

IN THE MATTER OF
TUNGSTEN CONTACT MANUFACTURING COMPANY
ET AL.

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

Docket 5835. Complaint, Dec. 26, 1950—Decision, Mar. 26, 1953

Where a firm engaged in buying, manufacturing and selling ignition parts for automobiles and, as thus engaged in the purchase in bulk of ignition points which bore no stamp, label or trade-mark and none of which were purchased from General Motors Corporation, The Electric Auto-Lite Company, or the Ford Motor Company or their authorized dealers—

- (a) Sold such ignition contact points, purchased untrademarked, but upon which, at the time of sale there appeared the trade marks of said manufacturers, as and for genuine Delco-Remy, Auto-Lite, and Ford points; and
- (b) Sold as and for genuine Auto-Lite and Delco-Remy parts such ignition points which were not in fact made by or for The Electric Auto-Lite Co. or the General Motors Corp.; and

Where a certain corporation and its controlling officer, engaged in the purchase of genuine Delco-Remy contact points, and in the purchase also from the aforesaid firm of such products which were not so represented—

- (c) Sold a quantity of said last-named points as and for genuine Delco-Remy, Auto-Lite, and Ford ignition points; admitting, extra judicially, to a New York police officer that he had been knowingly selling counterfeit points; and

Where an individual who dealt at wholesale in automotive parts, and purchased from aforesaid corporation ignition parts designated as Delco-Remy—

- (d) Sold and repurchased from the aforesaid corporation such points, after being informed of their counterfeit nature, and, following an interview with an attorney-investigator of the Commission and the storage by said individual for a few months, following his admitted persuasion of the counterfeit nature of said products, resumed and continued the sale thereof until his supply was exhausted; and

Where the aforesaid firm, corporation, and individuals, engaged as aforesaid in the interstate sale and distribution of said counterfeit ignition points in competition with others engaged in the sale and distribution of genuine and original automotive ignition points and replacement parts not falsely represented as such—

- (e) Placed thereby in the hands of dealers a means and instrumentality of deception regarding the source or origin of their said products;

With tendency and capacity to mislead a substantial portion of the purchasing public into the erroneous belief that the ignition points and parts sold by them were made by or for the General Motors Corp., The Electric Auto-Lite

Co., or the Ford Motor Co., and thereby induce its purchase of substantial quantities thereof; and with the result that substantial trade in commerce was diverted to said respondents from their competitors, to the injury of competition in commerce:

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

In the aforesaid proceeding, in which numerous respondents joined in the complaint had theretofore had the proceeding dismissed as to said respondents, the proceeding was also dismissed as to several remaining respondents not included in the foregoing cease and desist order.

Before *Mr. Abner E. Lipscomb*, hearing examiner.

Mr. Edward F. Downs for the Commission.

Vanderbach & Vanderbach, of Guttenberg, N. J., for Tungsten Contact Manufacturing Co., Union Electrical Parts Co., Inc., Orville C. Hollopeter, Jenny V. Hayes and Saul H. Lippman.

Mr. Murry Bower, of New York City, for Harry Augen, Lillian Augen, Irwin Schneeberger, Bell Auto Supply Co. and Tom Brown.

Greenwald, Kovner & Goldsmith, of New York City, for Herman D. Stein and Myna S. Stein.

Mr. Charles Rose, of Brooklyn, N. Y., for Jack Weiss.

Brass & Brass, of Newark, N. J., for Charles DePerty.

Lochtan & Wolfe, of Chicago, Ill., for Bernard Hirsch and Lester Hirsch.

Mr. Seymour Gair, of Chicago, Ill., for Gair & Co.

Mr. Robert J. Weiss, of Chicago, Ill., for Scott Adams Co., Alvin Sampson, Mandel Rubin and Walter Jeschke.

Prince & Schoenberg, of Chicago, Ill., for Louis Feldman and Perry Feldman.

Snyder, Balmer & Kershner, of Reading, Pa., for Harry A. Spatz and Berk's Auto Ignition Co.

Mr. Jay L. Oldham, of Kansas City, Mo., for Raymond Miller.

Terte, Levi, Rosenwald, Wasserstrom & Levitt, of Kansas City, Mo., for Israel A. Kosovitz.

Mr. Harold Kaminsky, of St. Louis, Mo., for General Accessories & Supply Co., Ben Recht and Henry Lacks.

Behrendt, Shockley & Searing, of Kansas City, Mo., for Matt Millard.

Kaufman & Stemmler, of St. Louis, Mo., for Mendenhall Motors.

Mr. J. Dudley Inman, of Louisville, Ky., for Maurice R. McGinnity and H. J. Spath.

Mr. Martin R. Freedman, of Philadelphia, Pa., for Harry Friedman.

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Mr. Edmund E. De Paul and *Mr. Herman Toll*, of Philadelphia, Pa., for *Martin O. Krupnick*.

Marcus & Schenkman, of New York City, for *Alfred Gliksman, Inc., Alfred Gliksman and Otilia Gliksman*.

Smith & Rafsky, of New York City, for *Irving Gilbert*.

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 Tungsten Contact Manufacturing Company, a corporation, and Union Electrical Parts Company, Inc., a corporation, and Orville C. Hollopeter, Jenny V. Hayes and Saul H. Lippman, individually and as officers of said corporations; Harry Augen, Lillian Augen and Irwin Schneeberger, individuals doing business as Graphited Lubricants Company; Livingston Automotive Supply Company, Inc., a corporation, and Charles E. Kerpen and Sylvia Kerpen, individually and as officers of said corporation; Herman D. Stein and Myna S. Stein, individuals doing business as Crown Automotive Manufacturing Company; Jack Weiss, an individual doing business as Bergen Auto Supply Company; Charles DePerty, an individual doing business as DePerty's Ford Parts; Alexander Levenson, an individual; Bernard Hirsch and Lester Hirsch, co-partners doing business as General Wholesale Auto Supply; Seymour Gair, an individual doing business as Gair & Company; Scott Adams Company, a corporation, and Alvin Sampson, Mandel Rubin and Walter Jeschke, individually and as officers of said corporation; Louis Feldman and Perry Feldman, co-partners doing business as L. Feldman and Company; Bell Auto Supply Company, a corporation, and Tom Brown, individually and as an officer of said corporation; Harry A. Spatz, an individual; Berk's Auto Ignition Company, a corporation; Raymond Miller, an individual doing business as Missouri Manufacturers Sales Company; Israel A. Kosovitz, an individual; General Accessories & Supply Company, a corporation, and Ben Recht and Henry Lacks, individually and as officers of said corporation; Matt Millard, an individual doing business as Millard Supply Company; Mendenhall Motors, a corporation; Maurice R. McGinnity and H. J. Spath, co-partners doing business as Auto Electric Service Company; Harry Friedman, an individual doing business as Penn Autoware Sales; Martin O. Krupnick, an individual; Alfred Gliksman, Inc., a corporation, and Alfred Gliksman and Otilia Gliksman, individually and as officers of said corporation; and Irving Gilbert, an individual doing business as Acme Products Com-

pany, hereinafter referred to as respondents, have 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 therein its charges as follows:

