

IN THE MATTER OF
AMERICAN FLAG COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF
SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914, AND OF THE WOOL
PRODUCTS LABELING ACT OF 1939, APPROVED OCT. 14, 1940

Docket 5261. Complaint, Dec. 15, 1944—Decision, Apr. 27, 1945

Where a corporation engaged in the manufacture and interstate sale and distribution of merchandise of a decorative nature such as flags, banners and pennants, including certain products composed in whole or in part of rayon or wool—

- (a) Sold products which, in texture and appearance, resembled silk, product of the cocoon of the silkworm, long held in great public esteem, without disclosing in words familiar to the purchasing public that such products were made in whole or in part of rayon, whereby many were led to believe that they were silk;
- (b) Represented through use of the words and expressions "rayon silk," "rayon bemberg silk," "rayon celanese taffeta silk," "yellow silk bullion fringe," "yellow silk tassels and cord" in its advertising and invoices and in various other ways, that its said rayon products were silk;

With effect of misleading and deceiving purchasers, including wholesalers and retailers, as to the fiber content of its products and of placing in the hands of its purchasers for resale a means and instrumentality whereby they might and did deceive the purchasing public in said respect; and with the result that substantial quantities thereof were purchased as composed in whole or in part of silk; and,

Where said corporation, engaged as aforesaid—

- (c) Sold products composed in whole or in part of wool, reprocessed wool or reused wool, including flags, banners and pennants, misbranded in violation of the Wool Products Labeling Act and rules and regulations thereunder, in that it did not affix thereto a stamp, tag, label or other means of identification showing the percentage of the total fiber weight of wool, reprocessed wool and reused wool and non-wool fiber and maximum percentage of adulterating matter, etc.; and proper identification of the manufacturer, seller, etc., as thereby required;

Held, That said acts, practices and methods, 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. DeWitt T. Puckett and Mr. G. M. Martin for the Commission.

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 American Flag Company, a corporation, hereinafter referred to as respondent, has violated the provisions of 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. The respondent, American Flag Company, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 73-77 Mercer Street, New York, N. Y. Respondent is now, and for more than two years last past has been, engaged in the manufacture, sale and distribution of merchandise of a decorative nature, such as flags, banners and pennants to purchasers for resale throughout the United States.

Respondent has caused and is now causing said products when sold by it to be transported from its place of business in the State of New York to purchasers for resale thereof located in the various other States of the United States and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained a substantial 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. 2. Among the products offered for sale and sold by the respondent, in commerce as aforesaid, are some which are composed wholly or in part of rayon.

PAR. 3. Rayon is a chemically manufactured fiber which may be manufactured so as to simulate silk fibers in texture and in appearance, and fabrics manufactured from such rayon fibers simulate silk fabrics in texture and in appearance. Merchandise manufactured from such rayon fabrics has the appearance and feel of silk and many members of the purchasing public are unable to distinguish between such rayon products and products manufactured from silk, the product of the cocoon of the silkworm. Consequently, such rayon products are readily accepted by some members of the purchasing public as silk products.

PAR. 4. Products manufactured from silk, the product of the cocoon of the silkworm, have for many years been held and still are held in great public esteem because of their outstanding qualities, and there has been for many years, and still is, a public demand for such products.

PAR. 5. The respondent manufactures and sells in commerce, as aforesaid, products composed wholly or in part of rayon, which products simulate in texture and appearance products composed wholly or in part of silk, the product of the cocoon of the silkworm. Respondent does not inform the purchasing public of the fact that the said products which resemble silk in texture and appearance, are made wholly or in part of rayon and not of silk.

PAR. 6. The practice of the respondent in offering for sale and selling said products, manufactured wholly or in part of rayon, which resemble in texture and appearance products manufactured from silk, in commerce as aforesaid, without disclosing in words familiar to the purchasing public the fact that said products are manufactured wholly or in part of rayon, is misleading and deceptive, and many members of the purchasing public are thereby led to believe that the said rayon products are composed wholly or in part of silk, the product of the cocoon of the silkworm.

