and distribution of automobile tools, including wrenches of various sizes and descriptions. Said products are manufactured in respondent's factory located in the city of Chicago, State of Illinois. Respondent causes said products, when sold, to be transported from its factory situated in the State of Illinois to the purchasers thereof located in various other States of the United States and in the District of Columbia. At all times herein mentioned respondent has maintained a course of trade in its said products in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its aforesaid business and to induce the purchase of its said products, the respondent issues and distributes among prospective purchasers catalogues, price lists, and other advertising material purporting to be descriptive of respondent's products. Among the products so advertised are certain wrenches which are represented and described as being manufactured from "Forged Alloy Steel," "Drop Forged Alloy Steel," "Special Alloy Steel" and "Carbon Alloy Steel." Respondent also causes such descriptive terms to be stamped or embossed upon such wrenches.

Through the use of such descriptive terms in its advertising and on its said products the respondent represents that such tools are manufactured from "alloy steel."

PAR. 4. The foregoing representations are false and misleading. In truth and in fact, respondent's wrenches are not manufactured from alloy steel but are manufactured from what is known as common steel or carbon steel. The term "alloy steel" is understood by the steel industry, the trade, and the purchasing public as denoting carbon steel to which have been added certain other elements such as nickel, tungsten, molybdenum, vanadium and chromium. Such elements are added to give the finished product certain additional properties and attributes, such as hardness and toughness. None of the aforesaid elements or any similar element is added to the steel used by respondent and the products made from such steel cannot properly be represented as having been manufactured from alloy steel.

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There is a decided preference in the steel industry and among dealers and the purchasing public for tools made from alloy steel over tools made from common or carbon steel.

PAR. 5. The use by the respondent of the foregoing false and misleading statements and representations with respect to its said products has had and now has the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations are true and that respondent's products possess properties and qualities which they do not in fact possess. As a result of such erroneous belief, the purchasing public has been induced to and does purchase a substantial quantity of respondent's products.

PAR. 6. The aforesaid acts and practices of respondent 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 the 1st day of February, A. D. 1940, issued and thereafter served its complaint in this proceeding upon the respondent, Indestro Manufacturing Corp., a corporation, named in the complaint as "Indestro Manufacturing 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 the complaint and the filing of respondent's answer thereto testimony and other evidence in support of the allegations of the complaint were introduced by attorneys for the Commission before duly appointed trial examiners of the Commission designated by it to serve in this proceeding, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Respondent waived the introduction of testimony, filing of the trial examiners' report upon the evidence, oral argument and the filing of briefs, and agreed that the record be considered closed and submitted to the Commission for final disposition.

Thereafter this proceeding came on for final hearing before the Commission on the said complaint, the answer thereto, testimony and other evidence, and brief in support of the complaint; and the Commission having duly considered the same and now being fully advised in the premises, makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Indestro Manufacturing Corporation, is a corporation, organized under the laws of the State of Illinois, with its principal office and place of business located at 2649 Kildare Avenue, in the city of Chicago, in the State of Illinois.

PAR. 2. Respondent now is, and for many years last past has been, engaged in the manufacture, sale, and distribution of automobile tools, including wrenches of various sizes and descriptions. Said products are manufactured in respondent's factory, located in the city of Chicago, State of Illinois. Respondent causes said products, when sold, to be transported from its factory situated in the State of Illinois to the purchasers thereof located in various other States of the United States and in the District of Columbia. At all times mentioned herein, respondent has maintained a course of trade in its said products in commerce between and among various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its aforesaid business, and to induce the purchase of its said products, the respondent issued and distributed among prospective purchasers, catalogues, price lists, and other advertising material purporting to be descriptive of respondent's products. Among the products so advertised were wrenches which were represented and described as being manufactured from "Forged Alloy Steel," "Drop Forged Alloy Steel," "Special Alloy Steel," and "Carbon Alloy Steel." Respondent also caused such descriptive terms to be stamped or embossed upon such wrenches. Such practices were discontinued by respondent prior to the issuance of the complaint, but after the respondent had been contacted by the Commission with reference thereto.

PAR. 4. The use by the respondent of the term "Alloy Steel" in describing and designating its products, is false, deceptive, and misleading. The term "Alloy Steel" is understood by the steel industry, the trade, and the purchasing public as denoting carbon steel to which alloying elements, such as nickel, tungsten, molybdenum, vanadium, copper, chromium, and other alloying elements have been added in quantities sufficient to affect the properties of the steel. The addition of such alloys in sufficient quantities, either singly or in combination, gives the steel properties not found in plain carbon steel. Carbon steel and carbon steel products generally contain traces of these various alloys, due to the method of processing, particularly where alloyed scrap has been added in such processing. The steel used by the respondent in the manufacture of the products herein described, is purchased by it under the specification of "1045 S. A. E. Steel," which indicates a standard for carbon steel adopted by the Society

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of Automotive Engineers and is so understood and considered by the industry and the trade.