PARAGRAPH 1. Tungsten Contact Manufacturing Company and Union Electrical Parts Company, Inc., are corporations organized, existing and doing business under and by virtue of the laws of the State of New Jersey. Their office and principal place of business is located at 7311 Cottage Avenue, North Bergen, New Jersey. These corporations will hereinafter be referred to as Tungsten and Union.

Respondents Orville C. Hollopeter, Jenny V. Hayes, and Saul H. Lippman are officers of said corporate respondents and as such formulate and execute the policies and practices of said corporations.

Said corporate respondents are engaged in manufacturing and selling, among other things, points and parts for use in the ignition systems of automotive motors hereinafter collectively referred to as ignition parts. The ignition parts which they manufacture are copies of original and genuine parts of the various automobile manufacturers. Original and genuine ignition parts are normally stamped and packaged and bear the manufacturer's trade name and numerals. Some automobile manufacturers do not, themselves, manufacture the ignition parts, but have them manufactured for them by others. These original and genuine ignition parts are branded and packaged with the trade names and numerals such as "Auto-Lite," IGP 3028 E. S., manufactured by Auto Electric Light Company of Toledo, Ohio, "Delco-Remy," 1871870, and "Delco-Remy," 1855720, made for or by the General Motors Corporation, and "Ford," 7RA12171, made for or by the Ford Motor Company. The ignition parts produced by or for Auto-Lite, Delco-Remy and Ford are universally known as genuine and original and are restrictively distributed. All others are commonly referred to as replacements. Ignition parts are sold to repair shops who, in turn, use them to replace worn parts when necessary in the repair of automobile ignition systems. Ignition parts are subjected to constant use in the operation of an automobile so that replacements must of necessity be made more or less frequently.

Tungsten and Union manufacture and supply the trade with replacement ignition parts branded Union or UE and Tungsten. These ignition parts so branded are sold as replacements in competition with original and genuine ignition parts such as Auto-Lite, Delco-Remy and Ford.

These respondents also manufacture, sell and ship to some other of the respondents mentioned herein, ignition parts in bulk, unstamped and bearing no identification marks. These parts closely resemble

the original and genuine parts and may be readily mistaken for original and genuine parts. Some of the other respondents assemble such parts and place counterfeit marks thereon and package such ignition parts as original and genuine Auto-Lite, Delco-Remy and Ford parts. Such ignition parts are packaged in envelopes and cartons on which are printed the identical words and figures used on said original packages to simulate the packages used by Auto-Lite, General Motors and Ford. The completed containers of said ignition parts are finished and printed and simulated and appear to be identical with the original and genuine containers.

Respondents, Tungsten and Union are affiliated with other respondents mentioned herein, as is afterwards set out, and have full knowledge that these purchasers of their bulk ignition parts, stamp, label, package and sell such parts as original Auto-Lite, Delco-Remy and Ford parts. The practice of Tungsten and Union of supplying such counterfeit and unbranded parts to other respondents, enable such other respondents and their purchasers to pass off such parts to the public as genuine Auto-Lite, Delco-Remy and Ford parts.

PAR. 2. Respondents Harry Augen, Lillian Augen, and Irwin Schneeberger are individuals doing business as Graphited Lubricants Company, with their office and principal place of business at 423 Broadway, Brooklyn, New York. These respondents are hereinafter designated as Graphited. For the past several years they have been associated with the officers of respondent companies Tungsten and Union. Graphited and officers of Tungsten and Union operated a corporation under the name of Lily-Ann Toy Corp. A close business relationship existed between officials of Tungsten, Union and Graphited.

Tungsten and Union sold large quantities of individual ignition parts to respondent Graphited in bulk. These parts were not branded with the Tungsten or Union symbol or marks. These ignition parts were assembled, branded, packaged and resold by respondent Graphited as original Auto-Lite, Delco-Remy and Ford ignition parts to purchasers, among which were some of the respondents mentioned herein, with the knowledge on the part of respondent Graphited and its customers that said parts were counterfeits of original Auto-Lite, Delco-Remy and Ford ignition parts. Graphited invoiced said counterfeits by reference to AL for Auto-Lite, DR for Delco-Remy and FO for Ford, affixing thereto the numerals such as 1855720, 1882391, 1871870 and "Ford 1949 7RA12171," "Ford 4ps. 6812162," duplicating the different numbers and letters used by the makers of genuine and original parts. Respondent Graphited stamped counterfeit markings on the metal of such ignition points sold by them and

for a certain charge placed such counterfeit markings and symbols on ignition parts for other respondents.

Graphited also printed packages and envelopes with figures and written words indicating said ignition parts to be genuine Auto-Lite, Delco-Remy and Ford parts. These were then sold to customers among which were other respondents herein who used the same in packaging counterfeit parts for resale.

PAR. 3. Respondent Livingston Automotive Supply Company, Inc., 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 at 236 Livingston Street, Brooklyn, New York.

Respondents Charles E. Kerpen and Sylvia Kerpen are officers of said corporation, and as such formulate and execute the policies and practices of said corporation. The address of said officers is the same as that of said corporation.

For the past several years said corporate respondent has bought ignition parts from Graphited which were purchased from Tungsten and Union. These ignition parts had been stamped with counterfeit markings by Graphited and packaged in envelopes and containers bearing markings, words and symbols indicating that such ignition parts were the products of Auto-Lite, Delco-Remy and Ford. The officers of respondent Livingston Auto Supply Company and the individuals operating as Graphited are business associates and friends of many years standing. Respondent Livingston Auto Supply Company, Inc. had full knowledge of the counterfeiting and misbranding operations of respondent Graphited and the connection of the persons operating as Graphited with respondents Tungsten and Union. Respondent Livingston Auto Supply Company, Inc. has for many years past sold and delivered hundreds of thousands of these counterfeit ignition parts all over the United States to many of the respondents mentioned herein.

