

IN THE MATTER OF
LOMA DRESS CORPORATION

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

Docket 5980. Complaint, Apr. 25, 1952—Decision, Jan. 3, 1953

Products manufactured from silk, the product of the cocoon of the silkworm, have for many years been held, and are still held, in great public esteem because of their outstanding qualities, and there has been for many years, and still is, a public demand for such products.

Garments manufactured from fabrics composed of rayon, and of rayon and other fibers, may have the appearance and feel of silk, and many members of the purchasing public are unable to distinguish between such garments and garments manufactured from silk. Consequently, such garments are accepted by many members of the purchasing public as silk products.

Where a corporation engaged in the manufacture and interstate sale and distribution to retailers of garments made from rayon fabrics—

Misleadingly offered and sold garments which were composed wholly or in part of rayon and simulated in texture and appearance those composed wholly or in part of silk without informing the purchasing public that such garments were rayon and not silk;

With the result that members of the purchasing public might have been led to believe that said garments were composed wholly or in part of silk, and with capacity and tendency to mislead them as to fiber content:

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. James A. Purcell*, hearing examiner.

Mr. George E. Steinmetz for the Commission.

Phillips, Nizer, Benjamin & Krim, of New York City, for respondent.

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 Loma Dress Corporation, a corporation, 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 will be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Loma Dress Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 501 Seventh Avenue, New York, New York.

PAR. 2. The respondent is now, and for several years last past has been, engaged in manufacturing garments from fabrics composed of rayon and also from fabrics composed of rayon and other fibers and in selling said garments to retailers who in turn sell to the purchasing public.

Respondent causes its said garments, when sold, to be transported from its said place of business in the State of New York to purchasers thereof located in the various States of the United States and in the District of Columbia.

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 and the District of Columbia. Its volume of trade in said commerce has been and is substantial.

PAR. 3. Rayon is a chemically manufactured fiber which may be manufactured so as to simulate silk fibers in texture and appearance, and fabrics manufactured from such rayon fibers simulate silk fabrics in texture and appearance. Garments manufactured from fabrics composed of rayon and of rayon and other fibers have the appearance and feel of silk and many members of the purchasing public are unable to distinguish between such garments and garments manufactured from silk, the product of the cocoon of the silkworm. Consequently, such garments are accepted by many members of the purchasing public as silk products.

PAR. 4. Products manufactured from silk, the product of the cocoon of the silkworm, have for many years been held, and are still held, in great public esteem because of their outstanding qualities, and there has been for many years, and still is, a public demand for such products.

PAR. 5. The garments manufactured and sold in commerce by respondent, as aforesaid, composed wholly or in part of rayon, simulate, in texture and appearance, garments composed wholly or in part of silk, the product of the cocoon of the silkworm. Respondent does not inform the purchasing public of the fact that the garments, which resemble silk in texture and appearance, are made wholly or in part of rayon and not of silk.

PAR. 6. The practice of the respondent in offering for sale and selling its said garments, in commerce, as aforesaid, without disclosing in words familiar to the purchasing public the fact that said gar-

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ments are composed wholly or in part of rayon, is misleading and deceptive and many members of the purchasing public are thereby led to believe that the said rayon garments are composed wholly or in part of silk, the product of the cocoon of the silkworm.

PAR. 7. The failure of respondent to disclose that its said garments are made wholly or in part of rayon has the capacity and tendency to mislead and deceive members of the purchasing public as to the fiber content thereof. As a result, substantial quantities of respondent's products are purchased in the belief that they are composed wholly or in part of silk, the product of the cocoon of the silkworm.

PAR. 8. 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.

DECISION OF THE COMMISSION

Pursuant to Rule XXII of the Commission's Rules of Practice, and as set forth in the Commission's "Decision of the Commission and Order to File Report of Compliance", dated January 3, 1953, the initial decision in the instant matter of hearing examiner James A. Purcell, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on April 25, 1952, issued and subsequently served its complaint in this proceeding upon respondent, Loma Dress Corporation, 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 thereto, a hearing was held on October 20, 1952, at which testimony and other evidence in support of the allegations of said complaint were introduced before the above-named Hearing Examiner theretofore duly designated by the Commission, and said testimony and other evidence were duly recorded and filed in the office of the Commission.

Subsequent to said hearing the attorney in support of the complaint and the attorney for the respondent submitted a Stipulation as to the Facts, dated October 27, 1952, which stipulation is filed in the formal proceedings herein and forms the basis for the hereinafter contained Findings as to the Facts and Conclusions to the exclusion of consideration of the respondent's answer and of the aforesaid evi-

dence. Such stipulation provides that the facts recited may be taken as the facts in this proceeding and in lieu of evidence in support of the charges contained in the complaint, or in opposition thereto; that the Hearing Examiner may proceed upon said statement of facts to make his Initial Decision, including inferences which he may draw from the facts, conclusions based thereon and enter his order disposing of these proceedings, the filing of Proposed Findings and Conclusions and presentation of oral arguments thereon being expressly waived.

