

Complaint

IN THE MATTER OF

AMERICAN RUG & CARPET CO., INC.

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

Docket 4499. Complaint, May 10, 1941—Decision, July 13, 1943

Where a corporation, engaged in competitive interstate sale and distribution of rugs closely resembling Orientals, having their origin in Persia or Iran, including those known as "Sarouk," "Kashan," "Ardabil," and "Ardavan"—
Made use of names "Imperial Saroukan," "Iran Kashan," and "Imperial Ardavan" to designate certain of its said products in invoices to dealers and in otherwise referring thereto, and in labels attached thereto conspicuously displayed the name, together with a depiction of Oriental scenes;

The facts being that said rugs, while so closely simulating the true handmade Oriental with its distinctive knotting and other characteristics, as to be indistinguishable therefrom by a large portion of the purchasing public, were woven on power looms in the United States;

With tendency and capacity to mislead prospective purchasers into the mistaken belief that such representations were true and that aforesaid rugs were genuine Orientals, and thereby induce their purchase; and with result of placing in the hands of retailer purchasers thereof means of deceiving the public in the particulars aforesaid; whereby trade was unfairly diverted to it from competitor dealers in truthfully represented Orientals and domestics:

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

Mr. Randolph W. Branch for the Commission.

Hartman & Craven, of New York City, 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 American Rug & Carpet Co., Inc., a corporation, hereinafter referred to as respondent, has 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, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, American Rug & Carpet Co., Inc., is a corporation, organized and existing under the laws of the State of New York and having an office and principal place of business at 105 Madison Avenue, city and State of New York.

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PAR. 2. Respondent, is now, and has been for more than three years last past, engaged in the business of distributing and selling rugs. In the course and conduct of its business, respondent sells said rugs to various wholesale and retail dealers, and causes such rugs, when sold, to be transported from its aforesaid place of business in the State of New York to 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 rugs 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 its said business, respondent is now, and has been at all times mentioned herein, in substantial competition with other corporations, and with firms, partnerships, and individuals also engaged in the sale and distribution of rugs in commerce among and between the various States of the United States and in the District of Columbia. Among such competitors are many who do not misrepresent either the place or method of manufacture of their products and who do not furnish their dealer-customer with means or instrumentalities for deceiving the public.

PAR. 4. A substantial portion of the purchasing and consuming public understands, and for many years has understood, Oriental rugs to be rugs made in the Orient, or more particularly in certain parts of southwestern Asia, by hand, of pleasing texture and original and beautiful design and having a pile of wool or silk and wool, and threads of which are individually knotted in a special manner. Such rugs are usually designated by names which are indicative of the Orient and Oriental origin and manufacture. Oriental rugs have been for many years, and still are, held in great public esteem because of their texture, beauty, durability, and other qualities, and by reason thereof there is a substantial demand on the part of many of the purchasing public for such rugs.

PAR. 5. In the course and conduct of its business and for the purpose of inducing the purchase of said rugs, respondent has engaged in the practice of describing and designating certain of its rugs, which closely resemble true Oriental rugs in appearance, by the names "Imperial Saroukan," "Iran Kashan," and "Imperial Ardavan."

There are true Oriental rugs known as "Sarouk," "Kashan," "Ardabil," and "Ardavan," and "Iran" is the modern name for Persia, which is a place of origin of genuine Oriental rugs. The use by the respondent of the designations "Imperial Saroukan," "Iran Kashan," and "Imperial Ardavan" has the capacity and tendency to create the mistaken and erroneous belief that the rugs so designated are in fact genuine Oriental rugs. Respondent uses said names to designate the

said rugs in invoices to dealers and in otherwise referring to the same in the sale thereof to dealers.

To the various rugs designated by respondent as above set forth, it firmly attaches labels upon which the particular name conspicuously appears, together with depictions of Oriental scenes. All of said labels are plainly discernible to members of the purchasing public when said rugs are displayed for sale by retail dealers.

In truth and in fact respondent's rugs hereinabove referred to are woven on power looms in the United States. They are not made by hand and the individual threads are not knotted in the distinctive manner of the true Oriental rug. They do not possess all the characteristics of true Oriental rugs but do in fact so closely simulate true Oriental rugs in appearance as to be indistinguishable from them by a large portion of the purchasing public and, in consequence, are readily accepted as being true Oriental rugs.

PAR. 6. The use by respondent of the designations, depictions, and representations as set forth herein in connection with the offering for sale and sale of its said rugs has had, and now has, the tendency and capacity to mislead purchasers and prospective purchasers thereof into the erroneous and mistaken belief that such representations and designations are true and correct, and to induce them to purchase said rugs on account thereof. Respondent's said acts and practices place in the hands of retail dealers who purchase said rugs and resell the same to the purchasing public, means and instrumentalities for misleading and deceiving the public in the particulars aforesaid.

As a result of respondent's said acts and practices, trade has been unfairly diverted to respondent from its competitors engaged in the sale in commerce between and among the various States of the United States and in the District of Columbia of rugs of various kinds, including both genuine Oriental and domestic rugs, who truthfully represent their products as set forth in paragraph 3 hereof. In consequence thereof, injury has been, and is now being, done by respondent to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 7. The aforesaid acts and practices of respondent, as herein alleged, are all to the prejudice and injury of respondent's competitors, and constitute unfair methods of competition in commerce and 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 May 10, 1941, issued, and on May

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12, 1941, served its complaint in this proceeding upon respondent, American Rug and Carpet Co., Inc., a corporation, charging it with the use of unfair methods of competition in commerce and 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 request 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, American Rug & Carpet Co., Inc., is a corporation, organized and existing under the laws of the State of New York and having its office and principal place of business at 105 Madison Avenue, city and State of New York.

PAR. 2. Respondent is now, and has been for more than three years last past, engaged in the business of distributing and selling rugs. In the course and conduct of its business, respondent sells said rugs to various wholesale and retail dealers, and causes such rugs, when sold, to be transported from its aforesaid place of business in the State of New York to 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 rugs 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 its said business, respondent is now, and has been at all times mentioned herein, in substantial competition with other corporations, and with firms, partnerships, and individuals also engaged in the sale and distribution of rugs in commerce among and between the various States of the United States and in the District of Columbia. Among such competitors are many who do not misrepresent either the place or method of manufacture of their products and who do not furnish their dealer-customers with means or instrumentalities for deceiving the public.

PAR. 4. A substantial portion of the purchasing and consuming public understands, and for many years has understood, Oriental rugs to be rugs made in the Orient, or more particularly in certain parts of southwestern Asia, by hand, of pleasing texture and original and beautiful design and having a pile of wool or silk and wool, the threads of which are individually knotted in a special manner. Such rugs are usually designated by names which are indicative of the Orient and Oriental origin and manufacture. Oriental rugs have been for many years, and still are, held in great public esteem because of their texture, beauty, durability, and other qualities, and by reason thereof there is a substantial demand on the part of many of the purchasing public for such rugs.

PAR. 5. In the course and conduct of its business and for the purpose of inducing the purchase of said rugs, respondent has engaged in the practice of describing and designating certain of its rugs, which closely resemble true Oriental rugs in appearance, by the names "Imperial Saroukan," "Iran Kashan," and "Imperial Ardavan."

There are true Oriental rugs known as "Sarouk," "Kashan," "Ardabil," and "Ardavan," and "Iran" is the modern name for Persia, which is a place of origin of genuine Oriental rugs. The use by the respondent of the designations "Imperial Saroukan," "Iran Kashan," and "Imperial Ardavan" has the capacity and tendency to create the mistaken and erroneous belief that the rugs so designated are in fact genuine Oriental rugs. Respondent uses said names to designate the said rugs in invoices to dealers and in otherwise referring to the same in the sale thereof to dealers.