PAR. 4. Respondents Herman D. Stein and Myna S. Stein, are individuals doing business as the Crown Automotive Manufacturing Company, with their office and principal place of business at 32-52 58th Street, Woodside, Long Island, New York. For several years past they have engaged in buying and selling, among other things, automobile ignition points and parts.

Said respondents bought counterfeit ignition parts stamped "Ford" from Graphited and sold said parts to others, well knowing such parts were not genuine Ford ignition parts but were counterfeits stamped with the word "Ford."

PAR. 5. Respondent Jack Weiss is an individual doing business as Bergen Auto Supply Company, with his office and principal place of

business at 1206 Bedford Avenue, Brooklyn, New York. He is a wholesaler, buying and selling automobile parts including ignition parts. During the past several years, this respondent purchased large quantities of counterfeit ignition parts from respondent, Graphited. Said ignition parts were invoiced to said respondent as AL, FO and DR points, but respondent well knew that said replacement parts were not original parts, but were counterfeit parts. Respondent sold counterfeit ignition parts to numerous dealers over the United States as original Ford, Auto-Lite and Delco-Remy ignition parts, well knowing that he was selling counterfeit parts.

PAR. 6. Respondent Charles DePerty is an individual doing business as DePerty's Ford Parts, with his office and principal place of business at 145 Glenwood Avenue, East Orange, New Jersey. For the past several years he has been engaged in selling automobile motor parts, including ignition parts.

This respondent bought ignition parts from respondents Tungsten and Union in bulk, unstamped. He caused such points and parts to be stamped and marked as original and genuine Auto-Lite, Delco-Remy and Ford ignition parts and sold them as original and genuine parts well knowing that the parts he bought from Tungsten and Union and others were not genuine Auto-Lite, Delco-Remy or Ford parts.

PAR. 7. Respondent Alexander Levenson is an individual doing business under his own name at 6722 South Clyde Avenue, Chicago, Illinois. He is a wholesaler, dealing in automotive parts, including ignition parts. For several years last past he bought ignition parts from respondent Livingston Automotive Supply Company, Inc., designated as Delco-Remy, well knowing that such ignition parts were counterfeits and were not produced by the General Motors Company or for the General Motors Company. These parts were resold by Levenson as genuine and original Delco-Remy ignition parts.

PAR. 8. Respondents Bernard Hirsch and Lester Hirsch are co-partners doing business as General Wholesale Auto Supply, with their office and principal place of business at 1528-1530 North Pulaski Road, Chicago, Illinois. For the past several years they have been engaged in wholesaling automotive replacement parts, among which are ignition parts. They purchased counterfeit ignition parts from respondent Livingston Automotive Supply Company, Inc., which parts were invoiced, branded, labeled and packaged as "Delco-Remy." Respondents well knew that the ignition parts which they purchased from respondent Livingston Automotive Supply Company, Inc. were not genuine Delco-Remy ignition parts. Respondents resold such counterfeit Delco-Remy ignition parts in packages simulating original and genuine packages and branded and labeled as Delco-Remy.

PAR. 9. Respondent Seymour Gair is an individual doing business as Gair & Company, with his office and principal place of business at 1430 West 18th Street, Chicago, Illinois. For the past several years he has been engaged in wholesaling automotive parts, including ignition parts. He acted as a sales representative for Alexander Levenson in the sale and distribution of counterfeit Delco-Remy ignition parts and resold said counterfeit parts as genuine, well knowing that such ignition parts were, in fact, counterfeits.

PAR. 10. Respondent Scott Adams Company is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business at 1806 Michigan Avenue, Chicago, Illinois.

Respondents Alvin Sampson, Mandel Rubin and Walter Jeschke are officers of said corporation and as such formulate and execute the policies and practices of said corporation. The addresses of said officers is the same as that of the corporation.

Respondent Scott Adams Company has for several years last past dealt with respondent Alexander Levenson. Respondent purchased counterfeit Delco-Remy ignition parts from said Alexander Levenson, well knowing that such ignition parts were, in fact, counterfeits.

Respondents cooperated with the said Alexander Levenson and aided and abetted in the transportation and sale of said counterfeits to dealers and represented such Delco-Remy counterfeits to be original and genuine Delco-Remy ignition parts.

PAR. 11. Respondents Louis Feldman and Perry Feldman are co-partners doing business as L. Feldman and Company with their office and principal place of business at 2330 South Michigan Avenue, Chicago, Illinois. Said respondents sold ignition parts and cooperated with Alexander Levenson and other respondents in the sale and transportation of counterfeit Delco-Remy ignition parts, well knowing that such parts were not genuine Delco-Remy parts.

PAR. 12. Respondent Bell Auto Supply Company is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Massachusetts, with its office and principal place of business at 1177 Tremont Street, Boston, Massachusetts.

Respondent Tom Brown is an officer of said corporation and as such participated in the formulation and execution of the policies and practices of said corporation. His address is the same as that of the corporation.

For several years last past corporate respondent Bell Auto Supply Company has been engaged in buying and selling automobile parts, among which are ignition parts. During the past several years said respondent has purchased ignition parts from respondent Graphited.

The said ignition parts were invoiced to this respondent as AL-18, DR-18, DR-28, FO-12, 13-R and 13-L. Said respondent well knew that the replacement parts purchased from said respondent Graphited were not original Auto-Lite, Delco-Remy or Ford ignition parts, and were, in fact, counterfeits, but sold said counterfeits as originals.

PAR. 13. Respondent Harry A. Spatz is an individual doing business under his own name, with his office and principal place of business at 40-42 South 9th Street, Reading, Pennsylvania.

For several years last past he has operated as a wholesale and retail dealer of automobile parts, including ignition parts. During the past several years he has purchased large quantities of counterfeit ignition parts from respondent Martin O. Krupnick and others. These counterfeits were purchased both in bulk and in packages. The bulk counterfeit ignition parts were stamped genuine Delco-Remy. The counterfeit Auto-Lite ignition parts were stamped and packaged as genuine and original Auto-Lite parts. Respondent resold said parts to purchasers as original Auto-Lite and Delco-Remy ignition parts, well knowing that such parts so sold by him were, in fact, counterfeits and not original and genuine parts. The said respondent has aided and abetted other respondents in the transportation, sale and distribution of said counterfeit ignition parts.

