

Order

IN THE MATTER OF

A. P. W. PAPER COMPANY, INC.

MODIFIED CEASE AND DESIST ORDER¹*Docket 4747. Order, Dec. 18, 1947*

Order, following remand to the Commission by the Circuit Court of Appeals for the Second Circuit on April 16, 1947, to consider the desirability of modifying the modified order entered by the Commission on August 12, 1946, 43 F. T. C. 70; and following stipulation entered into between the associate general counsel of the Commission, and respondent, etc., as hereinbelow set out—

Modifying the aforesaid modified order, so as to prohibit respondent, its officers, etc., in connection with the offer, etc., of respondent's toilet tissue and paper towels in commerce, from using, subject to the permissible limits prescribed by the statutes specified, the words "Red Cross," etc., on its products, or using said words or said mark in selling or advertising the same, unless subject to clarifying and explanatory matter as below set forth.

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

Mr. Marshall Morgan for the Commission.

Sullivan & Cromwell, of New York City, for respondent.

MODIFIED ORDER TO CEASE AND DESIST

This matter having been remanded to the Federal Trade Commission by the Circuit Court of Appeals for the Second Circuit on April 16, 1947, to consider the desirability of modifying the modified order entered by the Commission herein on August 12, 1946; and a stipulation having been entered into by and between Walter B. Wooden, associate general counsel of the Federal Trade Commission and the respondent, A. P. W. Paper Co., Inc., providing that subject to the approval of the Federal Trade Commission, the following modified order, prepared and agreed upon with due notice to and in pursuance of conferences and collaboration had with respondent herein may be entered and issued by the Commission in this proceeding, and be thereafter duly served upon respondents and the Commission also

¹ The original findings and cease and desist orders, made as of January 7, 1944, were reported in 38 F. T. C. 1. Said order was reversed by the Circuit Court of Appeals on May 17, 1945, in *A. P. W. Paper Co., Inc., v. Federal Trade Commission* (149 F. (2d) 424, 40 F. T. C. 921), and the case remanded to the Commission, following the holding of the court that the order went beyond permissible limits in forbidding any use of the words and mark. On petition for certiorari, the Supreme Court, on May 6, 1946, in *Federal Trade Commission v. A. P. W. Paper Co., Inc.* (328 U. S. 193), with the case before it, held, that without undertaking to prescribe the order which the Commission should enter, it could not, under the facts of the case, absolutely forbid the use of the words and the symbol by respondent.

having taken into account all the proceedings had in the matter preceding its remand as above stated:

It is ordered, That the said stipulation be approved, accepted, and filed.

It is further ordered, That the respondent, A. P. W. Paper Co., Inc., a corporation, and its officers, representatives, and employees, directly or through any corporate device, in connection with the offering for sale, sale and distribution of respondent's toilet tissues and paper towels in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Using (subject to the permissible limits prescribed by the act of January 5, 1905, as amended by sec. 4 of the act of June 23, 1910) the words "Red Cross" or any abbreviation or simulation thereof, or the mark of a Greek red cross or any other mark, emblem, sign, or insignia simulating a Greek red cross, on respondent's products, or using said words or said mark in selling or advertising the same;

(a) Unless respondent uses upon the label, whether on the wrapper or the carton, and with equal clearness and conspicuousness in immediate conjunction with said words or said mark, the legend, "This product has no connection whatsoever with American National Red Cross": *Provided*, That if said words or said mark appear on more than one side of respondent's wrapper or carton, respondent shall use said legend, as aforesaid, on each such side, and the forms of labels shown in exhibits A and B hereto annexed are approved as illustrative of this order and as complying with its provisions; and

(b) Unless respondent, in each of its written advertisements containing said words or said mark uses the said legend with equal clearness and conspicuousness; provided that if an advertisement covers more than one page, respondent shall use said legend as aforesaid on each and every page on which said words or said mark shall appear; and

(c) Unless respondent, in each of its radio advertisements containing said words or said mark, makes the statement contained in said legend with equal clearness and conspicuousness.

