

IN THE MATTER OF

ENERGETIC WORSTED CORP., SPINNERIN YARN CO.,
INC., AND JOHN J. HOSEY, JR., EDNA M. McMANUS,
DOROTHY H. CASSEL, AND EDNA J. HOSEY, TRADING
AS NORR-BRIDGE YARN CO.¹

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

Docket 5280. Complaint, Feb. 13, 1945—Decision, May 5, 1947

The word "Shetland" has long been understood by the purchasing public as denoting a particular type of wool derived from the fleece of Shetland sheep raised on the Shetland Islands or on the contiguous mainland of Scotland, and when the word is used in connection with yarns having the general appearance of wool, it is understood by the purchasing public as denoting a product made from the wool of such sheep.

The word "Cashmere" has long been understood by the purchasing public as denoting a particular type of wool derived from the hair of the Cashmere goat, and when the word is used in connection with yarns having the general appearance of wool, it is understood by the purchasing public as denoting a product made from the hair of the Cashmere goat.

Shetland wool and Cashmere wool; i. e., particular types of wool derived respectively from the fleece of Shetland sheep raised on the Shetland Islands or on the contiguous mainland of Scotland, and from the hair of the Cashmere goat, have for a long time been favorably known to the purchasing public, and there is a preference on the part of a substantial portion of the public for knitting yarns made from such wools.

Where a corporation engaged in the interstate sale and distribution of hand knitting yarns; in advertising material including pamphlets, leaflets, and price lists, and the labels attached to said yarns—

- (a) Misrepresented the constituent fibers or materials of which its yarns were made through use of the terms "Spinnerin-Shetland" and "Spinnerin-Cashmere" to designate and describe yarns which contained no wool derived, respectively, from the fleece of Shetland sheep raised on the Shetland Islands or the contiguous mainland of Scotland, or from the hair of the Cashmere goat; and
- (b) Misrepresented the place of origin of certain of its products through the use of names "Spinnerin-Saxony" and "Astrachan" to designate certain yarns, notwithstanding fact that such yarns were not made from wool imported respectively from the Province of Saxony and from the city of Astrachan on the Volga Basin in Russia;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to the constituent fibers or materials in its products and their origin, and thereby induce it to purchase substantial

¹ Complaint dismissed as to all respondents other than Spinnerin Yarn Co., Inc.

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quantities thereof, and with result also of placing in the hands of dealers purchasing such products for resale a means and instrumentality whereby they were enabled to mislead and deceive the public in such respects:

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.

In a proceeding in which the Commission found that the use by one of a number of respondents joined in the proceeding, of certain terms to designate and describe certain yarns was erroneous and misleading, the Commission concluded that the allegations of the complaint were not sustained as to the other respondents thus joined, and that the complaint should be dismissed as to them, and also was of the opinion that the charge of violation of the Wool Products Labeling Act was likewise not sustained by the evidence.

Before *Mr. Andrew B. Duvall*, trial examiner.

Mr. J. W. Brookfield, Jr., for the Commission.

Mesirov & Leonards, of Philadelphia, Pa., for Energetic Worsted Corp., John J. Hosey, Jr., Edna M. McManus, Dorothy H. Cassel, and Edna J. Hosey.

Kurz & Kurz, of New York City, and *Mr. George P. Lamb* and *Mr. George F. Hurley* of Feldman, Kittelle, Campbell & Ewing, of Washington, D. C., for Spinnerin Yarn Co., Inc.

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 Energetic Worsted Corp., a corporation; Spinnerin Yarn Co., Inc., a corporation, and John J. Hosey, Jr., Edna M. McManus, Dorothy H. Cassel, and Edna J. Hosey, individually and as copartners, trading and doing business as Norr-Bridge Yarn Co., hereinafter referred to as respondents, have 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, Energetic Worsted Corp., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, and has its principal office and place of business at Depot Street, Bridgeport, Montgomery County, Pa.

The respondents, John J. Hosey, Jr., Edna M. McManus, Dorothy H. Cassel, and Edna J. Hosey, are copartners trading and doing busi-

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ness as Norr-Bridge Yarn Co., and have their principal office and place of business at Depot Street, Bridgeport, Montgomery County, Pa.

The respondent, Spinnerin Yarn Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York and has its principal office and place of business at 230 Fifth Avenue, New York, N. Y.

PAR. 2. All of the afore-mentioned respondents are engaged in the 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 the respondents' said products are composed in whole 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, respondents have violated the provisions of said act and said rules and regulations in the 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 said act and the rules and regulations.

