

Complaint

IN THE MATTER OF
GEORGE LUXNER TRADING AS GEENEL MOTOR
PRODUCTS COMPANY

Docket 5667. Complaint, June 22, 1949—Decision, Feb. 17, 1950

Where an individual engaged in the interstate sale and distribution of breaker arms and adjustable contacts for use in connection with the ignition system of automotive motors—

Represented that said products, as packed or enclosed by him in manila envelopes and as invoiced, were original genuine parts manufactured by the Electric Auto-Lite Co. of Toledo, through placing upon said envelopes the statement "Original Auto-Lite Service Parts" and the words "Parts contained herein are *Genuine* The Electric Auto-Lite Co., Toledo, Ohio. Part No. IGP 3028-A Name of Part ----- Made in U. S. A."; and through invoicing the same to customers as "IGP 3028-A Contacts.";

The facts being that while the aforesaid number was that employed by said Electric Auto-Lite Co. to identify such particular products, those packaged and sold by said individual as above set forth were not original or genuine parts made by said Company, but were in fact produced by some other manufacturer;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such representations were true, thereby causing it to purchase his said breaker arms and adjustable contacts:

Held, That such acts and practices under the circumstances set forth were all to the injury and prejudice of the public and constituted unfair and deceptive acts and practices in commerce.

Mr. Clark Nichols for the Commission.

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 George Luxner, trading as Geenel Motor Products Co., 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. Respondent George Luxner is an individual trading as Geenel Motor Products Co. with his principal place of business at Suite 1513, 80 Eighth Avenue, New York 11, N. Y.

PAR. 2. Respondent is now, and for several years last past has been, engaged in the sale and distribution, among other things, of

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breaker arms and adjustable contacts, used in connection with the ignition system of automotive motors.

In the course and conduct of his business, respondent causes his said products, when sold, to be transported from his place of business in the State of New York to the purchasers thereof located in various other States of the United States. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said products, in commerce, among and between the various States of the United States.

PAR. 3. In the course and conduct of his business, respondent packs or encloses the breaker arms and adjustable contacts so sold and shipped by him in manila envelopes upon which is printed the following:

Original Auto-Lite Service Parts
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Parts contained herein are

Genuine

The Electric Auto-Lite Co.

Toledo, Ohio.

Part No. IGP 3028-A

Name of Part -----

Made in U. S. A.

Form No. 267

Said products are invoiced to customers by respondent as follows:

IGP 3028 A Contacts

PAR. 4. By and through the use of the aforesaid statements on the envelopes and invoices respondent represented that the breaker arms and adjustable contacts contained in the envelopes and shipped under the invoices were original genuine parts manufactured by the Electric Auto-Lite Co. of Toledo, Ohio.

PAR. 5. The aforesaid statements are false, misleading, and deceptive. In truth and in fact, while the No. IGP 3028 A is the number employed by the Electric Auto-Lite Co. of Toledo, Ohio, to identify this particular part, the products packaged and sold by respondent, as aforesaid, were not original or genuine parts manufactured by the Electric Auto-Lite Co. of Toledo, Ohio, but were in fact manufactured by some other manufacturer.

PAR. 6. The use by the respondent of the foregoing false, deceptive, and misleading statements and representations has had and now has the tendency and capacity to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements and representations are true and into the purchase of substantial quantities of respondent's said product.

PAR. 7. 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 June 22, 1949, issued and subsequently served its complaint in this proceeding upon respondent, George Luxner, an individual trading and doing business as Geenel Motor Products Co., charging him with the use of unfair 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 trial examiner, by order entered herein, granted request of respondent for permission to withdraw his 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 on September 7, 1949. Thereafter, this proceeding regularly came on for final hearing before the Commission on 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. Respondent, George Luxner, is an individual trading and doing business as Geenel Motor Products Co., with his principal office and place of business located at Suite 1513, 80 Eighth Avenue, New York 11, N. Y. He is now, and for several years last past has been, engaged in the offering for sale, sale, and distribution, among other things, of breaker arms and adjustable contacts, used in connection with the ignition system of automotive motors.

PAR. 2. In the course and conduct of his aforesaid business, respondent causes, and has caused, his said breaker arms and adjustable

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contacts, when sold, to be shipped and transported from his place of business in the State of New York to purchasers thereof at their respective points of location in other States of the United States; and maintains, and at all times mentioned herein has maintained, a course of trade in said breaker arms and adjustable contacts in commerce among and between the various States of the United States.

PAR. 3. (a) In carrying on his business as aforesaid, respondent packs or encloses the breaker arms and adjustable contacts offered for sale, sold, and distributed by him, in manila envelopes, upon which is printed the following:

Original Auto-Lite Service Parts
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Parts contained herein are
Genuine

The Electric Auto-Lite Co.
Toledo, Ohio

Part No. IGP 3028-A

Name of Part -----

Made in U. S. A.