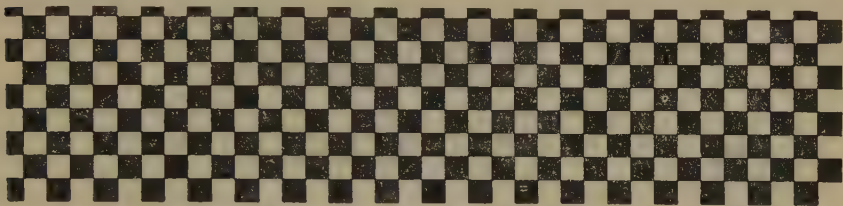
It is further ordered, That anything herein to the contrary notwithstanding, respondent may continue to use the labels for paper towels that were already printed on August 12, 1946, as compliance with the provisions of the aforesaid paragraph (a), until such labels are exhausted.

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

301

Exhibit

writing setting forth in detail the manner and form in which it is complying with this order.



RED CROSS

TRADE MARK REG. U. S. PAT. OFF.



TISSUE

1000 SHEETS

4½ x 4½

Trade Mark, RED CROSS
and A. P. W. registered
U. S. Patent Office by

A. P. W. PRODUCTS COMPANY, INC.
ALBANY, N. Y.
MANUFACTURER

THIS PRODUCT HAS NO CONNECTION WHATSOEVER
WITH THE AMERICAN NATIONAL RED CROSS

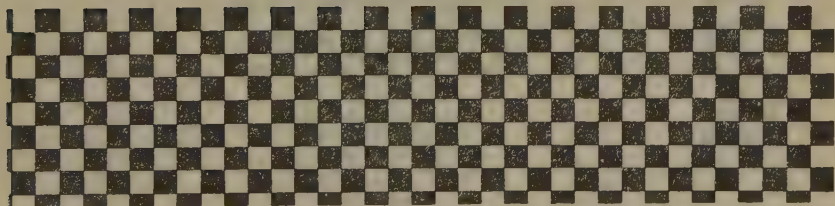


EXHIBIT A

150 TOWELS

11 x 7½ IN.

*RED CROSS***TOWELS**

TRADE MARK REG. U. S. PAT. OFF.



+
TOWELS



**KITCHEN
BATH
NURSERY
GARAGE**

Trade Marks RED CROSS
and A. P. W. registered
U. S. Patent Office by

A. P. W. PRODUCTS COMPANY, INC.
ALBANY, N. Y.

THIS PRODUCT HAS NO CONNECTION WHATSOEVER
WITH THE AMERICAN NATIONAL RED CROSS

EXHIBIT B

Syllabus

IN THE MATTER OF

MARKUS-CAMPBELL COMPANY, NATIONAL ACADEMY OF
DRESS DESIGN, AND NATIONAL BAKING SCHOOL,
ET AL.

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

Docket 5235. Complaint, Oct. 18, 1944—Decision, Dec. 18, 1947

Where three corporations, the first of which owned the other two and operated under various trade names, and two individuals, who were officers of all three; engaged in publishing educational books and home study courses in a variety of vocational subjects, and in interstate sale of said courses, and in advertising them through circulars, pamphlets, newspapers, and periodicals;

In advertising their business conducted under the name of "National Academy of Dress Design" which, beginning with one teacher on a part-time basis, included in addition, at the time herein concerned, four full-time instructors, all of whom were graduates of resident schools of dress design and had had substantial experience—

- (a) Represented that practical, personalized home study training was given under the guidance of designers and stylists, enabling students to enter a successful career, to open salons upon graduation, and to build up a clientele that would more than pay for the cost of the course before it was completed; and
- (b) Represented that numerous positions including those of stylists, dress designers, stage costume designers, fashion illustrators, and style consultants in the dress-designing industry and its branches were available to graduates; and that no previous experience was necessary to attain such results;

The facts being that their said advertising claims were greatly exaggerated and were not warranted; and that students who completed their courses could not, without aptitude or practical experience, become experts in said trades or professions, or earn good incomes or establish their own business, and were not enabled, after completing a few lessons in the respective courses, to earn enough money to pay therefor;

- (c) Made use of the name "McCall" in the title of certain advertising material used in connection with their said "National Academy of Dress Design," namely "a career in costume designing by L. L. McCall, Director, National Academy of Dress Design," with tendency and capacity to mislead members of the public into the belief that there was a connection between their school of dress designing and McCall's Magazine and McCall's Pattern Book, well and favorably known national publications, and recognized authorities in the field of dress designing and patterns; and

- (d) Represented to prospective students that they would be supplied with a dress design outfit having a retail value of from \$8 to \$10, when in fact value of the equipment actually supplied by them was less than the stated amounts;