

IN THE MATTER OF
EXPERT RAYON COMPANY, INC. ET AL.

COMPLAINT, SETTLEMENT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914,
AND OF AN ACT OF CONGRESS APPROVED OCT. 14, 1940

Docket 6007. Complaint, July 14, 1952—Decision, Apr. 30, 1953

Rayon is a chemical fiber which may be manufactured so as to simulate wool and other natural fibers in texture and appearance; fabrics and articles of wearing apparel manufactured from such rayon fibers have the feel and appearance of wool; and many members of the purchasing public are unable to distinguish between articles of wearing apparel manufactured from such rayon fabrics and those manufactured from wool, so that the former are readily accepted by members of the purchasing public as wool products.

Wearing apparel and other products manufactured from wool, which is not highly inflammable and is a desirable material for women's hats and other wearing apparel, have long held and still hold great public esteem and confidence because of their outstanding qualities.

Where a corporation and its two officers, engaged in the manufacture and interstate sale and distribution of fabrics composed of various fibers, including a particular type of brushed rayon which was highly inflammable and which simulated wool in texture and appearance, to purchasers who used them in making women's hats and other wearing apparel for sale to the purchasing public—

- (a) Falsely represented and impliedly warranted that their said brushed rayon fabrics were suitable for use in the manufacture of women's hats and other wearing apparel and were safe to wear, through failing to reveal the inflammable characteristics thereof;

With result of placing in the hands of retailers and others a means and instrumentality whereby members of the purchasing public might be misled and deceived as above set forth:

Held, That such practices constituted unfair and deceptive acts and practices in commerce in violation of the provisions of the Federal Trade Commission Act: and

Where said corporation and officers, engaged in the manufacture and in the sale and distribution therein of "wool products" as defined in the Wool Products Labeling Act of 1939—

- (b) Misbranded certain woolen jersey fabrics in that they were not stamped, tagged, or labeled as required by said Act and the Rules and Regulations promulgated thereunder:

Held, That aforesaid acts and practices were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices within the intent and meaning of the Federal Trade Commission Act, and were in violation of said Wool Products Labeling Act and Rules and Regulations.

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Before *Mr. James A. Purcell*, hearing examiner.

Mr. George E. Steinmetz for the Commission.

Mr. Milton H. Goldstricker, of New York City, for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939 and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that the Expert Rayon Company, Inc., a corporation, and Sol Kokol and Harry Irwin, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, 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 Expert Rayon Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York, with the principal place of business located at 165-08 Liberty Avenue, Jamaica, Long Island, New York.

The individual respondents, Sol Kokol and Harry Irwin, are president and secretary-treasurer, respectively, of the corporate respondent, Expert Rayon Company, Inc., and formulate, direct and control the affairs and policies of said corporate respondent. Said individual respondents have their offices at the same place as corporate respondent.

PAR. 2. The respondent Expert Rayon Company, Inc., is now, and for several years last past has been, engaged in the manufacture, sale and distribution of fabrics composed of various fibers, including rayon and combinations thereof. Respondents cause said fabrics when sold to be transported from the place of business of respondent, Expert Rayon Company, Inc., in the State of New York to purchasers thereof located in various other States of the United States. Respondents maintain and at all times mentioned herein have maintained a substantial course of trade in said fabrics in commerce among and between the various States of the United States.

Subsequent to the effective date of the Wool Products Labeling Act of 1939 and more especially since 1950, respondents have manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment, and offered for sale, in commerce as "commerce" is defined in the Wool Products Labeling Act of 1939, wool products, as "wool products" are defined therein.

PAR. 3. Rayon is a chemical fiber which may be manufactured so as to simulate wool and other natural fibers in texture and appearance.

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Fabrics and articles of wearing apparel manufactured from such rayon fibers have the feel and appearance of wool. Many members of the purchasing public are unable to distinguish between articles of wearing apparel manufactured from such rayon fabrics and articles of wearing apparel manufactured from wool. Consequently, articles of wearing apparel manufactured from such rayon fabrics are readily accepted by members of the purchasing public as wool products.

PAR. 4. Some of the rayon fabrics manufactured, sold, and distributed by the respondents are a particular type of brushed rayon which is highly inflammable. Such fabrics simulate wool in texture and appearance. Respondents do not label or otherwise inform the purchasers of their said fabrics that they are composed of rayon, nor do they reveal in any manner the highly inflammable characteristics of their said fabrics.

Purchasers of respondents' said fabrics use them in making women's hats and other articles of wearing apparel for sale to members of the purchasing public. Such products, resembling wool products, are readily accepted by many members of the purchasing public as wool products.

PAR. 5. Wearing apparel and other products manufactured from wool have for many years held and still hold great public esteem and confidence because of their outstanding qualities. Wool is not highly inflammable and is a desirable material for women's hats and other wearing apparel.

PAR. 6. By failing to label their said brushed rayon fabrics, which resemble wool, as rayon, and by failing to reveal the inflammable characteristics of their said brushed rayon fabrics, respondents have represented and impliedly warranted that said fabrics are suitable to be used in the manufacture of women's hats and other wearing apparel that are safe to wear. In truth and in fact, hats and other articles of wearing apparel made of this material are dangerous and unsafe to be worn because they are highly inflammable.

Respondents' said practices place in the hands of retailers and others a means and instrumentality whereby members of the purchasing public may be misled and deceived in the manner aforesaid.

PAR. 7. Certain of said wool products were misbranded in that they were not stamped, tagged or labeled as required under the provisions of Section 4 (a) (2) of the Wool Products Labeling Act of 1939, and in the manner and form as prescribed by the Rules and Regulations promulgated under such Act. Among respondents' wool products so misbranded were woolen jersey fabrics.

PAR. 8. The aforesaid acts and practices of respondents are all to the prejudice and injury of the public. The practices with respect to

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respondents' rayon fabrics set forth above constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act. The practices with respect to respondents' wool products set forth above were and are in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder and also constitute unfair and deceptive acts and practices within the intent and meaning of the Federal Trade Commission Act.

CONSENT SETTLEMENT ¹

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, the Federal Trade Commission on July 14, 1952, issued and subsequently served its complaint on the respondents named in the caption hereof, charging them with the use of unfair and deceptive acts and practices in violation of the provisions of said Acts.

The respondents, desiring that this proceeding be disposed of by the consent settlement procedure provided in Rule V of the Commission's Rules of Practice, solely for the purposes of this proceeding, any review thereof, and the enforcement of the order consented to, and conditioned upon the Commission's acceptance of the consent settlement hereinafter set forth, and in lieu of the answer to said complaint heretofore filed and which, upon acceptance by the Commission of this settlement, is to be withdrawn from the record hereby:

1. Admits all the jurisdictional allegations set forth in the complaint.
2. Consents that the Commission may enter the matters hereinafter set forth as its findings as to the facts, conclusion, and order to cease and desist. It is understood that the respondents, in consenting to the Commission's entry of said findings as to the facts, conclusion, and order to cease and desist, specifically refrains from admitting or denying that it has engaged in any of the acts or practices stated therein to be in violation of law.
3. Agrees that this consent settlement may be set aside in whole or in part under the conditions and in the manner provided in paragraph (f) of Rule V of the Commission's Rules of Practice.

¹ The Commission's "Notice" announcing and promulgating the consent settlement as published herewith, follows:

The consent settlement tendered by the parties in this proceeding, a copy of which is served herewith, was accepted by the Commission on April 30, 1953, and ordered entered of record as the Commission's findings as to the facts, conclusions, and order in disposition of this proceeding.

The time for filing report of compliance pursuant to the aforesaid order runs from the date of service hereof.

The admitted jurisdictional facts, the statement of the acts and practices which the Commission had reason to believe were unlawful, the conclusion based thereon, and the order to cease and desist, all of which the respondents consent may be ordered herein in final disposition of this proceeding are as follows:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Expert Rayon Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of New York, with the principal place of business located at 165-08 Liberty Avenue, Jamaica, Long Island, New York.

The individual respondents, Sol Kokol and Harry Irwin, are president and secretary-treasurer, respectively, of the corporate respondent, Expert Rayon Company, Inc., and formulate, direct and control the affairs and policies of said corporate respondent. Said individual respondents have their offices at the same place as corporate respondent.

PAR. 2. The respondent Expert Rayon Company, Inc., is now, and for several years last past has been engaged in the manufacture, sale and distribution of fabrics composed of various fibers, including rayon and combinations thereof. Respondents cause said fabrics when sold to be transported from the place of business of respondent, Expert Rayon Company, Inc., in the State of New York to purchasers thereof located in various other States of the United States. Respondents maintain and at all times mentioned herein have maintained a substantial course of trade in said fabrics in commerce among and between the various States of the United States.

Subsequent to the effective date of the Wool Products Labeling Act of 1939 and more especially since 1950, respondents have manufactured for introduction into commerce, introduced into commerce, sold, transported, distributed, delivered for shipment, and offered for sale, in commerce as "commerce" is defined in the Wool Products Labeling Act of 1939, wool products, as "wool products" are defined therein.

PAR. 3. Rayon is a chemical fiber which may be manufactured so as to simulate wool and other natural fibers in texture and appearance. Fabrics and articles of wearing apparel manufactured from such rayon fibers have the feel and appearance of wool. Many members of the purchasing public are unable to distinguish between articles of wearing apparel manufactured from such rayon fabrics and articles of wearing apparel manufactured from wool. Consequently, articles of wearing apparel manufactured from such rayon fabrics are readily accepted by members of the purchasing public as wool products.

PAR. 4. Some of the rayon fabrics manufactured, sold and distributed by the respondents are of a particular type of brushed rayon which is highly flammable. Such fabrics simulate wool in texture and appearance and respondents do not disclose or otherwise inform the purchasers thereof in any manner of the highly flammable characteristics of their said fabrics.

Purchasers of respondents' said fabrics use them in making women's hats and other articles of wearing apparel for sale to members of the purchasing public. Such products, resembling wool products, are readily accepted by many members of the purchasing public as wool products.

PAR. 5. Wearing apparel and other products manufactured from wool have for many years held and still hold great public esteem and confidence because of their outstanding qualities. Wool is not highly inflammable and is a desirable material for women's hats and other wearing apparel.

PAR. 6. By failing to reveal the flammable characteristics of their said brushed rayon fabrics, respondents have represented and impliedly warranted that said fabrics are suitable to be used in the manufacture of women's hats and other wearing apparel that are safe to wear. In truth and in fact, hats and other articles of wearing apparel made of this material are dangerous and unsafe to be worn because they are highly inflammable.

Respondents' said practices place in the hands of retailers and others a means and instrumentality whereby members of the purchasing public may be misled and deceived in the manner aforesaid.

PAR. 7. Certain of said wool products were misbranded in that they were not stamped, tagged or labeled as required under the provisions of Section 4 (a) (2) of the Wool Products Labeling Act of 1939, and in the manner and form as prescribed by the Rules and Regulations promulgated under such Act. Among respondents' wool products so misbranded were woolen jersey fabrics.

PAR. 8. The aforesaid acts and practices of respondents are all to the prejudice and injury of the public. The practices with respect to respondents' rayon fabrics set forth above constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act. The practices with respect to respondents' wool products set forth above were and are in violation of the Wool Products Labeling Act of 1939 and the Rules and Regulations promulgated thereunder and also constitute unfair and deceptive acts and practices within the intent and meaning of the Federal Trade Commission Act.

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CONCLUSION

The aforesaid acts and practices of the respondents, 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, and the Wool Products Labeling Act of 1939, and the Rules and Regulations promulgated thereunder.

ORDER TO CEASE AND DESIST

It is ordered, That the respondents, Expert Rayon Company, Inc., a corporation, and its officers and Sol Kokol and Harry Irwin, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of fabrics composed of rayon or other fibers or any combination thereof, do forthwith cease and desist from:

1. Offering for sale or selling any fabric that is highly flammable without clearly stating thereon that it is highly flammable.

It is further ordered, That the respondents, Expert Rayon Company, Inc., a corporation, and its officers, and Sol Kokol and Harry Irwin, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the offering for sale, sale, transportation or distribution in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939, of wool jersey fabrics or other wool products, as such products are defined in and subject to the said Act, which products contain, purport to contain or in any way are represented as containing "wool," "reprocessed wool" or "reused wool" as those terms are defined in said Act, do forthwith cease and desist from misbranding such products by:

1. Failing to securely affix to or place on each such product a stamp, tag, label or other means of identification showing in a clear and conspicuous manner:

- (a) The percentage of the total fiber weight of such wool product, exclusive of ornamentation not exceeding five percentum of said total fiber weight of (1) wool, (2) reprocessed wool, (3) reused wool, (4) each fiber other than wool where said percentage by weight of such fiber is five percentum or more, and (5) the aggregate of all other fibers.

- (b) The maximum percentages of the total weight of such wool product of any non-fibrous loading, filling, or adulterating matter;

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(c) The name or the registered identification number of the manufacturer of such wool product or of one or more persons engaged in introducing such wool product into commerce, or in the offering for sale, sale, transportation, distribution or delivering for shipment thereof in commerce, as "commerce" is defined in the Wool Products Labeling Act of 1939.

Provided: That the foregoing provisions concerning misbranding shall not be construed to prohibit acts permitted by paragraphs (a) and (b) of Section 3 of the Wool Products Labeling Act of 1939, and

Provided further, That nothing contained in this order shall be construed as limiting any applicable provisions of said Act or the rules and regulations thereunder.

It is further ordered, That the respondents 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 said order.

[sgd] EXPERT RAYON COM. INC.
Expert Rayon Company, Inc.

By [sgd] SOL KOKOL
(Name)
President
(Title)

[sgd] SOL KOKOL
Sol Kokol, individually, and as
President, Expert Rayon Com-
pany, Inc.

[sgd] HARRY IRWIN
Harry Irwin, individually and as
Secretary-Treasurer, Expert
Rayon Company, Inc.

9/27/52
(Date)

The foregoing consent settlement is hereby accepted by the Federal Trade Commission and ordered entered of record on this 30th day of April, A. D., 1953.

IN THE MATTER OF
JAPAN AMERICA TRADING AGENCY, INC. ET AL.
COMPLAINT, SETTLEMENT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 6014. Complaint, July 21, 1952—Decision, Apr. 30, 1953

When articles of merchandise, including sewing machines, are exhibited and offered for sale by retailers to the purchasing public not marked showing foreign origin, or if such markings are concealed, such public understands and believes the articles to be wholly of domestic origin.

There are among the members of the purchasing public a substantial number who have a decided preference for products originating in the United States over products originating in whole or in part in foreign countries, including sewing machine heads.

Where a corporation and its four officers, engaged in the competitive interstate sale and distribution to distributors and retailers of complete sewing machines, and of sewing machine heads imported by them from Japan upon which the word "Japan" on the back of the vertical arm became covered by the motor attached to complete the machine, and, displayed in some cases on a readily removable medallion on the front of said arm, was so small and indistinct as not to constitute adequate notice that the heads were imported—

Failed to disclose adequately on said heads in such manner that the marks could not readily be removed, hidden, or obliterated that they were manufactured in Japan;

With tendency and capacity to lead members of the purchasing public into the erroneous belief that their said product was of domestic origin and thereby cause substantial purchase of machines, of which said heads were a part;

Whereby substantial trade in commerce was unfairly diverted to them from their competitors, including makers and sellers of domestic machines and also sellers of imported machines, of whom some adequately informed the public as to said products' source or origin, and substantial injury was done to 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 respondents' competitors and constituted unfair and deceptive acts and practices and unfair methods of competition in commerce.

Before *Mr. John Lewis*, hearing examiner.

Mr. William L. Taggart and *Mr. John C. Williams* for the Commission.

Mr. Edward J. Ennis, of New York City, and *Chuman, McKibbin & Yokozecki*, of Los Angeles, Calif., for respondents.