Form No. 267

Said products are invoiced to customers by respondent as follows:

IGP 3028 A Contacts.

(b) By and through the use of the aforesaid statements and representations on the envelopes and invoices, respondent represents, and has represented, that the breaker arms and adjustable contacts contained in the envelopes and shipped under the invoices were, and are, original, genuine parts manufactured by the Electric Auto-Lite Co. of Toledo, Ohio.

PAR. 4. The aforesaid statements and representations are false, misleading, and deceptive. In truth and in fact, while the No. IGP 3028 A is the number employed by the Electric Auto-Lite Co. of Toledo, Ohio, to identify these particular products, those packaged and sold by respondent as aforesaid have not been, and are not, original or genuine parts manufactured by the Electric Auto-Lite Co. of Toledo, Ohio, but have been, and are, in fact, produced and manufactured by some other manufacturer.

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PAR. 5. The use by respondent of the aforesaid false, misleading, and deceptive statements and representations has had, and now has, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that these statements and representations are true; and causes, and has caused, a substantial portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's breaker arms and adjustable contacts.

CONCLUSION

The acts and practices of respondent as herein found are all to the injury and 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 and the substitute answer of respondent, George Luxner, in which answer said respondent admits all the material allegations of fact set forth in the complaint and 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:

It is ordered, That respondent, George Luxner, an individual trading as Geenel Motor Products Co. or under any other name or names, his representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, and distribution of breaker arms and adjustable contacts in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from, directly or indirectly, representing that his breaker arms and adjustable contacts are the products of the Electric Auto-Lite Co. of Toledo, Ohio, or are the products of any other manufacturer which does not in fact produce them.

It is further ordered, That the respondent shall, within 60 days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with it.

IN THE MATTER OF
ATLANTIC RESEARCH FOUNDATION, INC.,¹ REBA G.
STERN, LORETTA McERLAIN, ET AL.

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

Docket 5663. Complaint, June 2, 1949—Decision, Mar. 2, 1950

Where two individuals engaged in the compounding and advertisement, and interstate sale and distribution of a drug under the name "A. R. F. 501", and formerly officers of a corporation through which, prior to its dissolution, they carried on such business; in advertisements disseminated by the mail, in circulars and pamphlets, and by other means—

- (a) Represented falsely that their said preparation, used as directed, was a competent and effective treatment for arthritis, sciatica and neuritis, and would cure or arrest the progress of said diseases or conditions;

The facts being that its use would result in no more than a temporary reduction of pain in the area immediately surrounding the point of its injection; and

¹ The Commission on the same date issued an order dismissing the complaint as to certain respondents, as follows:

"This matter came on to be heard in regular course upon motion, filed September 30, 1949, by counsel for certain respondents to dismiss the complaint as to them and the answer thereto, filed November 10, 1949, by counsel in support of the complaint, by which said motion is not opposed.

"The complaint in this proceeding charges the corporate respondent, its officers and directors, and the individual respondents, all of whom are named in the caption hereof, with the use of unfair and deceptive acts and practices in commerce. It alleges that said respondents have disseminated and caused to be disseminated in commerce, by United States mails and by other means, certain advertisements containing false, misleading, and deceptive statements and representations with respect to a drug preparation which they offered for sale, sold, and distributed in commerce under the trade name "A. R. F. 501" for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of said preparation in commerce. It further alleges that respondents, by and through the use of the words "Research Foundation" as a part of the corporate name "Atlantic Research Foundation, Inc.," represent that the corporate respondent consists of a group or association of specialists engaged in scientific research, whereas it is, in fact, not such a group or association but a commercial enterprise operated for profit.

"From the motion to dismiss, the answer thereto, and the record herein, it appears that the respondent Atlantic Research Foundation, Inc., a former New Jersey Corporation, was dissolved on July 25, 1949, by appropriate action, taken in accordance with the laws of the State of New Jersey. By this action, respondent Reba G. Stern, its former vice president and treasurer; respondent Loretta McErlain, its former secretary; and respondents Louis St. John, Dr. Bernard Crane, and Claude E. Schlenker, its former directors, were deprived of any power or authority to act in their respective official capacities in further carrying out the business, policies, acts and practices of the dissolved respondent corporation. It further appears that the individual respondents Louis St. John, Dr. Bernard Crane, and Claude E. Schlenker, for a considerable period of time prior to the dissolution of the respondent corporation, had not actively engaged in managing its affairs, controlling its policies, or carrying out any of its acts or practices, either in their respective individual capacities or as directors of said corporation, in the offering for sale, sale, and distribution of the preparation "A. R. F. 501," and that they have submitted an affidavit executed by