PAR. 14. Respondent Berk's Auto Ignition Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business at 315 North 4th Street, Reading, Pennsylvania. It is engaged in the wholesale distribution of automobile accessories and supplies including ignition parts and points. It is an authorized direct dealer of original and genuine Auto-Lite and Delco-Remy ignition parts. Supplies of genuine and original Auto-Lite and Delco-Remy ignition parts were available to it from direct sources. However, the said respondent purchased and sold counterfeit Auto-Lite ignition parts, well knowing them to be counterfeit and not original parts. Respondent aided and abetted other respondents in the transportation, sale and distribution of counterfeit Auto-Lite ignition parts as genuine and original.

PAR. 15. Respondent Raymond Miller is an individual doing business as Missouri Manufacturers Sales Company, with his office and principal place of business at 2207 Myer Boulevard, Kansas City, Missouri. He is an itinerant dealer in automobile parts, including ignition parts. For several years last past said respondent has purchased large quantities of counterfeit ignition parts from respondent Charles DePerty, which counterfeits were packaged and branded as genuine Auto-Lite, Delco-Remy and Ford. This respondent sold

large quantities of such counterfeit ignition parts to dealers in different parts of the United States, well knowing that said ignition parts were counterfeits. Respondent has aided and abetted respondent Charles DePerty and other respondents in the transportation, sale and distribution of counterfeit ignition parts branded as genuine Auto-Lite, Delco-Remy and Ford ignition parts.

PAR. 16. Respondent Israel A. Kosovitz is an individual residing at 6637 Brookside Boulevard, Kansas City, Missouri. Respondent has engaged in the sale and distribution of automobile parts including ignition parts. This respondent has, for several years last past, bought large quantities of counterfeit ignition parts from respondent Charles DePerty and respondent Raymond Miller, which ignition parts were counterfeits stamped and branded as genuine Auto-Lite, Delco-Remy and Ford ignition parts. Said respondent afterwards sold said parts as genuine Auto-Lite, Delco-Remy and Ford parts, well knowing them to be counterfeit and not original parts. Said respondent aided and abetted respondents Charles DePerty, Raymond Miller and other respondents in the transportation, sale and distribution of counterfeit ignition parts branded as genuine and original parts.

PAR. 17. Respondent General Accessories & Supply Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 1936 Franklin Street, St. Louis, Missouri.

Respondents Ben Recht and Henry Lacks are officers of said corporation and as such officers they formulate and execute the policies and practices of said corporation.

Respondent General Accessories & Supply Company is a wholesale dealer in automobile accessories and supplies, including ignition parts. During the last several years said corporate respondent has purchased counterfeit Auto-Lite, Ford, and Delco-Remy ignition parts from respondent General Wholesale Auto Supply and afterwards resold said counterfeit ignition parts in various parts of the United States as original parts, well knowing them to be counterfeit and not original parts. Respondent aided and abetted other respondents in the sale and distribution of counterfeit ignition parts branded as genuine parts.

PAR. 18. Respondent Matt Millard is an individual doing business as Millard Supply Company, with his office and principal place of business located at 939-41 Minnesota Avenue, Kansas City, Kansas. He is now and for several years last past has been a dealer in automobile accessories and supplies, including ignition parts. This respondent has purchased large quantities of counterfeit ignition parts

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from respondent Israel A. Kosovitz and respondent Raymond Miller and others. The said counterfeits were designated on invoices as Ford and Chevrolet ignition parts, and were packaged and marked to indicate that the said ignition parts were genuine and original Ford and Delco-Remy ignition parts. Said respondent resold said counterfeit ignition parts in various parts of the United States in packages and containers marked as genuine and original parts. Said respondent knew that the said parts were, in fact, not genuine and original parts. Respondent has aided and abetted respondents Israel A. Kosovitz and Raymond Miller in the transportation, sale and distribution of counterfeit ignition parts branded as genuine and original parts.

PAR. 19. Respondent Mendenhall Motors is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business at 23rd and Washington Avenue, St. Louis, Missouri. Said respondent operates a Ford agency and has an exclusive franchise for the rebuilding of Ford motors.

Respondent purchased counterfeit Ford ignition parts from respondent Raymond Miller, well knowing that such parts were not original and genuine Ford parts but were, in fact, counterfeits. It has aided and abetted the said respondent Raymond Miller in the transportation, sale and distribution of counterfeit Ford ignition parts.

PAR. 20. Respondents Maurice R. McGinnity and H. J. Spath are co-partners doing business as Auto Electric Service Company, with their office and principal place of business at 102 East Jacobs Street, Louisville, Kentucky. For the past several years they have been wholesale dealers in automobile parts and replacements, including ignition parts.

Said respondents have purchased large quantities of counterfeit ignition parts from respondents Livingston Auto Supply Company, Inc., and Harry Friedman, which counterfeits were branded and packaged as genuine Auto-Lite, Delco-Remy and Ford ignition parts. Said respondents resold said counterfeits to purchasers located in various parts of the United States, knowing that they were counterfeit but representing them to be original and genuine Auto-Lite, Delco-Remy and Ford ignition parts. Respondents have aided and abetted other respondents in the transportation, sale and distribution of counterfeit ignition parts.

PAR. 21. Respondent Harry Friedman is an individual doing business as Penn Autoware Sales, with his office and principal place of business at 2427 80th Avenue, Philadelphia, Pennsylvania.

Said respondent bought ignition parts from Tungsten and Union and sold such parts as genuine Auto-Lite, Delco-Remy, and Ford parts, well knowing them to be counterfeit and not original and genuine parts.

Respondent has aided and abetted other respondents in the transportation, sale and distribution of said counterfeit Delco-Remy, Auto-Lite and Ford ignition parts.

PAR. 22. Respondent Martin O. Krupnick is an individual residing at 5657 Melvern Avenue, Philadelphia, Pennsylvania. He is an itinerant dealer in automobile parts. For the past several years he has been engaged in buying and selling automotive supplies, including ignition parts. He bought counterfeit ignition parts stamped as Auto-Lite, Delco-Remy and Ford, well knowing that such ignition parts so purchased were counterfeits. He sold them to purchasers as original and genuine Auto-Lite, Delco-Remy and Ford parts, with the knowledge that such parts were, in fact, counterfeits. Said respondent has aided and abetted other respondents in the transportation, sale and distribution of counterfeit ignition parts.

PAR. 23. Respondent Alfred Gliksman, Inc., 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 at 53 West 72nd Street, New York, New York.

Respondents Alfred Gliksman and Otilia Gliksman are officers of said corporation and, as such, formulate and execute the policies and practices of said corporation. Their address is the same as that of the corporation.

For the past several years corporate respondent Alfred Gliksman, Inc., has been engaged in the business of buying and selling automobile replacement parts, including ignition parts.

One of its sources of supply of ignition parts was respondent Graphited. It purchased from said respondent counterfeit ignition parts, branded, packaged and marked as genuine Auto-Lite, Delco-Remy and Ford ignition parts, well knowing that same were counterfeits and sold said parts to purchasers located in various parts of the United States and in Havana, Cuba, representing same to be genuine original replacement parts of Auto-Lite, Delco-Remy and Ford. Respondent aided and abetted other respondents in the transportation, sale and distribution of counterfeit ignition parts.

PAR. 24. Respondent Irving Gilbert is an individual doing business as Acme Products Company, with his office and principal place of business at 357 West 53rd Street, New York, New York. He is now and for the past several years has been engaged in the business of whole-

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saling automobile replacement parts, including ignition points and parts.

Respondent bought ignition parts from respondent Graphited which parts were invoiced to him as Auto-Lite, Delco-Remy and Ford parts but which respondent knew were counterfeit parts. Respondent sold said parts as original and genuine Auto-Lite, Delco-Remy and Ford parts. Respondent aided and abetted other respondents in the transportation, sale and distribution of counterfeit ignition parts.

PAR. 25. None of the respondents herein with the exception of Berk's Auto Ignition Company and Mendenhall Motors were at the time of the transactions herein referred to authorized dealers in genuine Auto-Lite, Delco-Remy or Ford ignition points and parts; and all of the respondents herein were well aware of this fact.

PAR. 26. In the course and conduct of their businesses, respondents caused their said products, when sold, to be transported in commerce from their places of business located in various States as set forth hereinabove, to the purchasers thereof located in various other States and jurisdictions and at all times mentioned herein maintained a course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act. The volume of business of each respondent in said commerce is and has been substantial.

PAR. 27. In the course and conduct of their businesses, respondents have been at all times mentioned herein, in substantial competition with other corporations, individuals and firms engaged in the business of selling and distributing genuine and original automotive ignition parts and replacement parts which were not falsely represented as being genuine and original parts, in commerce among and between the various States of the United States.

PAR. 28. In their course of dealing in commerce in automotive ignition parts, respondents, as aforesaid, have placed in the hands of unscrupulous dealers the means or instrumentalities whereby the latter were enabled to employ deception regarding the source of origin of said products.

PAR. 29. The use by the respondents of the false representations and practices hereinabove set forth in connection with the conduct of their businesses, as aforesaid, had the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that the ignition points and parts sold by them were original and genuine parts and to induce a substantial portion of the purchasing public to purchase substantial quantities of respondents' counterfeit products in the mistaken belief that they were genuine and original ignition parts. As a direct result of the practices of respondents, as aforesaid, substantial trade in

commerce has been diverted to respondents from their said competitors and injury has been done to competition in commerce between and among the various States of the United States.

PAR. 30. The aforesaid acts and practices of the respondents, as herein alleged, are all to the prejudice and injury of the public and of the competitors of respondents, and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDERS AND DECISION OF THE COMMISSION

Order denying appeals from initial decision of hearing examiner and decision of the Commission and order to file report of compliance, Docket 5835, March 26, 1953, follows:

This matter came on to be heard by the Commission upon the appeal of respondent Harry Augen, an individual doing business as Graphited Lubricants Company, and the appeal of respondents Livingston Automotive Supply Company, Inc., a corporation, and Charles E. Kerpen, individually and as an officer of said corporation, from the initial decision of the hearing examiner herein, and upon briefs and oral argument of counsel in support of and in opposition to said appeals.

The complaint herein charges a number of respondents with unfair methods of competition and unfair and deceptive acts and practices in connection with the sale and distribution of ignition parts for automobiles. The hearing examiner in his initial decision found that the allegations of the complaint are sustained only as to the respondents who have appealed as aforesaid and one other respondent, who did not appeal from said decision.

Respondent Harry Augen in his appeal and respondents Livingston Automotive Supply Company, Inc., and Charles E. Kerpen in their appeal contend that the hearing examiner's findings as to their acts and practices in connection with the sale and distribution of ignition contact points are not sustained by the evidence in the record. The Commission rejects these contentions. With respect to Harry Augen, there is testimony that he purchased ignition contact points which bore no trade-mark. He sold ignition contact points which were stamped with the trade-marks of well-known manufacturers, and represented that such points were manufactured by or for such well-known manufacturers. The points so stamped and so represented were not manufactured by or for such well-known manufacturers. With respect to respondents Livingston Automotive Supply Company, Inc., and Charles E. Kerpen, there is testimony that Kerpen as controlling officer of the corporate respondent sold a quan-

tity of ignition contact points which the purchasers said were represented as being points manufactured by or for well-known manufacturers, but which were in fact counterfeit. There is also evidence that respondent Kerpen knew that such points were counterfeit. The Commission is of the opinion that the hearing examiner's findings and conclusion as to these respondents are fully supported by and in accordance with the greater weight of the evidence in the record.

The Commission having duly considered the said appeals, the briefs and oral argument of counsel, and the record herein, and being of the opinion that the appeals are without merit and that the hearing examiner's initial decision is appropriate in all respects to dispose of this proceeding:

It is ordered, That the said appeals from the hearing examiner's initial decision be, and they hereby are, denied.

It is further ordered, That the initial decision of the hearing examiner, a copy of which is attached hereto, shall, on the 26th day of March, 1953, become the decision of the Commission.

It is further ordered, That the respondents Harry Augen, Livingston Automotive Supply Company, Inc., Charles E. Kerpen, and Alexander Levenson shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Commissioner MASON not participating.

INITIAL DECISION BY ABNER E. LIPSCOMB, TRIAL EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on December 26, 1950, issued and subsequently served its complaint in the above-entitled proceeding upon each and every respondent named in the caption hereof, charging them with the use of unfair or deceptive acts or practices in commerce in violation of the provisions of said Act. After the issuance of said complaint and the filing of respondents' answers thereto, hearings were held, at which testimony and other evidence in support of the allegations of the complaint were introduced before the above-named hearing examiner, theretofore duly designated by the Commission. Thereupon counsel supporting the complaint rested his case, and motions to dismiss the proceeding as to them were presented by the respondents hereinafter named, and others.

The hearing examiner thereafter, on September 27, 1951, filed an initial decision dismissing the complaint herein, without prejudice, as to respondents Tungsten Contact Manufacturing Company and

Union Electrical Parts Company, Inc., corporations, and Orville C. Hollopeter, Jenny V. Hayes, and Saul H. Lippman, individually, and as officers of said corporations; Herman D. Stein and Myna S. Stein, individuals, doing business as Crown Automotive Manufacturing Company; Jack Weiss, an individual doing business as Bergen Auto Supply Company; Seymour Gair, an individual doing business as Gair & Company; Scott Adams Company, a corporation, and Alvin Sampson, Mandel Rubin, and Walter Jeschke, individually and as officers of said corporation; Louis Feldman and Perry Feldman, co-partners doing business as L. Feldman and Company; Bell Auto Supply Company, a corporation, and Tom Brown, individually and as an officer of said corporation; Israel A. Kosovitz, an individual; General Accessories & Supply Company, a corporation, and Ben Recht and Henry Lacks, individually and as officers of said corporation; Mendenhall Motors, a corporation; Maurice R. McGinnity and H. J. Spath, co-partners doing business as Auto Electric Service Company; Alfred Gliksman, Inc., a corporation, and Alfred Gliksman and Otilia Gliksman, individually and as officers of said corporation.

On October 22, 1951, counsel supporting the complaint appealed to the Commission from such initial decision, and on February 14, 1952, the Commission issued its order denying the appeal of counsel supporting the complaint and confirming the hearing examiner's initial decision of September 27, 1951.

At the request of certain respondents, further hearings were held, and testimony and other evidence was presented in opposition to the allegations of the complaint and motions to dismiss were presented on behalf of certain respondents. On July 16, 1952, the last of the respondents to present testimony rested its case.

Thereafter the proceeding regularly came on for final consideration by said hearing examiner on the complaint, answers thereto, testimony and other evidence, motions to dismiss and proposed findings as to the facts and conclusions presented by counsel, oral argument thereon not having been requested. The said 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. (a) Respondents Harry Augen and Lillian Augen are individuals doing business as Graphited Lubricants Company, with their office and principal place of business at 423 Broadway, Brooklyn, New York. Said business has been conducted by respondent

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Harry Augen, who has directed and controlled the policies, acts and practices of the partnership known as Graphited Lubricants Company. He has been engaged in the business of buying, manufacturing and selling ignition parts for automobiles.

(b) Respondent Lillian Augen, although owning an interest in the above-named partnership, has been engaged in the occupation of housewife, and has taken no part in the acts or practices of such partnership, nor in the control nor direction thereof.

(c) Respondent Irwin Schneeberger is an individual who has been employed in a subordinate capacity by respondent Harry Augen, and has taken no part in controlling or directing the acts, practices or policy of the partnership known as Graphited Lubricants Company.

(d) All the contact ignition points purchased by Graphited Lubricants Company were purchased in bulk, and bore no stamp, label or trademark. Said respondent purchased such points from Tungsten Contact Manufacturing Company and from American Motor Products, and made a few purchases of war surplus contact ignition points from one Sam Harris, most of which were sold to one customer, Alfred Gliksman, Inc. No purchases were made by Graphited Lubricants Company from the General Motors Corporation, The Electric Auto-Lite Company, the Ford Motor Company, or their authorized dealers.

(e) Although Graphited Lubricants Company purchased no contact ignition points bearing the genuine trademarks of General Motors Corporation (Delco-Remy), The Electric Auto-Lite Company (A-L) or the Ford Motor Company (Ford), said respondent, during the years of 1949 and 1950, sold automotive ignition contact points to one Harry Friedman, Philadelphia, Pennsylvania, as genuine Delco-Remy, Auto-Lite and Ford points, with those trademarks appearing thereon. Furthermore, respondent Graphited Lubricants Company sold to one George Luxner, as genuine Auto-Lite and Delco-Remy parts, ignition contact points which were not, in fact, manufactured by or for The Electric Auto-Lite Company or the General Motors Corporation.

(f) An unknown number of ignition contact points sold by respondent Harry Augen, controlling officer of respondent Graphited Lubricants Company, as genuine Delco-Remy, Auto-Lite and Ford points, and trademarked as such, were known to him to be counterfeit, in that he had purchased them un-trademarked from suppliers other than General Motors Corporation, The Electric Auto-Lite Company, the Ford Motor Company, or their authorized dealers, and, when selling such points, had represented them to be genuine Delco-Remy, Auto-Lite or Ford points.

PAR. 2 (a) Respondent Livingston Automotive Supply Company, Inc., 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 at 236 Livingston Street, Brooklyn, New York. Respondent Charles E. Kerpen, an individual, is the controlling officer of said corporate respondent, and has formulated, directed and executed the policies, acts and practices thereof. His address is the same as that of the respondent corporation.

(b) The record contains no evidence that respondent Sylvia Kerpen, an individual, functioned as an officer of respondent Livingston Automotive Supply Company, Inc., or engaged in any of the acts or practices alleged in the complaint.

(c) Respondent Charles E. Kerpen, as controlling officer of corporate respondent Livingston Automotive Supply Company, Inc., purchased automotive contact ignition points from Berger Auto Supply Company in 1949; from respondent Graphited Lubricants Company in 1946-1949; and from W. W. Comins in 1950. The ignition points purchased from Berger Auto Supply Company and from W. W. Comins were purchased as genuine Delco-Remy contact points, whereas the points purchased from respondent Graphited Lubricants Company were not represented to respondent Charles E. Kerpen as genuine Delco-Remy points. Respondent Kerpen, however, sold a quantity of the points which he had purchased from respondent Graphited Lubricants Company to the Auto Electric Service Company of Louisville, Kentucky, as genuine Delco-Remy, Auto-Lite and Ford ignition points.

(d) Respondent Charles E. Kerpen admitted, in an extra-judicial statement made to a police officer of the State of New York, that he had been knowingly selling counterfeit contact ignition points.

PAR. 3. Respondent Charles DePerty, an individual, had been, prior to the issuance of the complaint herein, engaged in business under the name "DePerty's Ford Parts," with his office and principal place of business at 145 Glenwood Avenue, East Orange, New Jersey. He sold contact ignition points to a number of the respondents in this proceeding with the representation that they were genuine Ford contact ignition points. Although he bought some parts from Tungsten Contact Manufacturing Company, the sources of his entire supply of such points are not shown in the record. There is no reliable, probative and substantial evidence in the record to support the allegations of the complaint that respondent Charles DePerty caused such points to be stamped and marked as original Auto-Lite, Delco-Remy and Ford ignition parts, or that he sold them as genuine, knowing that they were not genuine Auto-Lite, Delco-Remy and Ford parts.

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PAR. 4. (a) Respondent Alexander Levenson is an individual who, prior to the issuance of the complaint herein, did business under his own name as a wholesaler dealing in automotive parts, including ignition parts, with his principal office and place of business at 6722 South Clyde Avenue, Chicago, Illinois. He purchased ignition parts designated as "Delco-Remy" from respondent Livingston Auto Supply Company, Inc., of New York.

(b) In 1950 respondent Levenson was visited by two men who informed him that some of the ignition points in his possession were counterfeit. Subsequently he made further purchases of ignition points from respondent Livingston Auto Supply Company, Inc., the same source from which he had purchased the counterfeit points.

(c) Thereafter, on March 4, 1950, respondent Levenson was interviewed by Attorney Investigator Warner of the Federal Trade Commission's staff, who, respondent Levenson admitted, convinced him that the points in his possession were counterfeit. Respondent Levenson kept these points in storage for three or four months, and then continued to sell them until he disposed of all that he had.

PAR. 5. Respondents Bernard Hirsch and Lester Hirsch are individuals and co-partners doing business as General Wholesale Auto Supply, with their office and principal place of business at 1528-1530 North Pulaski Road, Chicago, Illinois. Prior to the issuance of the complaint herein they were engaged in the business of buying and selling at wholesale automotive replacement parts, including ignition parts. They purchased ignition parts from respondent Livingston Automotive Supply Company, Inc., which parts were invoiced and branded as Delco-Remy; and resold such parts to various purchasers. Although respondents Hirsch purchased ignition points from respondent Livingston Automotive Supply Company, Inc., who did engage in the sale of counterfeit parts, there is no substantial, reliable and probative evidence in the record to show that the particular ignition points sold to respondents Hirsch were in fact genuine or counterfeit, or, if they were counterfeit, that respondents Hirsch had knowledge thereof.

PAR. 6. Respondent Harry A. Spatz is an individual doing business under his own name, with his office and principal place of business at 40-42 South 9th Street, Reading, Pennsylvania. For several years prior to the issuance of the complaint herein he has operated a wholesale and retail business in the buying and selling of automotive parts, including ignition parts. He purchased contact ignition points from respondent Martin O. Krupnick and others, including authorized Delco-Remy dealers. There is no substantial, reliable and probative evidence in the record to show that this respondent did

other than buy contact ignition points as genuine Delco-Remy points, and resell them as such.

PAR. 7. Respondent Berks' Auto Ignition Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and principal place of business at 315 North 4th Street, Reading, Pennsylvania. This respondent is engaged in the wholesale distribution of automotive accessories and supplies, including ignition parts and points, and is an authorized direct dealer of original and genuine Auto-Lite and Delco-Remy ignition parts. Prior to the issuance of the complaint herein, respondent Berk's Auto Ignition Company purchased certain ignition parts as war surplus from a source other than its usual source of supply. Thereafter it was informed that such parts were not genuine. Respondent Berk's Auto Ignition Company thereafter made no further purchases of such parts. There is no substantial, reliable and probative evidence in the record to show that respondent Berk's Auto Ignition Company knowingly bought or sold counterfeit parts.

PAR. 8. Respondent Raymond Miller is an individual who, prior to the issuance of the complaint herein, was engaged in the business of buying and selling automotive parts, including ignition parts, with his office and principal place of business at 2207 Myer Boulevard, Kansas City, Missouri. From approximately 1945 to 1949, respondent Raymond Miller repeatedly purchased contact ignition parts from respondent Charles DePerty, which parts were branded as genuine Auto-Lite, Delco-Remy and Ford parts. Respondent Miller resold such parts as genuine parts until he was informed, by a representative of the General Motors Corporation, that they were not genuine, but were in fact counterfeit. Thereupon he discontinued selling them and threw the remainder of his stock of such parts into the Missouri River. There is no substantial, reliable and probative evidence in the record to support the allegation of the complaint that respondent Raymond Miller knowingly purchased, or that he knowingly sold, counterfeit parts.

PAR. 9. Respondent Matt Millard is an individual doing business as a partner in the firm of Millard Supply Company, with his office and principal place of business at 939 Minnesota Avenue, Kansas City, Kansas. Prior to the issuance of the complaint herein he was engaged in the wholesale distribution of automotive parts, including ignition contact points. In the course of such business respondent Matt Millard, on behalf of Millard Supply Company, purchased small quantities of ignition contact parts from respondents Israel A. Kosovitz and Raymond Miller, who represented to him, at the time of such

purchase, that such parts were genuine, and he resold them as such. There is no substantial, reliable and probative evidence in the record to support the allegation of the complaint that respondent Matt Millard bought or sold contact ignition parts with the knowledge that they were counterfeit.

PAR. 10. Respondent Harry Friedman is an individual doing business as Penn Autoware Sales, with his office and principal place of business at 2427 80th Avenue, Philadelphia, Pennsylvania. In 1949 and 1950 he purchased contact ignition points from respondent Graphited Lubricants Company, which were stamped as genuine Delco-Remy points, and which respondent Harry Friedman resold to respondent Martin Krupnick as genuine Delco-Remy points. There is no substantial, reliable and probative evidence in the record to support the allegation of the complaint that respondent Harry Friedman bought or sold counterfeit ignition parts, knowing them to be counterfeit.

PAR. 11. Respondent Martin O. Krupnick is an individual residing at 5657 Melvern Avenue, Philadelphia, Pennsylvania. Prior to the issuance of the complaint herein, respondent Krupnick was engaged in the business of buying and selling automotive supplies, including ignition parts. He purchased ignition parts from respondent Harry Friedman, which parts were marked as genuine Delco-Remy, and represented to him as such at the time of purchase. Thereafter respondent Krupnick resold such ignition parts, as genuine Delco-Remy parts, to respondent Harry Spatz and others. There is no substantial, reliable and probative evidence in the record to support the allegation of the complaint that respondent Krupnick bought or sold counterfeit ignition parts, knowing them to be counterfeit.