To the various rugs designated by respondent as above set forth, it firmly attaches labels upon which the particular name conspicuously appears, together with depictions of Oriental scenes. All of said labels are plainly discernible to members of the purchasing public when said rugs are displayed for sale by retail dealers.

In truth and in fact respondent's rugs hereinabove referred to are woven on power looms in the United States. They are not made by hand and the individual threads are not knotted in the distinctive manner of the true Oriental rug. They do not possess all the characteristics of true Oriental Rugs but do in fact so closely simulate true Oriental rugs in appearance as to be indistinguishable from them by a large portion of the purchasing public and, in consequence, are readily accepted as being true Oriental rugs.

PAR. 6. The use by respondent of the designations, depictions, and representations as set forth herein in connection with the offering for sale and sale of its said rugs has had, and now has, the tendency and capacity to mislead purchasers and prospective purchasers thereof

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into the erroneous and mistaken belief that such representations and designations are true and correct, and to induce them to purchase said rugs on account thereof. Respondent's said acts and practices place in the hands of retail dealers who purchase said rugs and resell the same to the purchasing public, means and instrumentalities for misleading and deceiving the public in the particulars aforesaid.

As a result of respondent's said acts and practices, trade has been unfairly diverted to respondent from its competitors engaged in the sale in commerce between and among the various States of the United States and in the District of Columbia, of rugs of various kinds, including both genuine Oriental and domestic rugs, who truthfully represent their products.

CONCLUSION

The aforesaid acts and practices of respondent, as herein found, are all to the prejudice and injury of the public and of respondent's competitors, and constitute unfair methods of competition in commerce and 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 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 conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, American Rug and Carpet Co., 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 rugs in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "Saroukan," or "Iran" or any other combination of words or syllables, coined or otherwise, which are indicative of the Orient to designate or describe rugs which are not in fact made in the Orient and which do not possess all the essential characteristics and structure of Oriental rugs.
2. Using the words "Kashan," "Ardavan," or "Sarouk" or any other name of any genuine Oriental rug, alone or in combination with other

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words or syllables, coined or otherwise, to designate or describe rugs which are not in fact made in the Orient and which do not possess all the essential characteristics and structure of the particular Oriental rugs indicated by the use of such name.

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.

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IN THE MATTER OF

RHODE ISLAND PLUSH MILLS, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914, AND OF AN ACT OF CONGRESS APPROVED OCT. 14, 1940

Docket 4881. Complaint, Dec. 30, 1942—Decision, July 13, 1943

Where a corporation, engaged in the manufacture and interstate sale and distribution of textile fabrics of woolen and cotton, woolen and rayon, or cotton and rayon, which, designed for use in the manufacture of women's coats, were so constructed as to simulate the color, pattern, and texture of the peltries of the Karakul breed of sheep or lambs, or fabrics made from the highly prized fleece thereof—

(a) Represented that its fabrics and coats or garments made therefrom were made from such peltries or fleece, through supplying to manufacturers and retailers for use thereon, or paying for, labels bearing names such as "Bakahara-Lam," "Allapo-Curl," "Arabakurl," "Bokahara-Curl," and "Mara-Kurl," associated in sound and appearance with said breed's countries;

With tendency and capacity to mislead and deceive the purchasing public into the belief that said fabrics or garments were in fact made from Karakul peltries or fleece, markedly preferred by a substantial part of such public over garments made of ordinary woolen or mixed fabrics; and

Where said corporation, engaged in sale and distribution of wool products under the Wool Products Labeling Act in that aforesaid fabrics were composed in part of wool, reprocessed wool, or reused wool as there defined, and of other fibers also—

(b) Sold the same misbranded in violation thereof 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 with respect to wool, reprocessed wool, reused wool, nonwool fibers, and aggregate thereof, addition of nonfibrous loading, and proper identification of the manufacturer or seller:

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. B. G. Wilson for the Commission.

Edwards & Angell, of Providence, R. I., 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 Rhode Island Plush Mills, Inc., a corporation, hereinafter referred to as respondent, has