

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.

1344

Complaint

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 Japan America Trading Agency, Inc., a corporation, and Fred I. Wada, Eijui Sasajima, Fred T. Kobayashi, and George L. Eastman, individually and as officers of said corporation, 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 its charges in that respect as follows:

PARAGRAPH 1. Respondent Japan America Trading Agency, Inc., is a corporation organized and existing under and by virtue of the laws of the State of California, with its office and principal place of business located at 324-26 East Olympic Boulevard, Los Angeles, California. Respondents Fred I. Wada, Eijui Sasajima, Fred T. Kobayashi, and George L. Eastman are President, Secretary, Treasurer, and Vice President, respectively, of corporate respondent and acting as such officers formulate, direct and control the policies, acts and practices of said corporation. The address of the individual respondents is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and have been for some time last past, engaged in the sale of sewing machine heads imported by them from Japan and complete sewing machines of which said heads are a part, to distributors and also to retailers who, in turn, sell the complete sewing machines to the purchasing public. In the course and conduct of their business respondents cause their said product, when sold, to be transported from their place of business in the State of California to the purchasers thereof located in various other States of the United States and maintain, and at all times mentioned herein have maintained, a course of trade in said products in commerce among and between the various States of the United States. Their volume of trade in said commerce has been, and is, substantial.

PAR. 3. When the sewing machine heads are received by respondents, the word "Japan" appears on the back of the vertical arm. Before the heads are sold to the purchasing public as a part of a complete sewing machine, it is necessary to attach a motor to the head in the process of which the aforesaid word is covered by the motor so that it is not visible. In some instances, said heads, when received by respondents, are marked with a medallion placed on the front of the vertical arm upon which the word "Japan" appears. This word is, however, so small and indistinct that it does not con-

stitute adequate notice to the public that the heads are imported. Furthermore, said medallion can be readily removed and when the medallion is so removed, no visible mark of origin appears on the machine.

Respondents place no other mark on their imported sewing machine heads or complete sewing machines of which said heads are a part showing foreign origin, or otherwise inform the public that the heads are of foreign origin before they are offered for sale to the public.

PAR. 4. When articles of merchandise, including sewing machines, are exhibited and offered for sale by retailers to the purchasing public, and such articles are not marked or are not adequately marked showing that they are of foreign origin, or if marked and the markings are covered or otherwise concealed, such purchasing public understands and believes such articles to be wholly of domestic origin.

PAR. 5. There is 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.

PAR. 6. Respondents, by placing in the hands of dealers their said sewing machine heads and complete sewing machines, provide said dealers a means and instrumentality whereby they may mislead and deceive the purchasing public as to the place of origin of said heads.

PAR. 7. Respondents, in the course and conduct of their business, are in substantial competition in commerce with the makers and sellers of domestic sewing machines and also with sellers of imported machines, some of whom adequately inform the public as to the source of origin of their said product.

PAR. 8. The failure of respondents to adequately disclose on the sewing machine heads, in a manner which cannot readily be removed, hidden or obliterated, that they are manufactured in Japan has the tendency and capacity to lead members of the purchasing public into the erroneous and mistaken belief that their said product is of domestic origin and to cause substantial numbers of the purchasing public to purchase sewing machines of which said heads are a part because of said erroneous and mistaken belief.

As a result thereof, substantial trade in commerce has been unfairly diverted to respondents from their competitors and substantial injury has been and is being done to competition in commerce.

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and of respondents' competitors and constitute unfair and deceptive acts and practices and unfair methods of competition in commerce, within the intent and meaning of the Federal Trade Commission Act.

CONSENT SETTLEMENT¹

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on July 21, 1952, issued and subsequently served its complaint on the respondents named in the caption hereof, charging them with the use of unfair methods of competition and unfair and deceptive acts and practices in violation of the provisions of said Act.

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 answer to said complaint, hereby:

1. Admit all the jurisdictional allegations set forth in the complaint.
2. Consent 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 refrain from admitting or denying that they have engaged in any of the acts or practices stated therein to be in violation of law.
3. Agree 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.

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 respondent consents may be entered herein in final disposition of this proceeding, are as follows:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Japan America Trading Agency, Inc., is a corporation organized and existing under and by virtue of the laws of the State of California, with its office and principal place of business located at 324-26 East Olympic Boulevard, Los Angeles, California. Respondents Fred I. Wada, Eijui Sasajima and George

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, conclusion, 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.

L. Eastman are President, Secretary-Treasurer and Vice-President, respectively, of corporate respondent and acting as such officers formulate, direct and control the policies, acts and practices of said corporation. Respondent Fred T. Kobayashi formerly was Treasurer of corporate respondent. The address of the individual respondents, except that of Fred T. Kobayashi, is the same as that of the corporate respondent. The address of Fred T. Kobayashi is 1787 West Adams Street, Los Angeles, California.