The Hearing Examiner, having duly considered the record herein, finds that this proceeding is in the interest of the public and makes the following findings as to the facts, conclusions drawn therefrom, and order:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Loma Dress Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 501 Seventh Avenue, New York, New York.

PAR. 2. The respondent is now, and for several years last past has been, engaged in manufacturing garments from fabrics composed of rayon and also from fabrics composed of rayon and other fibers and in selling said garments to retailers who in turn sell to the purchasing public.

Respondent causes its said garments, when sold, to be transported from its said place of business in the State of New York to purchasers thereof located in the various States of the United States and in the District of Columbia.

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 and the District of Columbia. Its volume of trade in said commerce has been and is substantial.

PAR. 3. Rayon is a chemically manufactured fiber which may be manufactured so as to simulate silk fibers in texture and appearance, and fabrics manufactured from such rayon fibers simulate silk fabrics in texture and appearance. Garments manufactured from fabrics composed of rayon and of rayon and other fibers may have the appearance and feel of silk and many members of the purchasing public are unable to distinguish between such garments and garments manufactured from silk, the product of the cocoon of the silkworm. Consequently, such garments are accepted by many members of the purchasing public as silk products.

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PAR. 4. Products manufactured from silk, the product of the cocoon of the silkworm, have for many years been held, and are still held, in great public esteem because of their outstanding qualities, and there has been for many years, and still is, a public demand for such products.

PAR. 5. Some of the garments manufactured and sold in commerce by respondent were composed wholly or in part of rayon and simulated in texture and appearance garments composed wholly or in part of silk, the product of the cocoon of the silkworm. Respondent did not inform the purchasing public of the fact that the garments which resembled silk in texture and appearance were made wholly or in part of rayon and not of silk.

PAR. 6. The practice of respondent in having offered for sale and selling its said garments, in commerce, as aforesaid, without disclosing in words familiar to the purchasing public the fact that said garments were composed wholly or in part of rayon, was misleading within the meaning of the Federal Trade Commission Act, and members of the purchasing public may have been led to believe that the said rayon garments were composed wholly or in part of silk, the product of the cocoon of the silkworm.

PAR. 7. The failure of respondent to disclose that its said garments were made wholly or in part of rayon had the capacity and tendency to mislead and deceive members of the purchasing public as to the fiber content thereof.

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

It is ordered, That the respondent, Loma Dress Corporation, a corporation, and 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 wearing apparel or other products composed in whole or in part of rayon, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from offering for sale or selling said products without affirmatively and clearly disclosing thereon such rayon content.

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered, That the respondent herein shall, within sixty (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 the order to cease and desist [as required by said declaratory decision and order of January 3, 1953].

IN THE MATTER OF
THE NEW AMERICAN LIBRARY OF WORLD
LITERATURE, INC. ET AL.

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

Docket 5811. Complaint, Sept. 19, 1950—Decision, Jan. 6, 1953

The offering of a book for sale constitutes an implicit representation that the book contains the entire original text and that the title under which it is offered is the original title; and in the absence of a clear and conspicuous disclosure of the fact of abridgment or change of title, the offering of an abridged book or of an old book under a new title unquestionably has the capacity and tendency to deceive and mislead prospective purchasers.

In offering and selling abridgments of previously published books and books previously published under different titles, the use on covers of the phrase "A special Edition" does not constitute adequate disclosure of the aforesaid facts since "special" is by no means synonymous with "abridged" or "condensed."

In the aforesaid connection two poor disclosures do not add up to one good one, and the fact that in addition to such disclosure as may have been made on the covers of books, there were further disclosures in small type on the copyright page, the title page, in the introduction, as a publisher's note or elsewhere, did not result in an adequate disclosure.

In the foregoing connection there can be no doubt that to prospective purchasers the titles of books are initially the subjects of greatest interest, and that even if nothing else on the cover is scanned, the title will be.

Where one of the leading corporate publishers of pocket-sized reprints of books, designated as "Signet" and "Mentor" to distinguish fiction and nonfiction, with annual sales of millions of copies, which were frequently published under changed titles, were marketed almost exclusively through a national distributor, and reached the public through bookstores, drugstores, newsstands, in railroad and bus stations, and otherwise; along with two officers thereof—

Failed adequately to disclose the facts concerning the abridgment and change of title of many of their books through such statements on the covers as "A Special Edition," and in small type, far removed from the new title, the words "original title" followed thereby, and through other small type disclosures inside the books;

With capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such abridged books contained the complete original text, and that such newly titled books were new books, separate and different from the original publications from which they were copied: