

IN THE MATTER OF

HUDDERSFIELD WORSTED MILLS CORPORATION

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

Docket 5009. Complaint, July 19, 1943—Decision, Apr. 23, 1946.

Huddersfield is an area in England where high grades of worsted or woolen cloth are manufactured, and for many years it has been the source of some of the finest woolens imported to the United States, which fact has been, and is, generally known to a substantial portion of purchasers of men's clothing in this country.

The word "worsted" has long been used in the trade and is understood by a substantial portion of the purchasing public to designate, describe, and refer to fabric composed entirely of wool, exclusive of ornamentations.

Where a corporation engaged under the corporate name "Huddersfield Worsted Mills Corporation," as a selling agent for a number of manufacturers in the interstate sale and distribution of textile fabrics for making suits, slacks, and other men's wearing apparel—

- (a) Falsely represented through use of the word "Huddersfield" in its corporate name and on labels and stationery and otherwise, and through the depiction of the lion similar to that of the British royal coat of arms, and through of the representations, directly and indirectly, that its said merchandise was imported from England; when in truth and in fact its fabrics were made in the United States from domestic material;
- (b) Falsely represented through use of the word "Mills" in its corporate name and the words "Manufacturers of Fine, Fancy Worsteds" on its stationery and otherwise, that it owned and operated or controlled the manufacturing plants or mills where the cloth it sold was manufactured; and
- (c) Falsely represented through the use of the word "Worsted" in its corporate name and on letterheads, invoices, and otherwise, that the cloth sold by it was composed entirely of wool;

When in fact practically none of the fabrics sold by it were composed entirely of wool and the great majority were composed of fibers other than wool; and it was not a manufacturer, from which a substantial portion of those who buy fabrics for making clothing for resale prefer to purchase direct as securing them advantages in price and in other respects;

With result of placing in the hands of dealers and jobbers a means of misleading the purchasing public; and of misleading such public into the erroneous belief that such representations and designations were true, and thereby of inducing the purchase in commerce of said fabrics and clothing made therefrom:

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. S. F. Rose for the Commission.

Mr. Samuel R. Friedman, of New York City, for respondent.

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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 Huddersfield Worsted Mills Corp., 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 the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. The respondent Huddersfield Worsted Mills Corp. is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its place of business located at 257 Fourth Avenue, New York, N. Y.

PAR. 2. The respondent is now, and has been for more than 3 years last past, engaged in the sale and distribution of textile fabrics for making suits, slacks, and other men's wearing apparel. In the course and conduct of its business respondent sells said merchandise to garment manufacturers as a selling agent for a number of fabric manufacturers. The respondent causes its said merchandise, when sold, to be transported from its place of business in the State of New York to purchasers thereof located in various States of the United States other than the State of New York and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said merchandise 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 aforesaid business, the respondent adopted as and for its corporate name "Huddersfield Worsted Mills Corporation," under which to carry on its business, which said name, including the words "Huddersfield," "Worsted," and "Mills," respondent at all times mentioned herein has used continuously, and now uses in soliciting the sale of, and selling, its fabrics as described herein. Respondent also uses the words "Manufacturers of fine, fancy worsteds" on its letterheads distributed in commerce among and between the various States in the United States and in the District of Columbia. Respondent's labels attached to merchandise sold by it contain the words "Huddersfield Worsted Mills Corporation," and in connection therewith a depiction of crowned lion similar to the British coat of arms. Beneath such depiction appears the letters, "H. W. M." and the words "Sales Agents."

PAR. 4. Huddersfield is an area in England where high grades of

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worsted or woolen cloth are manufactured. For many years Huddersfield has been the source of some of the finest woollens imported to the United States, which fact has been, and is generally known to a substantial portion of purchasers of men's clothing in this country. The word "worsted" has long been used in the trade and is understood by a substantial portion of the purchasing public to designate, describe, and refer to fabric composed entirely of wool exclusive of ornamentations.

PAR. 5. Through the use of the word "Huddersfield" in its corporate name and on its labels and stationery and otherwise, and through the depiction of the lion similar to that of the British coat of arms, and through other representations not specifically set out herein, the respondent has represented, and now represents, directly or indirectly, that its said merchandise is imported from England. Through the use of the word "Mills" in its corporate name and the words "Manufacturers of Fine, Fancy Worsted" on its stationery and otherwise, respondent has represented and now represents, directly or indirectly, that it owns and operates or controls the manufacturing plants or mills where the cloth it sells is manufactured. Through the use of the word "Worsted" in its corporate name and on letterheads, invoices and otherwise, the respondent likewise has represented, and now represents, that the cloth sold by it is composed entirely of wool.