PAR. 3. Among the wool products introduced into commerce and sold, transported and distributed in said commerce as aforesaid, are knitting yarns which respondents, John J. Hosey, Jr., Edna M. McManus, Dorothy H. Cassel, and Edna J. Hosey, copartners trading and doing business as Norr-Bridge Yarn Co., sell to respondent, Spinnerin Yarn Co., and also to Energetic Worsted Corp., which in turn sells said yarns to respondent, Spinnerin Yarn Co. Exemplifying respondents' practice of violating said act and the rules and regulations promulgated thereunder is their misbranding of the aforesaid knitting yarns in violation of the provisions of said act and said rules and regulations by failing to affix to said knitting yarns 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 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. 4. In the course and conduct of its aforesaid business and for the purpose of inducing the sale of some of its said products, the respondent, Spinnerin Yarn Co., Inc., has engaged in the practice of falsely representing the constituent fiber or material of which its products are made, such false representations being made by means of statements appearing in pamphlets, leaflets, price lists, on labels attached to said products, and in various other ways, which it has distributed among purchasers and prospective purchasers of its said products, located in various States of the United States and in the District of Columbia.

Typical of the aforesaid practices is the use by the respondent of the words "Spinnerin-Shetland" to designate and describe certain yarns which are not composed in whole or in part of the wool of Shetland sheep raised on the Shetland Islands or on the contiguous mainland of Scotland.

The word "Shetland" has long been understood by the purchasing public as designating and describing a particular type of wool derived from the fleece of Shetland sheep raised on the Shetland Islands or on the contiguous mainland of Scotland, and when said word is used to designate and describe yarns having the general appearance of wool, it is understood by the purchasing public as denoting a product made from the wool of such Shetland sheep.

A further example of respondent's practices is the use of the words "Spinnerin-Cashmere" to designate and describe certain yarns which are not composed in whole of the hair of the Cashmere goat.

The word "Cashmere" has long been understood and accepted by the purchasing public as designating and describing a particular type of wool derived from the hair of the Cashmere goat, and when said word is used to designate and describe yarns having the general appearance of wool, it is understood by the purchasing public as denoting a product made entirely from the hair of the Cashmere goat.

Each of the aforescribed wools has been for a long time and is now, well and favorably known to the purchasing public and there is a demand, public acceptance and preference on the part of the purchasing public for yarns made therefrom.

PAR. 5. By the means and in the manner aforesaid, respondent also engaged in the practice of falsely representing the place of origin of

certain of its products. Among and typical of such false representations are the statements "Spinnerin-Saxony" and "Astrachan" used in designating certain of its yarns. Through the use of such statements, the respondent represents that the yarn designated "Spinnerin-Saxony" is made from wool imported from the Province of Saxony, and that the yarn designated "Astrachan" is made from wool imported from the city of Astrachan on the Volga Basin in Russia. In truth and in fact, the wool used in making such yarns is not imported from such geographical locations.

PAR. 6. The use by the respondent, Spinnerin Yarn Co., Inc., of the aforesaid false terms and deceptive statements and representations with respect to its aforesaid yarns disseminated as aforesaid has had, and now has, the tendency and capacity to mislead and deceive, purchasers and prospective purchasers of its said products into the erroneous and mistaken belief that such representations and statements are true and that respondent has truthfully represented the constituent fiber and origin of its products, and causes a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of respondent's yarns. By said acts and practices, respondent also places in the hands of purchasers of the said yarns for resale, a means and instrumentality whereby they may, and do, mislead and deceive the purchasing public into the erroneous and mistaken belief that they are purchasing yarns manufactured from fibers indicated by the use of the aforesaid terms and phrases and emanating from the geographical areas suggested.

PAR. 7. The acts and practices and methods of respondents as alleged in paragraphs 2 and 3 hereof, constitute misbranding of wool products and are in violation of the Wool Products Labeling Act of 1939 and the rules and regulations 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 February 13, 1945, issued and subsequently served its complaint in this proceeding upon the respondents named in the caption hereof, charging them with the violation of those acts. Respondent, Spinnerin Yarn Co., Inc., filed an answer admitting all of the material allegations of fact in the complaint and waiving all intervening pro-

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cedure and further hearings. After the filing by the other respondents of their answers to the complaint, testimony, and other evidence in support of and in opposition to the allegations of the complaint with respect to those respondents were introduced before a trial examiner of the Commission theretofore duly designated by it, and such testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final consideration by the Commission upon the complaint, the answers of all of the respondents, testimony, and other evidence, report of the trial examiner and the exceptions thereto, brief in support of the complaint and brief in opposition thereto on behalf of all of the respondents except Spinnerin Yarn Co., Inc. (oral argument not having been requested); 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, Energetic Worsted Corp. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, and has its principal office and place of business on Depot Street, Bridgeport, Montgomery County, Pa.

