

IN THE MATTER OF

LAWRENCE BLANKET COMPANY; THOMAS B. KEEN
AND MARIAN C. KEEN, TRADING UNDER THE NAME
THOMAS B. KEEN COMPANY, AND ROBERT MARS

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT, APPROVED SEPT. 26, 1914 AND
THE WOOL PRODUCTS LABELING ACT OF 1939, APPROVED OCT. 14, 1940

Docket 4946. Complaint, Apr. 19, 1943—Decision, May 6, 1944

Where a manufacturer of blankets and other products in Worcester, Mass.; two partners in New York City, sellers and distributors thereof; and an individual in Washington, D. C., who sold said products, secured through said partners; engaged in the interstate sale of products in question, including many which were wool products as defined by the Wool Products Labeling Act of 1939, in that they were composed in whole or in part of wool, reprocessed wool or reused wool—

Sold to agencies, departments and bureaus of the United States government and to other purchasers, blankets which were misbranded in violation of said Act in that when introduced in commerce they did not have on or affixed thereto a stamp, tag, label or other means of identification showing the percentage of the total fiber weight of wool, reprocessed wool, reused wool and non-wool fiber, and maximum percentage of non-fibrous loading or adulterating matter; and proper identification of the manufacturer, seller, or reseller, or name of one or more persons subject to the Act with respect to product concerned:

Held, That aforesaid acts and practices, as above set forth, were in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder, and were all to the prejudice and injury of the public and constituted unfair and deceptive acts and practices in commerce.

Mr. DeWitt T. Puckett for the Commission.

Mr. Meyer Cohan, of Worcester, Mass., for Lawrence Blanket Co.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Lawrence Blanket Company, a corporation, Thomas B. Keen and Marian C. Keen, individually, and as copartners, trading under the name Thomas B. Keen Company, and Robert Mars, an individual, hereinafter referred to as respondents, have violated the provisions of the said acts and the rules and regulations promulgated under the Wool Products Labeling Act of 1939, 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, Lawrence Blanket Company, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Massachusetts and has its principal office and place of business at 9 Winter Street, Worcester, Mass.

Respondents, Thomas B. Keen and Marian C. Keen, are copartners, doing business under the name Thomas B. Keen Company and have their

principal office and place of business at 40 Worth Street, New York, N. Y.

Respondent, Robert Mars, has his principal office and place of business at 401 First Street, S. E., Washington, D. C.

PAR. 2. Respondent, Lawrence Blanket Company, is now and for several years last past has been engaged in the manufacture, sale and distribution of blankets and other products.

Respondents, Thomas B. Keen and Marian C. Keen, during the time mentioned herein have sold and distributed blankets and other products manufactured by respondent, Lawrence Blanket Company.

Respondent, Robert Mars, during the time mentioned herein has sold and distributed blankets and other products manufactured by respondent, Lawrence Blanket Company, which he secures through and from respondents, Thomas B. Keen and Marian C. Keen.

Respondents cause and have caused said products when sold by them to be transported from the States of Massachusetts and New York to various purchasers thereof at their respective points of location in various States of the United States and in the District of Columbia. Respondents maintain, and at all times mentioned herein 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. Among the products manufactured by the respondent, Lawrence Blanket Company, which have been sold and distributed in said commerce by all the respondents herein 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 said products are composed in whole or in part of wool, reprocessed wool or reused wool as those terms are defined in the said act. Said wool products are subject to the labeling provision of said act and said rules and regulations.

Among the said wool products sold to agencies, departments and bureaus of the United States Government and to other purchasers and distributed by respondents in said commerce as aforesaid were blankets which were misbranded in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated under said act, in that said wool products, when introduced in said commerce, did not have on or affixed thereto, a stamp, tag, label or 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 non-fibrous loading, filling, or adulterating matter; (c) the name of the manufacturer of the wool product, or, in lieu thereof, a registered number with name of a re-seller 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. 4. The aforesaid acts, practices and methods 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 provisions of the Federal Trade Commission Act, and the Wool Products Labeling Act of 1939, the Federal Trade Commission, on the 19th day of April, 1943, issued and subsequently served its complaint in this proceeding upon respondents, Lawrence Blanket Company, a corporation, Thomas B. Keen and Marian C. Keen, individually, and as copartners, trading under the name Thomas B. Keen Company, and Robert Mars, an individual, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said acts and the rules and regulations promulgated under the Wool Products Labeling Act of 1939. After the issuance of said complaint, the Commission, by order entered herein, granted the motion of respondents, Lawrence Blanket Company, Thomas B. Keen and Marian C. Keen for permission to withdraw their answers filed to the complaint and to file answers admitting all the material allegations of fact set forth in the said complaint and waiving all intervening procedure and further hearing as to said facts, which answers were duly filed in the office of the Commission. Respondent, Robert Mars, submitted an answer admitting all of the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to the 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 complaint and respondents' answers 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. Respondent, Lawrence Blanket Company, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Massachusetts and has its principal office and place of business at 9 Winter Street, Worcester, Mass.

Respondents, Thomas B. Keen and Marian C. Keen, are copartners, doing business under the name Thomas B. Keen Company and have their principal office and place of business at 40 Worth Street, New York, N. Y.

Respondent, Robert Mars, has his principal office and place of business at 401 First Street, S. E., Washington, D. C.