Certain of respondent's products represented and designated by it as "Forged Alloy Steel" and "Drop Forged Alloy Steel" were analyzed by the Bureau of Standards and were found to contain the following elements in the percentages set out as follows:

Commission's Exhibit 3, designated "Forged Alloy Steel"

	Percent
Carbon.....	0.48
Chromium.....	.09
Vanadium, less than.....	.01
Nickel.....	.10
Molybdenum, less than.....	.01
Copper.....	.07

Commission's Exhibit 5, designated "Drop Forged Alloy Steel"

	Percent
Carbon.....	0.47
Chromium.....	.06
Vanadium, less than.....	.01
Nickel.....	.11
Molybdenum, less than.....	.01
Copper.....	.13

Commission's Exhibits 6a, 6b, and 6c, designated "Drop Forged Alloy Steel"

	Percent
Carbon.....	0.47
Chromium.....	.08
Vanadium, less than.....	.01
Nickel.....	.18
Molybdenum, less than.....	.01
Copper.....	.13

The quantity of chromium, vanadium, nickel, molybdenum, and copper found to be present in said products is not sufficient, either alone or in combination, to have any appreciable effect upon the properties of said products or the steel contained therein, and said elements are not present in sufficient quantities to constitute an alloy steel product. The small quantities of such alloys present in respondent's products indicate that they are residual only, and result from the method of processing, which probably included the use of some portions of alloyed scrap.

There is a decided preference in the steel industry, among dealers and the purchasing public, for wrenches and tools of various sorts made from alloy steels, over such products made from plain carbon steels.

PAR. 5. The use by the respondent of the foregoing false and misleading statements and representations with respect to its said prod-

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ucts has had the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations were true and that respondent's products possessed properties and qualities which they did not in fact possess. As a result of such erroneous belief, the purchasing public has been induced to, and did, purchase a substantial quantity of respondent's products.

CONCLUSION

The aforesaid acts and practices of 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, answer of the respondent, testimony and other evidence in support of the complaint, taken before duly appointed trial examiners of the Commission designated by it to serve in this proceeding, and brief filed in support of the complaint; and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Indestro Manufacturing Corporation, 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 its wrenches and other steel products in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Using the word "alloy" or any other word of similar import and meaning, either alone or in combination with any other word or words, in branding, advertising, or otherwise describing, designating or referring to its wrenches or any other steel products which are made from carbon steel to which there has not been added alloy elements such as nickel, tungsten, molybdenum, vanadium, chromium, copper, or any other alloying element, either singly or in combination, in quantities sufficient to affect the properties of the steel, and to give it specific properties not found in plain carbon steel.

It is further ordered, That respondent shall, within 60 days after the 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.

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IN THE MATTER OF

LOUIS GLASSER, TRADING AS PARAMOUNT YARN
COMPANY

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

Docket 4521. Complaint, Dec. 16, 1941¹—Decision, Sept. 10, 1942

Where an individual, engaged in interstate sale and distribution of knitting yarns—

- (a) Made use in catalogs and color charts, sample books and other printed and written material, and on labels attached to his products, of such terms as "Luster Shetland," "Shetland Floss," and "Sporting Angora," understood by a substantial portion of the purchasing public to mean yarns made from the wool of sheep grown on the Shetland Islands and the adjacent mainland of Scotland, and from the hair of the Angora goat, respectively;

The facts being said "Shetland" yarn was made entirely of domestic wool, and said "Sporting Angora" contained about 80 percent domestic wool and 20 percent rabbit hair;

- (b) Misrepresented certain yarns designated by such trade names as "Cobble Tweed," "Ombre Tweed," "Cravenette," "Petite Boucle," "Heather Worsted," and "Paramount 8013" with words "All Cotton" on its label, through failure to disclose their content of rayon which, when made to simulate silk, wool, or cotton, is practically indistinguishable therefrom;

- (c) Falsely represented that his products were sold direct to consumers at wholesale prices substantially lower than retail prices at which similar yarns were usually sold to the consuming public by others, through circulation of such statements as "We are the sole distributors of the Paramount brand yarns;—the finest quality yarns obtainable;—sold at wholesale prices direct to the consumer";

With effect of misleading and deceiving a substantial portion of the purchasing public with respect to the constituent fibers of said products and as to said individual's business status, thereby inducing it to purchase substantial quantities of products concerned:

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.

Before *Mr. John W. Addison*, trial examiner.

Mr. Donovan Divet for the Commission.

Mr. S. Robert Israel, of New York City, for respondent.

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

¹ Amended.