Respondents, John J. Hosey, Jr., Edna M. McManus, Dorothy H. Cassel, and Edna J. Hosey, are copartners trading and doing business as Norr-Bridge Yarn Co., and have their principal office and place of business on Depot Street, Bridgeport, Montgomery County, Pa.

Respondent, Spinnerin Yarn Co., Inc., is a corporation organized existing and doing business under and by virtue of the laws of the State of New York, and has its principal office and place of business at 230 Fifth Avenue, New York, N. Y.

The Commission having concluded that the allegations of the complaint have not been sustained as to respondents, Energetic Worsted Corp., John J. Hosey, Jr., Edna M. McManus, Dorothy H. Cassel, and Edna J. Hosey, and that the complaint should therefore be dismissed as to these respondents, the word "respondent" as used hereinafter refers only to respondent, Spinnerin Yarn Co., Inc.

PAR. 2. Respondent, Spinnerin Yarn Co., Inc., is engaged in the sale and distribution of hand-knitting yarns, causing its products, when sold, to be transported from its place of business in the State of New York to purchasers thereof located in various other States

of the United States. Respondent maintains and has maintained a course of trade in its products in commerce between and among the various States of the United States.

PAR. 3. In the course and conduct of its business and for the purpose of inducing the purchase of certain of its yarns, respondent has misrepresented the constituent fibers or materials of which such yarns are made, such representations appearing in advertising material distributed among purchasers and prospective purchasers of such yarns. This advertising material included pamphlets, leaflets, and price lists and also the labels attached to the yarns.

One example of this practice was the use by respondent of the term "Spinnerin-Shetland" to designate and describe certain yarns. The word "Shetland" has long been understood by the purchasing public as denoting a particular type of wool derived from the fleece of Shetland sheep raised on the Shetland Islands or on the contiguous mainland of Scotland, and when the word is used in connection with yarns having the general appearance of wool, as do the yarns here in question, it is understood by the purchasing public as denoting a product made from the wool of such Shetland sheep. Actually, the yarns in question contain no such wool.

A further example of respondent's practice was the use of the term "Spinnerin-Cashmere" to designate and describe certain yarns. The word "Cashmere" has long been understood by the purchasing public as denoting a particular type of wool derived from the hair of the Cashmere goat, and when the word is used in connection with yarns having the general appearance of wool, as do the yarns here in question, it is understood by the purchasing public as denoting a product made from the hair of the Cashmere goat. Actually, the yarns in question contain no such material.

Each of these wools (Shetland and Cashmere) has for a long time been favorably known to the purchasing public and there is a preference on the part of a substantial portion of the public for knitting yarns made from such wools.

PAR. 4. In the advertising material referred to above, respondent has also misrepresented the place of origin of certain of its products. Among such misrepresentations was the use of the names "Spinnerin-Saxony" and "Astrachan" to designate certain of its yarns. Through the use of these names respondent represented that the yarn designated "Spinnerin-Saxony" was made from wool imported from the Province of Saxony, and that the yarn designated "Astrachan" was made from wool imported from the city of Astrachan on the Volga Basin in Russia. In truth and in fact, the wool used in making the yarns was not imported from such locations.

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The record indicates that respondent has already discontinued the use of the terms referred to in this paragraph and also those referred to in paragraph 3 above.

PAR. 5. While the complaint also charged respondent with violations of the Wool Products Labeling Act of 1939, the Commission is of the opinion and finds that such charges are not sustained by the evidence.

PAR. 6. The use by the respondent of the erroneous and misleading terms herein set forth had the tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to the constituent fibers or materials in respondent's products and with respect to the origin of such products, and the tendency and capacity to cause such portion of the public to purchase substantial quantities of respondent's products as a result of the erroneous and mistaken belief so engendered. Respondent's acts and practices served also to place in the hands of dealers purchasing such products from respondent for resale a means and instrumentality whereby they were enabled to mislead and deceive the public with respect to the composition and origin of such products.

CONCLUSION

The acts and practices of the respondent as herein found are all to the prejudice 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, the answers of the respondents, testimony, and other evidence introduced before a trial examiner of the Commission theretofore duly designated by it, report of the trial examiner and the exceptions thereto, and briefs in support of and in opposition to the complaint (oral argument not having been requested) and the Commission having made its findings as to the facts and its conclusion that respondent Spinnerin Yarn Co., Inc., has violated the provisions of the Federal Trade Commission Act:

It is ordered, That respondent, Spinnerin Yarn Co., Inc., a corporation, and its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of knitting yarns in commerce,

as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "Shetland," or any simulation thereof, either alone or in connection with other words, to designate, describe, or refer to any product which is not composed entirely of wool of Shetland sheep raised on the Shetland Islands or the contiguous mainland of Scotland: *Provided, however*, That in the case of a product composed in part of wool of Shetland sheep and in part of other fibers or materials, such word may be used as descriptive of the Shetland wool content if there are used in immediate connection therewith, in letters of at least equal conspicuousness, words truthfully describing such other constituent fibers or materials.