PAR. 2. Respondent, Lawrence Blanket Company, is now and for several years last past has been engaged in the manufacture, sale and distribution of blankets and other products.

Respondents, Thomas B. Keen and Marian C. Keen, during the time mentioned herein have sold and distributed blankets and other products manufactured by respondent, Lawrence Blanket Company.

Respondent, Robert Mars, during the time mentioned herein has sold and distributed blankets and other products manufactured by respondent, Lawrence Blanket Company, which he secures through and from respondents, Thomas B. Keen and Marian C. Keen.

Respondents cause and have caused said products when sold by them to be transported from the States of Massachusetts and New York to various purchasers thereof at their respective points of location in various States of the United States and in the District of Columbia. Respondents main-

tain, and at all times mentioned herein 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. Among the products manufactured by the respondent, Lawrence Blanket Company, which have been sold and distributed in said commerce by all the respondents herein 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 said products are composed in whole or in part of wool, reprocessed wool or reused wool as those terms are defined in the said act. Said wool products are subject to the labeling provision of said act and said rules and regulations.

Among the said wool products sold to agencies, departments and bureaus of the United States Government and to other purchasers and distributed by respondents in said commerce as aforesaid were blankets which were misbranded in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated under said act, in that said wool products, when introduced in said commerce, did not have on or affixed thereto, a stamp, tag, label or 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 non-fibrous loading, filling, or adulterating matter; (c) the name of the manufacturer of the wool product, or, in lieu thereof, a registered number with name of a reseller 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.

CONCLUSION

The aforesaid acts, practices and methods of respondents, as herein found, were and are in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder and 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 answers of respondents, in which answers 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 its 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 respondents, Lawrence Blanket Company, a corporation, Thomas B. Keen and Marian C. Keen, individually, and as copartners, trading under the name Thomas B. Keen Company, or trading under

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any other name, and Robert Mars, an individual, jointly or severally, their respective agents and employees, directly or through any corporate or other device in connection with the introduction or manufacture for introduction into commerce or the sale, transportation or distribution in commerce, as "commerce" is defined in the aforesaid acts, do forthwith cease and desist from misbranding blankets or other "wool products," as such products are defined in the Wool Products Labeling Act of 1939, which contain, purport to contain, or in any way are represented as containing "wool," "reprocessed wool," "reused wool," as those terms are defined in said act, by failing to securely affix to or place on such products a stamp, tag, label or other means of identification showing in a clear and conspicuous manner:

(a) The percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding five 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 five percentum or more, and (5) the aggregate of all other fibers.

(b) The maximum percentage of the total weight of such wool products of any non-fibrous loading, filling, or adulterating matter.

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

Provided, that the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraphs (a) and (b) of section 3 of the Wool Products Labeling Act of 1939; and provided, further, that nothing contained in this order shall be construed as limiting any applicable provisions of said act or the rules and regulations promulgated thereunder.

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.

Complaint

IN THE MATTER OF

BAUSCH & LOMB OPTICAL COMPANY

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

Docket 4903. Complaint, Feb. 9, 1943—Decision, May 9, 1944

Where a corporation engaged in manufacture of ophthalmic and optical products, including spectacle lenses, and in competitive interstate sale and distribution of such spectacle lenses to wholesalers for resale to retailers, ophthalmologists, optometrists and opticians for distribution to the public through resale or use in filling prescriptions; having from 1913 to 1928 advertised its "Balcor" six-base meniscus and six-base toric lenses—which, respectively, provided a high degree of marginal correction, and a lesser degree thereof—through display advertising comparing photographic images taken through the old-fashioned flat lenses—largely supplanted since 1900 by the toric and meniscus lenses—with images taken through meniscus lenses, showing the picture produced by the flat lens clear in the center but blurred near the edges, and same area taken through the latter, clear throughout—

In advertising thereafter its "Orthogon" series of meniscus and toric lenses, introduced about 1928, through continued dissemination of photographic comparisons, in which the figure produced by the flat lens was clear on the center but blurred near the edges while that produced through the Orthogon meniscus lens was clear throughout its entire area,—

Represented, through use of word "ordinary" in matter accompanying said photographic comparison, in which it described the marginal blurred photograph, made with flat lens, as "made through an ordinary spectacle lens," not further described, with its "needless eye strain," as contrasted with that made through its "Orthogon spectacle lens" with its "extra margin of safety" and "same perfect vision" at the edge as at the center," that its said Orthogon lenses provided a greater degree of marginal correction as compared with the six-base meniscus and six-base toric lenses than they in fact did, through word's capacity and tendency to mislead into belief that comparison was between its "Orthogon" and other toric and meniscus lenses sold through same channels;

With capacity and tendency to cause members of the public in said erroneous belief to purchase its said Orthogon lenses in preference to products of its competitors and thereby unfairly divert trade from them to it:

Held, That such acts and practices were all to the prejudice of the public and constituted unfair methods of competition in commerce and unfair acts and practices therein.

Before *Mr. Miles J. Furnas*, trial examiner.

Mr. R. P. Bellinger for the Commission.

Goodwin, Nixon, Hargrave, Middleton & Devans, of Rochester, N. Y., 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 Bausch & Lomb Optical Company, a corporation, hereinafter referred to as respondent, has violated the pro-