PAR. 7. The use by respondent of the acts and practices hereinabove described has the capacity and tendency to mislead and deceive and does mislead and deceive wholesalers and retailers who purchase respondent's said products as to the fiber content thereof. By said acts and practices respondent also places in the hands of purchasers of its products for resale a means and instrumentality whereby they may and do deceive the purchasing public as to the fiber content of said products. As a result of this

deception, substantial quantities of respondent's products are purchased in the belief that they are composed wholly or in part of silk, the product of the cocoon of the silkworm.

PAR. 8. In addition to misrepresenting the fiber content of its said products, in the manner described above, the respondent has, in the course and conduct of its said business, further misrepresented the fiber content of its fabrics through the use of the words "rayon silk," "rayon bemberg silk," "rayon celanese taffeta silk," "yellow silk bullion fringe," "yellow silk tassels and cord" in its advertising and invoices and in various other ways.

By and through the use of the expressions "rayon silk," "rayon bemberg silk," "rayon celanese taffeta silk," "yellow silk bullion fringe" and "yellow silk tassels and cord" in the manner above described, the respondent has represented and now represents that its said products composed of rayon are composed of silk, the product of the cocoon of the silkworm.

PAR. 9. The use by the respondent of the acts and practices hereinabove described has the capacity and tendency to and does mislead and deceive the purchasers of its products as to the fiber content thereof. By the use of said acts and practices the respondent also places in the hands of purchasers for resale of its said products a means and instrumentality whereby they may and do mislead and deceive the purchasing public as to the fiber content of its said products. As a result of this deception substantial quantities of respondent's products are purchased in the belief that they are composed of silk.

PAR. 10. Respondent is also engaged in the introduction and manufacture for introduction into commerce, and in the sale, transportation and distribution of wool products, as such products are defined in the Wool Products Labeling Act of 1939, in commerce, as "commerce" is defined in said Act and in the Federal Trade Commission Act. Many of respondent's said products are composed wholly or in part of wool, reprocessed wool, or reused wool, as those terms are defined in the Wool Products Labeling Act of 1939, and such products are subject to the provisions of said act and the rules and regulations promulgated thereunder. Since July 15, 1941, respondent has violated the provisions of said act and said rules and regulations in the introduction and manufacture for introduction into commerce, and in the sale, transportation and distribution of said wool products in said commerce, by causing said wool products to be misbranded within the intent and meaning of the said act and rules and regulations.

PAR. 11. Among the wool products introduced and manufactured for introduction into commerce, and sold, transported and distributed in commerce as aforesaid, were flags, banners and pennants. Exemplifying respondent's practice of violating said act and the rules and regulations promulgated thereunder is its misbranding of the aforesaid products in violation of the provisions of said act and said rules and regulations by failing to affix to said products 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 if said percentage by weight of such fiber is 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 percentages in words and figures plainly legible by weight of the wool contents of such wool product where said wool product contains a fiber other than wool; (d) the name of the manufacturer of the wool product, or the manufacturer's registered identification number and the name of a seller or reseller of the product, as provided for in the rules and regulations promulgated under such act, or the name of one or more persons subject to section 3 of said act with respect to such wool product.

PAR. 12. The acts, practices and methods of respondent as alleged in Paragraphs 10 and 11 hereof, constitute misbranding of wool products and are in violation of the Wool Products Labeling Act of 1939 and the rules and regulations promulgated thereunder and all of the aforesaid acts, practices and methods as alleged herein are to the prejudice and injury of the public and constitute unfair or deceptive acts or 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 15th day of December, 1944, issued and subsequently served its complaint in this proceeding upon respondent, American Flag Company, a corporation, charging it with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said acts. After the issuance of said complaint, the respondent submitted 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 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 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. Respondent, American Flag Company, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 73-77 Mercer Street, New York, N. Y. Respondent is now and for more than two years last past has been engaged in the manufacture, sale and distribution of merchandise of a decorative nature, such as flags, banners and pennants to purchasers for resale throughout the United States.

Respondent has caused and is now causing said products when sold by it to be transported from its place of business in the State of New York to purchasers for resale thereof located in the various other States of the United States and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained a substantial 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. 2. Among the products offered for sale and sold by the respondent, in commerce as aforesaid, are some which are composed wholly or in part of rayon.

PAR. 3. Rayon is a chemically manufactured fiber which may be manufactured so as to simulate silk fibers in texture and in appearance, and fabrics manufactured from such rayon fibers simulate silk fabrics in texture and in appearance. Merchandise manufactured from such rayon fabrics has the appearance and feel of silk and many members of the purchasing public are unable to distinguish between such rayon products and products manufactured from silk, the product of the cocoon of the silkworm. Consequently, such rayon products are readily accepted by some members of the purchasing public as silk products.

PAR. 4. Products manufactured from silk, the product of the cocoon of the silkworm, have for many years been held and still are held in great public esteem because of their outstanding qualities, and there has been for many years, and still is, a public demand for such products.

PAR. 5. The respondent manufactures and sells in commerce, as aforesaid, products composed wholly or in part of rayon, which products simulate in texture and appearance products composed wholly or in part of silk, the product of the cocoon of the silkworm. Respondent does not inform the purchasing public of the fact that the said products which resemble silk in texture and appearance, are made wholly or in part of rayon and not of silk.

PAR. 6. The practice of the respondent in offering for sale and selling said products, manufactured wholly or in part of rayon, which resemble in texture and appearance products manufactured from silk, in commerce as aforesaid, without disclosing in words familiar to the purchasing public the fact that said products are manufactured wholly or in part of rayon, is misleading and deceptive, and many members of the purchasing public are thereby led to believe that the said rayon products are composed wholly or in part of silk, the product of the cocoon of the silkworm.

PAR. 7. The use by respondent of the acts and practices hereinabove described has the capacity and tendency to mislead and deceive and does mislead and deceive wholesalers and retailers who purchase respondent's said products as to the fiber content thereof. By said acts and practices respondent also places in the hands of purchasers of its products for resale a means and instrumentality whereby they may and do deceive the purchasing public as to the fiber content of said products. As a result of this deception, substantial quantities of respondent's products are purchased in the belief that they are composed wholly or in part of silk, the product of the cocoon of the silkworm.

PAR. 8. In addition to misrepresenting the fiber content of its said products, in the manner described above, the respondent has, in the course and conduct of its said business, further misrepresented the fiber content of its fabrics through the use of the words "rayon silk," "rayon bemberg silk," "rayon celanese taffeta silk," "yellow silk bullion fringe," "yellow silk tassels and cord" in its advertising and invoices and in various other ways.

By and through the use of the expressions "rayon silk," "rayon bemberg silk," "rayon celanese taffeta silk," "yellow silk bullion fringe" and "yellow silk tassels and cord" in the manner above described, the respondent has represented and now represents that its said products composed of rayon are composed of silk, the product of the cocoon of the silkworm.

PAR. 9. The use by the respondent of the acts and practices hereinabove described has the capacity and tendency to and does mislead and deceive the purchasers of its products as to the fiber content thereof. By the use

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of said acts and practices the respondent also places in the hands of purchasers for resale of its said products a means and instrumentality whereby they may and do mislead and deceive the purchasing public as to the fiber content of its said products. As a result of this deception substantial quantities of respondent's products are purchased in the belief that they are composed of silk.

PAR. 10. Respondent is also engaged in the introduction and manufacture for introduction into commerce, and in the sale, transportation and distribution of wool products, as such products are defined in the Wool Products Labeling Act of 1939, in commerce, as "commerce" is defined in said act and in the Federal Trade Commission Act. Many of respondent's said products are composed wholly or in part of wool, reprocessed wool, or reused wool, as those terms are defined in the Wool Products Labeling Act of 1939, and such products are subject to the provisions of said act and the rules and regulations promulgated thereunder. Since July 15, 1941, respondent has violated the provisions of said act and said rules and regulations in the introduction and manufacture for introduction into commerce, and in the sale, transportation and distribution of said wool products in said commerce, by causing said wool products to be misbranded within the intent and meaning of the said act and rules and regulations.

PAR. 11. Among the wool products introduced and manufactured for introduction into commerce, and sold, transported and distributed in commerce as aforesaid were flags, banners and pennants. Exemplifying respondent's practice of violating said act and the rules and regulations promulgated thereunder is its misbranding of the aforesaid products in violation of the provisions of said act and said rules and regulations by failing to affix to said products 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 if said percentage by weight of such fiber is 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 percentages in words and figures plainly legible by weight of the wool contents of such wool product where said wool product contains a fiber other than wool; (d) the name of the manufacturer of the wool product, or the manufacturer's registered identification number and the name of a seller or reseller of the product, as provided for in the rules and regulations promulgated under such act, or the name of one or more persons subject to section 3 of said act with respect to such wool product.