2. Using the word "Cashmere," or any simulation thereof, either alone or in connection with other words, to designate, describe, or refer to any product which is not composed entirely of hair of the Cashmere goat: *Provided, however*, That in the case of a product composed in part of hair of the Cashmere goat and in part of other fibers or materials, such word may be used as descriptive of the Cashmere fiber content if there are used in immediate connection therewith, in letters of at least equal conspicuousness, words truthfully describing such other constituent fibers or materials.

3. Using the word "Saxony," or any simulation thereof, either alone or in connection with other words, to designate, describe, or refer to any product not imported from the Province of Saxony or made of wool imported from said Province: *Provided, however*, That in the case of a product composed in part of wool imported from Saxony and in part of other fibers or materials, such word may be used as descriptive of the content imported from Saxony if there are used in immediate connection therewith, in letters of at least equal conspicuousness, words truthfully describing such other constituent fibers or materials.

4. Using the word "Astrachan," or any simulation thereof, either alone or in connection with other words, to designate, describe, or refer to any product not imported from the city of Astrachan on the Volga Basin in Russia or made of wool imported from said city: *Provided, however*, That in the case of a product composed in part of wool imported from Astrachan and in part of other fibers or materials, such word may be used as descriptive of the content imported from Astrachan if there are used in immediate connection therewith, in letters of at least equal conspicuousness, words truthfully describing such other constituent fibers or materials.

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It is further ordered, That said 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.

It is further ordered, That the complaint herein be, and it hereby is, dismissed as to respondent, Energetic Worsted Corp., and as to respondents, John J. Hosey, Jr., Edna M. McManus, Dorothy H. Cassel, and Edna J. Hosey, copartners, trading as Norr-Bridge Yarn Co.

IN THE MATTER OF

DRAPER CORP.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914, AND OF SECS. 2 (a) AND 3 OF AN ACT APPROVED OCT. 15, 1914, AS AMENDED BY AN ACT APPROVED JUNE 19, 1936

Docket 5436. Complaint, Apr. 22, 1946—Decision, May 5, 1947

Where a corporation which (1) since its organization in 1916 had been the only manufacturer of the preferred single shuttle cotton and rayon and other synthetic fiber automatic looms, and parts therefor, and bobbins and shuttles; (2) manufactured "Draper" looms and owned an interest in the manufacture of looms respectively known as "Stafford" and "Hopedale"; and (3) was engaged in the interstate sale of such products to textile mills, in substantial competition with others similarly engaged in commerce and with a number engaged only in the manufacture and sale of bobbins, shuttles, and repair and replacement parts for looms—

- (a) Discriminated in price between different purchasers of such bobbins and shuttles and repair and replacement parts, of like grade and quality, by selling them to some of its customers at lower prices than to others, including the allowance, on sales and contracts for sale with mill owners, of a 5 percent discount from its regular price for repair and replacement parts for its looms and also for aforesaid Hopedale and Stafford looms;

Effect of which discriminations was substantially to lessen competition with it in the sale in commerce of such bobbins, shuttles, and parts for looms, to tend to create in it a monopoly in such products, and to injure, destroy, and prevent competition with its competitors; and

- (b) Made sales and contracts for the sale of shuttles and bobbins, and repair and replacement parts for looms, and fixed prices charged therefor, or discounts from or rebates upon such prices, on the condition, agreement, and understanding that the purchaser thereof should not use or deal in the shuttles, bobbins, and repair and replacement parts for looms, or other goods, wares, merchandise, machinery, supplies, or other commodities of a competitor and made such sales and contracts for sales to purchasers of parts for its aforesaid Draper, Hopedale, and Stafford looms, to the exclusion of other sellers;

Effect of which sales and contracts for sale on such condition was substantially to lessen competition and tend to create in it a monopoly in the commerce aforesaid of shuttles, bobbins, and repair and replacement parts for looms;

Held, That the acts and practices set out in paragraphs (a) and (b) above were in violation of section 2 (a) of the Clayton Act as amended by the Robinson-Patman Act, and of section 3 of said Clayton Act, respectively, and were all to the prejudice of the public and said corporation's competitors and constituted unfair methods of competition within the intent and meaning of the Federal Trade Commission Act.

Mr. Edward L. Smith for the Commission.

Herrick, Smith, Donald, Farley & Ketchum, of Boston, Mass., for respondent.