

Order

44 F. T. C.

IN THE MATTER OF
SCOTCH WOOLEN MILLS

MODIFIED CEASE AND DESIST ORDER

Docket 940. Aug. 29, 1947

Order modifying prior order in proceeding in question, May 1, 1945, 40 F. T. C. 484, which required respondent, in connection with the offer, etc., of clothing and like merchandise in commerce, to cease and desist from using the word "Mills" in its corporate or trade name, etc.; from representing, etc., that it makes the cloth used in its articles of clothing, etc.; from representing in any manner that it owns, etc., any mills, etc., in which the cloth used in its clothing is produced; from using the word "Scotch," etc., in its corporate or trade name when used to designate a business which deals principally in products not of Scotch origin; and from representing, etc., as "Scotch," articles of clothing or materials therein which are not of such origin;

So as to permit the use, as a corporate name, of the words "Scotch Tailors, Inc.," provided that in immediate conjunction therewith, in prominent type, and upon each article and in all advertising matter, as therein specified, there is connected therewith a clear and conspicuous disclosure through use of the words "Made in the U. S. A.," or otherwise that said articles and woolen materials are made in the United States; *and so as to permit*, in connection with said last-named corporate name, the slogan "Formerly Scotch Woolen Mills," for a period of 2 years from the date of entry of the modified order; *and also so as to permit* use in the transaction of its business, of such stationery, envelopes, etc., which bear said name, "Scotch Woolen Mills," as it may have on hand or on order, until exhausted, but no longer than 18 months from the date of entry of modified order herein; and that said corporation may use such items and such slogans accordingly and for such respective periods of time.

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

Mr. R. P. Bellinger for the Commission.

Mr. Isaac S. Rothschild, of Chicago, Ill., for respondent.

MODIFIED ORDER TO CEASE AND DESIST

This matter having heretofore been heard by the Federal Trade Commission, and the Commission having duly made and issued its findings as to the facts, conclusion and order to cease and desist dated May 1, 1945; and

It appearing that a petition to review and set aside said order was filed by the respondent on June 22, 1945, in the United States Circuit Court of Appeals for the Seventh Circuit, and that thereafter the Commission certified and filed in said court a transcript of the entire record in this proceeding; and

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It appearing that on August 1, 1947, counsel for respondent and the Commission entered into a stipulation, which was filed in this proceeding in said court, providing, among other things, that respondent will dismiss its petition to review, and that immediately thereafter the Commission will enter herein its modified order to cease and desist embodying the terms of said stipulation; and

It appearing that, on motion of counsel, for respondent, the United States Circuit Court of Appeals for the Seventh Circuit, on August 15, 1947, dismissed the petition to review and ordered that the cease and desist order entered in this cause on May 1, 1945, by the Federal Trade Commission be modified in accordance with the aforesaid stipulation;

And the Commission, having further considered said matter and the record herein and being fully advised in the premises, now issues this its modified order to cease and desist:

It is ordered, That respondent Scotch Woolen Mills, 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 articles of clothing and like merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "mills," or any other word or words of similar import or meaning, in its corporate or trade name or to designate, describe, or refer to its business; or representing or implying in any manner that it manufactures the cloth used in the articles of clothing sold or offered for sale by it; or representing or implying in any manner that it owns, operates, or controls any mills or manufacturing establishment in which the cloth used in said articles of clothing is produced.

2. Representing or implying in any manner that articles of clothing or materials therein which are not of Scotch origin are of Scotch origin: *Provided, however*, That this shall not be deemed to prohibit the respondent from using "Scotch Tailors, Inc." as its corporate name: *Provided further*, That in immediate conjunction therewith, in prominent type, upon each article of clothing manufactured by respondent, and in all advertising matter of whatever nature referring directly or indirectly to said articles of clothing, there is connected with said corporate name a clear and conspicuous disclosure through use of the words "Made in the U. S. A.," or otherwise, that the said articles of clothing, and woolen materials therein, are made in the United States.

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Provided further, however, That if the corporate name "Scotch Tailors, Inc.," is used by respondent, nothing herein contained shall prohibit respondent from using in connection therewith the slogan "Formerly Scotch Woolen Mills" for a period of 2 years from the date of entry of this modified order, nor from using in the transaction of its business such stationery, envelopes, checks, order books, sample lines, labels, invoices, printed matter and supplies bearing the name "Scotch Woolen Mills" which it may now have on hand or on order, until such items are exhausted, but not longer than 18 months from the date of entry of this modified order; and respondent may use such items and such slogan accordingly and for said respective periods of time.

It is further ordered, That 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.

Syllabus

IN THE MATTER OF

EDWARD A. HOKE, DOING BUSINESS AS LANZETTE
LABORATORIES

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914

Docket 5401. Complaint, Nov. 14, 1945—Decision, Sept. 2, 1947

Where an individual engaged in the interstate sale and distribution of a device intended for use in the removal of superfluous hair, designated "Lanzette"—

(a) Represented and implied, through advertisements in newspapers and other periodicals and in circulars, leaflets and other advertising literature, that through use of said device the growth of superfluous hair on the face and body would be permanently terminated and one would obtain a cleaner and lovelier complexion;

The facts being that while, used as directed, it might remove superfluous hair from the face and body, it would not permanently terminate the growth of such hair and would have no beneficial effect upon the skin in excess of producing a transient glow or ruddiness; and

(b) Represented through statements in pamphlets and other advertising literature that he absolutely guaranteed satisfaction to the purchasers of his device or the return of the purchase price; the purchaser to be the sole judge, his use of the device to be the test; and his decision not be questioned, but all money paid by him to be refunded upon the return of the device;

The facts being he did not fulfill his promise, but, in anticipation of demands for refunds, had prepared and printed two different form letters which he sent to dissatisfied purchasers and in which he quibbled and attempted to evade his promises and guarantees; raising various questions in one, and, in the other, seeking to exchange the pad sent for "one especially prepared for you, which I think would overcome your objection to my method"; and while some of the claims were refunded in full, others were subjected to a charge ranging from \$1.50 to \$2, and still others denied with no refund whatever;

With capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that said representations were true, and by reason of such belief, into the purchase of substantial numbers of his said device:

Held, That the aforesaid acts and practices were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

Mr. Clark Nichols for the Commission.

Brown, Fox & Blumberg, of Chicago, Ill., for respondent.