CONCLUSIONS

The aforesaid acts, practices and methods 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 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 respondent in

which answer respondent admits all of 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 its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act and the provisions of the Wool Products Labeling Act of 1939.

It is ordered, That respondent, the American Flag Company, 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 flags or other articles of a decorative nature, or other fiber products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "taffeta" or any other descriptive term indicative of silk to designate or describe any product which is not composed entirely of silk, the product of the cocoon of the silkworm; *Provided, however,* that such word or descriptive term may be used truthfully to designate or describe the type of weave, construction or finish if such word is qualified by using in immediate connection or conjunction therewith in letters of at least equal size and conspicuousness words clearly and accurately naming the fibers or materials from which such product is made.

2. Using the unqualified word "silk" or any other word or words of similar import to designate or describe any fabric which is not composed wholly of unweighted silk, the product of the cocoon of the silkworm.

3. Advertising, offering for sale, or selling products composed in whole or in part of rayon without clearly disclosing such rayon content; and when such products are composed in part of rayon and in part of other fibers or materials, all such fibers or materials, including the rayon, shall be clearly and accurately disclosed.

It is further ordered, That respondent, American Flag Company, a corporation, its officers, representatives, 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 afore-said acts, do forthwith cease and desist from misbranding flags or other articles of a decorative nature or other "wool products" as such products are defined in and subject to the Wool Products Labeling Act of 1939, which products contain, purport to contain or in any way are represented as containing "wool," "reprocessed wool" or "reused wool" as those terms are defined in said Act by failing to affix securely 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 product of any nonfibrous 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.

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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 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.

IN THE MATTER OF
SCOTCH WOOLEN MILLS

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

Docket 940. Complaint, Nov. 6, 1942¹—Decision, May 1, 1945

Where a corporation engaged in the tailoring of made-to-measure clothing for men and women and in the sale and distribution thereof to purchasers throughout the United States through a retail branch at its home office and through some 2,500 dealers whom it furnished with samples, catalogs, display cards, window display advertisements, circulars for distribution to prospective customers, mats for newspaper advertising, and various other forms of advertising material—

Represented through corporate name "Scotch Woolen Mills" under which it traded and which it used on stationery and featured in its aforesaid catalogs, display cards, etc., frequently followed by a statement such as "World's Greatest Tailors" and, more recently, by the word "Tailors," that it was a manufacturer of woolen cloth, that the cloth used by it in tailoring the "made-to-measure" clothing offered for sale was woven in Scotland, and that it owned, operated, or controlled manufacturing establishments in Scotland in which such cloth was woven, or establishments in the United States in which it was woven from wool or yarn imported from Scotland;

Notwithstanding the fact that it purchased all the woolen cloth it used in tailoring said garments from the manufacturers or jobbers; and only a very small proportion of such cloth—and in some seasons none—was of Scotch wool or imported from Scotland;

With capacity and tendency to mislead a substantial portion of the purchasing public in the aforesaid respects and thereby induce the purchase of the made-to-measure clothing tailored by it by said public, which prefers clothing made of cloth woven from wool or yarn imported from Scotland, esteemed for quality and durability, and to deal directly with a clothing manufacturer who weaves his cloth also, as eliminating the profits of the middlemen and securing other advantages; and with result also of placing in the hands of dealers and others the means whereby members of the public might be misled and deceived concerning its business status and the source of the cloth used in its garments:

Held, That said 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.

As respects the alleged misleading use of the trade and corporate name "Scotch Woolen Mills" by a concern engaged in tailoring made-to-measure clothing which did not also weave the cloth from which its clothing was tailored, the use of words such as "World's Greatest Tailors" or "Tailors" in connection with the name "Scotch Woolen Mills" did not serve to inform the public that it was only a tailor and did not weave the cloth it used, but merely to emphasize the thought that it was a weaver also engaged in tailoring garments from the cloth it wove.

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

Mr. R. P. Bellinger for the Commission.

Mr. Isaac S. Rothschild and *Mr. Arthur B. Schaffner*, of Chicago, Ill., for respondent.