PAR. 6. Such representations on the part of the respondent are false and misleading. In truth and in fact, the respondent's said fabrics do not originate in the Huddersfield area in England. On the contrary, they are manufactured in the United States from domestic material. Respondent does not own and operate or control in any manner the manufacturing plants or mills in which such fabrics, or any of same, are manufactured. Respondent sells, and at all times mentioned herein except for a short time after its organization in 1939, when it held a percentage of stock ownership in a mill manufacturing cloth, has sold, merchandise manufactured exclusively in plants or mills in which no interest was owned by it.

Respondent has never and does not now stock or sell fabrics composed entirely of wool, but on the contrary has stocked and sold, and now stocks and sells very little, if any, fabrics composed entirely of wool.

Through the use of the words "Huddersfield," "Mills," and "Worsted" in its corporate name and otherwise, the respondent has placed in the hands of dealers and jobbers a means and instrumentality whereby such dealers are enabled to mislead and deceive members of the purchasing public.

PAR. 7. There is a substantial portion of those who purchase fabrics for manufacturing clothing for resale which prefers to purchase direct from the manufacturer, believing that through such purchases they secure advantages in price and in other respects.

PAR. 8. The use by respondents of said corporate name and the designations and representations, as set forth herein, in connection with the offering for sale and selling of their said fabrics has had, and now has, the tendency and capacity to, and does mislead purchasers and prospective purchasers into the erroneous and mistaken belief that such representations and designations are true, and to induce the purchase in said commerce of said fabrics and clothing made therefrom on account thereof.

PAR. 9. The aforesaid acts and practices of the respondent, 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, the Federal Trade Commission, on July 19, 1943, issued, and subsequently served its complaint in this proceeding upon respondent, Huddersfield Worsted Mills Corp., 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 said complaint and the filing of respondent's answer, the Commission, by order entered therein, 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. The respondent, Huddersfield Worsted Mills Corp., is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of New York, with its place of business located at 257 Fourth Avenue, New York, N. Y.

PAR. 2. The respondent is now, and has been for more than 3 years last past, engaged in the sale and distribution of textile fabrics for making suits, slacks, and other men's wearing apparel. In the course and conduct of its business, respondent sells said merchandise to garment manufacturers as a selling agent for a number of fabric manufacturers. The respondent causes its said merchandise, when sold, to be transported from its place of business in the State of New York to purchasers thereof located in various States of the United States other than the State of New York and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said merchandise 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 aforesaid business, the respondent adopted as and for its corporate name "Huddersfield Worsted Mills Corporation," under which to carry on its business, which said name, including the words "Huddersfield," "Worsted," and "Mills," respondent at all times mentioned herein has used continuously and now uses in soliciting the sale of, and selling its fabrics as described herein. Respondent also uses the words "Manufacturers of fine, fancy worsteds" on its letterheads distributed in commerce among and between the various States in the United States and in the District of Columbia. Respondent's labels attached to merchandise sold by it contain the words "Huddersfield Worsted Mills Corporation" and, in connection therewith, a depiction of crowned lion similar to the British coat of arms. Beneath such depiction appear the letters "H. W. M." and the words "Sales Agents."

PAR. 4. Huddersfield is an area in England where high grades of worsted or woolen cloth are manufactured. For many years Huddersfield has been the source of some of the finest woollens imported to the United States, which fact has been, and is, generally known to a substantial portion of purchasers of men's clothing in this country. The word "worsted" has long been used in the trade and is understood by a substantial portion of the purchasing public to designate, describe, and refer to fabric composed entirely of wool exclusive of ornamentations.

PAR. 5. Through the use of the word "Huddersfield" in its corporate name and on its labels and stationery and otherwise, and through the depiction of the lion similar to that of the British royal coat of arms, and through other representations not specifically set out herein, the respondent has represented, and now represents, directly and indirectly, that its said merchandise is imported from England. Through the use of the word "Mills" in its corporate name

and the words "Manufacturers of Fine, Fancy Worsteds" on its stationery and otherwise, respondent has represented, and now represents, directly and indirectly, that it owns and operates or controls the manufacturing plants or mills where the cloth it sells is manufactured. Through the use of the word "Worsted" in its corporate name and on letterheads, invoices, and otherwise, the respondent likewise has represented, and now represents, that the cloth sold by it is composed entirely of wool.

PAR. 6. Such representations on the part of the respondent are false and misleading. In truth and in fact, the respondent's said fabrics do not originate in the Huddersfield area in England. On the contrary, they are manufactured in the United States from domestic material. Respondent does not own and operate or control in any manner the manufacturing plants or mills in which such fabrics, or any of same, are manufactured. Respondent sells, and at all times mentioned herein except for a short time after its organization in 1939, when it held a percentage of stock ownership in a mill manufacturing cloth, has sold, merchandise manufactured exclusively in plants or mills in which no interest was owned by it.