PAR. 12. There is no evidence in the record to sustain the allegations of the complaint with respect to respondent Irving Gilbert.

PAR. 13. In the course and conduct of their businesses, respondents caused their said products, when sold, to be transported in commerce from their places of business located in various states, as hereinabove found, to the purchasers thereof located in various other states, and at all times mentioned herein maintained a course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 14. In the course and conduct of their businesses, respondents have been, at all times mentioned herein, in substantial competition with other corporations, individuals and firms engaged in the business of selling and distributing genuine and original automotive ignition parts and replacement parts which were not falsely repre-

sented as being genuine and original parts, in commerce among and between the various states of the United States.

PAR. 15. In their course of dealing in commerce in automotive ignition parts, respondents Harry Augen, an individual doing business as Graphited Lubricants Company; Livingston Automotive Supply Company, Inc., a corporation; Charles E. Kerpen, an individual and the controlling officer of Livingston Automotive Supply Company, Inc.; and Alexander Levenson, an individual, as herein found, have placed in the hands of dealers means and instrumentalities of deception regarding the source of origin of said products.

PAR. 16. The use by the respondents Harry Augen, Livingston Automotive Supply Company, Inc., Charles E. Kerpen and Alexander Levenson of the false representations and practices hereinabove found in connection with the conduct of their businesses has had the tendency and capacity to mislead and deceive a substantial number of the purchasing public into the erroneous and mistaken belief that the ignition points and parts sold by such respondents were manufactured by or for the General Motors Corporation, The Electric Auto-Lite Company or the Ford Motor Company, and to induce a substantial number of the purchasing public to purchase substantial quantities of such products in the mistaken belief that they were the genuine product of one of the said manufacturers of ignition parts. As a direct result of such practices, as herein found, substantial trade in commerce has been diverted to the four above-named respondents from their competitors, and injury has been done to competition in commerce between and among the various states of the United States.

CONCLUSIONS

The aforesaid acts and practices of respondents Harry Augen, Livingston Automotive Supply Company, Inc., Charles E. Kerpen and Alexander Levenson are all to the prejudice and injury of the public and of respondents' competitors, and constitute unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

Since the record herein has been found to contain no substantial, reliable and probative evidence to sustain the allegations of the complaint with respect to respondents Lillian Augen, Irwin Schneeberger, Sylvia Kerpen, Charles DePerty, Bernard Hirsch, Lester Hirsch, Harry A. Spatz, Berk's Auto Ignition Company, Raymond Miller, Matt Millard, Harry Friedman, Martin O. Krupnick and Irving Gilbert, the complaint as to them should be dismissed.

Order

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It is ordered, That respondents Harry Augen, an individual doing business as Graphited Lubricants Company; Livingston Automotive Supply Company, Inc., a corporation, and Charles E. Kerpen, individually and as an officer of said corporation; Alexander Levenson, an individual; and their officers, representatives, agents and employees, directly or through any corporate or other device in connection with the sale and distribution of automotive ignition parts in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale, selling or delivering to others for sale to the public any automotive ignition contact points or parts thereof which are marked with the trademark of or packaged in containers simulating those used by the General Motors Corporation, The Electric Auto-Lite Company, or the Ford Motor Company, when such ignition contact points or parts thereof have not been made by or for the said General Motors Corporation, The Electric Auto-Lite Company, or Ford Motor Company;

2. Representing, directly or by implication, that automotive ignition contact points or parts thereof, not made by or for the General Motors Corporation, The Electric Auto-Lite Company, or the Ford Motor Company, were made by or for such manufacturers;

3. Aiding and abetting any corporation, individual, or firm in the transportation, sale and distribution of counterfeit automotive ignition contact points or parts thereof.

It is further ordered, That the complaint herein be, and the same hereby is, dismissed with respect to respondents Lillian Augen, Irwin Schneeberger, Sylvia Kerpen, and Charles DePerty, individuals; Bernard Hirsch and Lester Hirsch, individuals and co-partners doing business as General Wholesale Auto Supply; Harry A. Spatz, an individual; Berk's Auto Ignition Company, a corporation; Raymond Miller, an individual; Matt Millard, an individual doing business as a partner in the firm of Millard Supply Company; Harry Friedman, an individual doing business as Penn Autoware Sales; and Martin O. Krupnick and Irving Gilbert, individuals.

Syllabus

IN THE MATTER OF

JULES LIVINGSTON TRADING AS MARYLAND DISTRIBUTORS AND MARYLAND DISTRIBUTING COMPANY

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

Docket 6065. Complaint, Nov. 25, 1952—Decision, Mar. 26, 1953

Where an individual engaged in conducting a mail-order business in watches, in competition with others engaged in the interstate sale of such products who truthfully described and advertised the same; in advertising his said watches in various periodicals—

- (a) Represented through such statements as "Practically wholesale—Direct to user", "x x x Factory Surplus, Originally \$71.95 while stock lasts now only \$24.95 x x x", and other similar statements including words "Factory Surplus Sacrifice", that said watches had been purchased by him from factory surplus stocks and were offered at prices lower than those at which such watches were ordinarily sold; and that \$71.95, \$59.00, and \$71.50 were the customary retail prices, respectively, for the watches concerned;

The facts being he did not purchase said watches from factory surplus stocks; the prices at which they were offered for sale were greatly in excess of wholesale prices; the figures mentioned above as customary retail prices were greatly in excess of retail prices; and no saving resulted for the purchaser who bought his watches;

- (b) Falsely represented through his said advertisement that the watch designated as "17 Jewel Chronograph" contained a movement of the finest quality; that the "17 Jewel Self-Winding" watch was waterproof and nonmagnetic; and that the "17 Jewel Chronograph" watch contained the Incablock Shock Resistant Feature and was shock resistant;

- (c) Represented through the use of such statements in his periodical advertising as "Free. Handsome Expansion Band Included with your order." that an expansion wrist band was given without cost, free, or as an unconditional gift to purchasers of a wrist watch; when in fact it was only furnished in connection with the purchase of a wrist-watch from him, and the price was included in that of the watch; and

- (d) Represented that said watches were guaranteed, through deceptive and misleading use of the statement "Lifetime Written Guarantee", without setting forth the terms and conditions of said guarantee;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said representations were true, and thereby into the purchase of substantial quantities of said watches:

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.