

Complaint

IN THE MATTER OF

DUO-TINT BULB & BATTERY COMPANY, INC., ET AL.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 4814. Complaint, Aug. 14, 1942—Decision, May 14, 1943

Where a corporation and three officers, directors and stockholders thereof, engaged in interstate sale and distribution of small glass incandescent electric light bulbs imported from Japan which had the word "Japan" stamped thereon when received in the United States—

- (a) Sold and distributed said bulbs assembled in boxes on perforated paste boards in such manner as to conceal from view the base or lower half on which was stamped "Japan", and with no marking to inform purchasers of said products' Japanese origin; and
- (b) Falsely represented that said bulbs were made in the United States, through printing on the boxes in which they were packed, and on display cards and in literature, the words "Filaments Made in U. S. A." and corporate name and Chicago address;

With effect of misleading and deceiving a substantial portion of the purchasing public into the mistaken belief that said bulbs, lacking the customary indication of foreign source, were wholly of domestic origin and manufacture, decidedly preferred by members of the purchasing public over those made in Japan or other foreign countries, with result of inducing purchase of said product, and with further result of placing in the hands of dealers means whereby they were enabled to mislead and deceive members of the 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. Carrel F. Rhodes for the Commission.

Mr. Henry Junge, of Chicago, Ill., for respondents.

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 Duo-Tint Bulb & Battery Co., Inc., a corporation, and Carrie Riggs and Helen Corts, individually, and as officers, directors and agents of said corporation, Duo-Tint Bulb & Battery Co., Inc., and Dalton W. Riggs, individually, and as president of said corporation, Duo-Tint Bulb & Battery Co., Inc., hereinafter referred to as respondents, have violated the provisions of the said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest,

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

PARAGRAPH 1. Respondent, Duo-Tint Bulb & Battery Co., Inc., is a corporation, organized under the laws of the State of Illinois on September 16, 1932.

Respondent individuals, Dalton W. Riggs, Carrie Riggs, and Helen Corts are officers, directors and stockholders of respondent, Duo-Tint Bulb & Battery Co., Inc., and in control of the management, policies and operation of said corporation since the date of its organization in 1932, particularly in respect to the acts and practices hereinafter alleged. Prior to the organization of said corporation, Dalton W. Riggs, operated and controlled said business under the trade name Duo-Tint Bulb & Battery Co. The said respondents maintain offices and principal place of business at 4431 N. Racine Ave., Chicago, Ill.

PAR. 2. Respondent, Duo-Tint Bulb & Battery Co., Inc., is now, and has been, since the date of its organization, engaged in the business of selling and distributing small glass incandescent electric light bulbs and batteries. In the course and conduct of their said business, respondents sold said electric light bulbs and batteries to various distributors and retail dealers for resale and caused them, when sold, to be transported from their aforesaid place of business in the State of Illinois to purchasers thereof located in various other States of the United States and in the District of Columbia. At all times mentioned herein respondents have 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. 3. Respondents import the aforesaid electric light bulbs from the country of Japan. When the bulbs are shipped from Japan to and received by respondents in the United States there is stamped thereon the word "Japan."

In the course and conduct of their business it has been and is the practice of respondents to assemble the electric light bulbs in boxes on perforated pasteboards in such manner as to conceal or hide from view of the prospective purchaser the base or lower half of the bulb on which the name "Japan" is stamped, and such electric light bulbs are then sold and distributed by the respondents in commerce as aforesaid without any marking thereon to inform members of the purchasing public that the bulbs are of Japanese or foreign origin.

PAR. 4. A further practice of respondents in connection with the sale and distribution of their electric light bulbs is the stamping or imprinting upon the boxes and display cards in which they are packed for shipment or on which they are placed for display and other literature legends and representations as follows:

Filaments Made in U. S. A.

Our batteries are built in exact accord with the Bureau of Standards electrical characteristics and specifications.

Duo-Tint Bulb & Battery Company, Inc.

4431-33 N. Racine Avenue

(Riggs Bldg.)

Chicago, Illinois.

thereby representing directly or by inference that such bulbs and batteries are manufactured or made in the United States and that such bulbs are wholly of domestic origin and manufacture rather than foreign origin and manufacture. In truth and in fact such bulbs are not of domestic origin and manufacture, as they are made in and imported by respondents from Japan.

PAR. 5. For many years last past there has been maintained among manufacturers in the United States an established custom and practice of marking products of foreign origin in such manner as to indicate that such products are in fact of foreign rather than domestic origin. The purchasing public is familiar with and relies upon such custom and practice, and when products bear no marking indicating that they are of foreign origin, the purchasing public assumes that such products are of domestic origin.

PAR. 6. 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 other foreign countries.

PAR. 7. The practice of the respondent of obliterating, obscuring, or concealing the word "Japan" appearing on the base of electric light bulbs and of imprinting on the display cards the words "Duo-Tint Bulb & Battery Co., 4431-33 N. Racine Ave. (Riggs Building), Chicago, Ill." and of using on the boxes or cartons in which the bulbs are packed and offered for sale and in other literature the legend, "Filaments Made in U. S. A.," the words "Duo-Tint Bulb & Battery Co., Inc., Chicago, Ill.," and the words, "Our batteries are built in exact accord with Bureau of Standards electrical characteristics and specifications" has a tendency and capacity to and does mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that respondents' electric light bulbs and batteries are wholly of domestic 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 respondents' said products.

Through the practices herein set forth, the respondents place 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 as to the source or origin of said bulbs and batteries.

PAR. 8. The aforesaid acts and practices of respondents 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 Federal Trade Commission Act, the Federal Trade Commission on August 14, 1942, issued and on August 17, 1942, served its complaint in this proceeding upon respondents, Duo-Tint Bulb & Battery Co., Inc., a corporation, and Carrie Riggs and Helen Corts, individually, and Dalton W. Riggs, individually, and trading as Duo-Tint Bulb & Battery Co., charging them 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, Duo-Tint Bulb & Battery Co., Inc., is a corporation, organized under the laws of the State of Illinois on September 16, 1932.

Respondent individuals Dalton W. Riggs, Carrie Riggs, and Helen Corts are officers, directors, and stockholders of respondent, Duo-Tint Bulb & Battery Co., Inc., and in control of the management, policies, and operation of said organization since the date of its organization in 1932, particularly in respect to the acts and practices hereinafter set forth. Prior to the organization of said corporation Dalton W. Riggs operated and controlled said business under the trade name Duo-Tint Bulb & Battery Co. The said respondents maintain offices and principal place of business at 4431 North Racine Avenue, Chicago, Ill.

PAR. 2. Respondent, Duo-Tint Bulb & Battery Co., Inc., is now, and has been since the date of its organization, engaged in the business of selling and distributing small glass incandescent electric light bulbs and batteries. In the course and conduct of their said business respondents sell said electric light bulbs and batteries to various distributors and retail dealers for resale, and cause them, when sold, to be transported from their aforesaid place of business in the State of Illinois to purchasers thereof located in various other States of the United States and in the District of Columbia.

At all times mentioned herein respondents have 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. 3. Respondents formerly imported their electric light bulbs from the country of Japan. When the bulbs were shipped from Japan to and received by respondents in the United States, there was stamped thereon the word "Japan."

In the course and conduct of their business it has been and is the practice of respondents to assemble the electric light bulbs imported from Japan in boxes on perforated pasteboards in such manner as to conceal or hide from the view of the prospective purchaser the base or lower half of the bulb on which the name "Japan" is stamped, and such electric light bulbs are then sold and distributed by the respondents in commerce as aforesaid without any marking thereon to inform members of the purchasing public that the bulbs are of Japanese or foreign origin.

PAR. 4. A further practice of respondents in connection with the sale and distribution of their electric light bulbs is the stamping or imprinting upon the boxes and display cards in which they are packed for shipment or on which they are placed for display, and in other literature, legends, and representations as follows:

Fillaments Made in U. S. A.
Duo-Tint Bulb & Battery Company, Inc.,
4431-33 N. Racine Avenue
(Riggs Bldg.)
Chicago, Illinois.

thereby representing directly or by inference that such bulbs are manufactured or made in the United States and that such bulbs are wholly of domestic origin and manufacture rather than foreign origin and manufacture. In truth and in fact, such bulbs are not of domestic origin and manufacture, as they are made in and imported by respondents from Japan.

PAR. 5. For many years last past there has been maintained among manufacturers in the United States an established custom and prac-

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tice of marking products of foreign origin in such manner as to indicate that such products are in fact of foreign rather than domestic origin. The purchasing public is familiar with and relies upon such custom and practice, and when products bear no marking indicating that they are of foreign origin, the purchasing public assumes that such products are of domestic origin.

PAR. 6. 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 other foreign countries.

PAR. 7. The practice of the respondents of obliterating, obscuring, or concealing the word "Japan" appearing on the base of electric light bulbs and of imprinting on the display cards the words "Duo-Tint Bulb & Battery Co., 4431-33 North Racine Ave. (Riggs Building)Chicago, Ill.," and of using on the boxes or cartons in which the bulbs are packed and offered for sale and in other literature the legend "Filaments Made in U. S. A." and the words "Duo-Tint Bulb & Battery Co., Inc., Chicago, Ill." has a tendency and capacity to and does mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that respondents' electric light bulbs are wholly of domestic 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 respondents' said products.

Through the practices herein set forth, the respondents place in the hands of dealers a means and instrumentality whereby such dealers have been and are enabled to mislead and deceive members of the purchasing public as to the source or origin of said bulbs and batteries.

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.

ORDER TO CEASE AND DESIST

This matter coming on to be heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the 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;

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and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Duo-Tint Bulb & Battery Co., Inc., a corporation, and its officers, and Carrie Riggs and Helen Corts, individually, and Dalton W. Riggs, individually, and trading as Duo-Tint Bulb & Battery Co., or trading under any other name, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of incandescent electric light bulbs or other products manufactured in whole or in part in Japan or any other foreign country, do forthwith cease and desist from:

1. Concealing, obliterating or removing the name Japan or the name of any other foreign country indicating the origin of respondents' products.

2. Using the words "Filaments made in U. S. A." or any other words of similar import in connection with electric light bulbs manufactured in Japan or any other foreign country.

3. Representing in any manner that electric light bulbs or other products manufactured in any foreign country are manufactured in the United States.

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.

IN THE MATTER OF
ASSOCIATED DISTRIBUTORS, INC., ET AL.

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

Docket 4749. Complaint, June 30, 1942¹—Decision, May 18, 1943

Where a corporation and three individuals engaged in interstate sale and distribution of their "Chen Yu Nail Lacquer"—

- (a) Featured trade name "Chen Yu" on the bottles in which said product was sold and in advertisements thereof, together with purported Chinese letters or symbols, or depictions of Chinese art or objects;

With effect of misleading purchasers to believe that said lacquer was of Chinese origin, formula or manufacture, and with tendency and capacity, in the absence of a conspicuous statement that said product was made in the United States, to confuse them as to the actual country of origin; and

- (b) Falsely represented, in said advertisements in newspapers and periodicals and other matter, that said lacquer was incapable of chipping or flaking under all conditions of use;

With tendency and capacity to mislead a substantial portion of the purchasing public with respect thereto, and to cause it to purchase substantial quantities thereof as a result of the mistaken belief so engendered:

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

Mr. R. P. Bellinger for the Commission.

Covington, Burling, Rublee, Acheson & Shorb, of Washington, D. C., and *Petit, Olin & Overmyer*, of Chicago, Ill., for respondents.

AMENDED COMPLAINT²

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 Associated Distributors, Inc., a corporation, J. L. Younghusband, Paul Rowatt, and Douglas Walker, individuals, trading as Associated Distributors, hereinafter referred to as respondents, have violated the provisions of said act, and it appearing to the Commission, that a proceeding by it

¹ Amended.

² The amended complaint was further amended by an order of the Commission dated May 10, 1943, as follows:

This matter coming on to be heard by the Commission upon the stipulation as to the facts entered into by and between Richard P. Whiteley, assistant chief counsel for the Federal Trade Commission, and Associated Distributors, Inc., J. L. Younghusband, Paul Rowatt, and Howard A. Younghusband, and it appearing from said stipulated facts that J. L. Younghusband, Paul Rowatt, and Douglas Walker, individuals trading as Associated Distributors, were doing business as a partnership until August 31, 1942, upon which date Douglas Walker withdrew from the partnership, and it further appearing that on September