Practically none of the fabrics sold by the respondent are composed entirely of wool and the great majority of the fabrics stocked and sold, and which respondent now stocks and sells, are composed of fibers other than wool.

Through the use of the words "Huddersfield," "Mills," and "Worsted" in its corporate name and otherwise, the respondent has placed in the hands of dealers and jobbers a means and instrumentality whereby such dealers are enabled to mislead and deceive members of the purchasing public.

PAR. 7. There is a substantial portion of those who purchase fabrics for manufacturing clothing for resale which prefers to purchase direct from the manufacturer, believing that through such purchases they secure advantages in price and in other respects.

PAR. 8. The use by respondent of said corporate name and the designations and representations as set forth herein in connection with the offering for sale and selling of its said fabrics has had, and now has, the tendency and capacity to, and does, mislead purchasers and prospective purchasers into the erroneous and mistaken belief that such representations and designations are true, and to induce the purchase in said commerce of said fabrics and clothing made therefrom on account thereof.

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CONCLUSION

The aforesaid acts and practices of the 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 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 conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Huddersfield Worsted Mills Corp., 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 textile fabrics, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Huddersfield" in or as a part of respondent's trade or corporate name or representing in any other manner that fabrics sold and distributed by the respondent are produced in the Huddersfield area of England.

2. Using the word "Huddersfield" alone or in conjunction with the word "worsted" or in conjunction with any other word of similar import or meaning to designate or describe any fabric not produced in the Huddersfield area of England.

3. Using the word "worsted" or any other word of similar import or meaning in or as a part of respondent's trade or corporate name when the fabrics sold and distributed by the respondent are not composed entirely of wool, exclusive of ornamentation.

4. Using the word "worsted" or any other word of similar import or meaning to designate, describe, or refer to any textile fabric not composed entirely of wool, exclusive of ornamentation.

5. Using the word "Mills" or any other word of similar import or meaning in or as a part of respondent's trade or corporate name or representing in any other manner that respondent is the manufacturer

of the fabrics sold by it unless and until respondent actually owns and operates, or directly and absolutely controls, the manufacturing plant wherein said fabrics are woven or made.

6. Representing that respondent's fabrics are produced in England through the use of the British coat of arms or any simulation thereof in advertising or in any other manner.

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
REX PRODUCTS CORPORATION

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

Docket 4695. Complaint, Feb. 4, 1942—Decision, Apr. 26, 1946

"Cloisonne," or "cloisonne enameling" has long been known as a method or manner of creating an artistic design on a metal base under a process by which flat metal strips or ribbons of metal, usually gold, silver, or copper, are attached (usually by soldering) to the metal base, forming cells and outlining a decorative design; the cells thus formed are filled with an inorganic, vitreous, opaque enamel, usually different colors in different cells; and the surface, after application of sufficient heat to fuse the enamel on to the metal, is ground and polished, so as to expose the cloisons and outline the design used.

Most of the genuine cloisonne jewelry and other articles of that type are made in and imported from China and Japan, and are more expensive and desirable than ordinary enameled products, and while the purchasing public is not informed as to the exact method of construction and the material used in the manufacture of genuine cloisonne articles, there is a general understanding and knowledge of the value, desirability, and superior qualities of such products and a widespread demand therefor.

Where a corporation engaged in the manufacture and interstate sale and distribution of toilet compacts constructed of metal, of which certain portions were covered with enamel and plastics—

(a) Represented through use of the descriptive words, "Cloisonne top," "Cloisonne enamel," and similar words in its catalogs and circulars and in advertisements in newspapers and other publications, that its products were genuine cloisonne, manufactured in all respects in accordance with the long-established process;

The facts being they were not "cloisonne" and not similar in design or construction to such products; and in many instances they were not even enameled but were covered by a colored plastic substance which gave them a glossy enameled appearance;

(b) Made confusing use of words "cloisonne effect" and "cloisonne colors" to designate or describe its said compacts, indicating thereby that they had been made in accordance with the method use in the manufacture of genuine cloisonne, which has, in fact, no characteristic color or colors, but is usually manufactured with different colors in different cells;

With effect of misleading a substantial portion of the purchasing public into the erroneous belief that such representations were true and of thereby causing it to purchase substantial quantities of its products; and of placing in the hands of retail dealers a means whereby they might also mislead purchasers;

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. Webster Ballinger*, trial examiner.

Mr. S. F. Rose for the Commission.

James & Franklin, of New York City, for respondent.