PAR. 2. Respondents are now, and have been for some time last past, engaged in the sale of sewing machine heads imported by them from Japan and complete sewing machines of which said heads are a part, to distributors and also to retailers who, in turn, sell the complete sewing machines to the purchasing public. In the course and conduct of their business respondents caused their said product, when sold, to be transported from their place of business in the State of California to the purchasers thereof located in various other States of the United States and have maintained a course of trade in said products in commerce among and between the various States of the United States. Their volume of trade in said commerce has been substantial.

PAR. 3. When the sewing machine heads were received by respondents, the word "Japan" appeared on the back of the vertical arm. Before the heads were sold to the purchasing public as a part of a complete sewing machine, it was necessary to attach a motor to the head in the process of which the aforesaid word was covered by the motor so that it was not visible. In some instances, said heads, when received by respondents, were marked with a medallion placed on the front of the vertical arm upon which the word "Japan" appears. This word was, however, so small and indistinct that it did not constitute adequate notice to the public that the heads were imported. Furthermore, said medallion could be readily removed and when the medallion was so removed, no visible mark of origin appeared on the machine.

Respondents placed no other mark on their imported sewing machine heads or complete sewing machines of which said heads were a part showing foreign origin, or otherwise informed the public that the heads were of foreign origin before they were offered for sale to the public.

PAR. 4. When articles of merchandise, including sewing machines, are exhibited and offered for sale by retailers to the purchasing public, and such articles are not marked or are not adequately marked showing that they are of foreign origin, or if marked and the markings are covered or otherwise concealed, such purchasing public understands and believes such articles to be wholly of domestic origin.

1344

Order

PAR. 5. 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.

PAR. 6. Respondents, by having placed in the hands of dealers their said sewing machine heads and complete sewing machines, provided said dealers a means and instrumentality whereby they may have misled and deceived the purchasing public as to the place of origin of said heads.

PAR. 7. Respondents, in the course and conduct of their business, were in substantial competition in commerce with the makers and sellers of domestic sewing machines and also with sellers of imported machines, some of whom adequately informed the public as to the source of origin of their said product.

PAR. 8. The failure of respondents to have adequately disclosed on the sewing machine heads, in a manner which could not readily be removed, hidden or obliterated, that they were manufactured in Japan had the tendency and capacity to lead members of the purchasing public into the erroneous and mistaken belief that their said product was of domestic origin and to have caused substantial numbers of the purchasing public to purchase sewing machines of which said heads were a part because of said erroneous and mistaken belief.

As a result thereof, substantial trade in commerce was unfairly diverted to respondents from their competitors and substantial injury has been done to competition in commerce.

CONCLUSION

The acts and practices of the respondents, as herein found, were all to the prejudice and injury of the public and of respondents' competitors and constitute unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

It is ordered, That the respondents, Japan America Trading Agency, Inc., a corporation, and its officers, and Fred I. Wada, Eijui Sasajima, Fred T. Kobayashi, and George L. Eastman, individually and as officers of said corporation, and said respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of sewing machine heads or sewing machines in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Order

49 F. T. C.

1. Offering for sale, selling or distributing foreign-made sewing machine heads, or sewing machines of which foreign-made heads are a part, without clearly and conspicuously disclosing on the heads the country of origin thereof, in such a manner that it cannot readily be hidden or obliterated.

It is further ordered, That the respondents, Japan America Trading Agency, Inc., a corporation, and Fred I. Wada, Eijui Sasajima, Fred T. Kobayashi, and George L. Eastman, individually and as officers of said corporation, shall within sixty 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 this order.

[S] CHUMAN, McKIBBIN &
YOKOZEKI
CHUMAN, McKIBBIN &
YOKOZEKI

By: DAVID McKIBBIN

[S] David McKibbin

[S] FRED I. WADA
JAPAN AMERICA TRADING
AGENCY, INC., a corporation, with its office and principal place of business located at 324-26 E. Olympic Blvd., Los Angeles, California; and

FRED I. WADA

[S] Fred I. Wada
EIJUI SASAJIMA

[S] Eijui Sasajima
FRED T. KOBAYASHI

[S] Fred T. Kobayashi
GEORGE L. EASTMAN

[S] George L. Eastman,
individually and as officers of
said corporation.

Attorney for Respondents.

Respondents.

December 20, 1952.

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

Syllabus

IN THE MATTER OF

ROYAL SEWING MACHINE CORPORATION ET AL.

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

Docket 5892. Complaint, June 27, 1951—Decision, May 5, 1953

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

There is among the members of the purchasing public a substantial number which has a decided preference for products, including sewing machines, manufactured in the United States over products manufactured in foreign countries.

Where a corporation and its three officers, engaged in the interstate sale and distribution of complete sewing machines, and of sewing machine heads imported from Japan, upon which the words "Made in Japan" or "Made in Occupied Japan" on the back of the vertical arm became covered when a motor was attached, and on the front of which arm certain bands displaying similar words were wholly inadequate as such a disclosure by reason of their small size and location—

Failed to disclose adequately on their said sewing machines that the heads were manufactured in Japan;

With capacity and tendency to lead members of the purchasing public into the erroneous belief that said heads and the machines of which they were an essential element were of domestic manufacture, and thereby induce their purchase of said machines:

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

As respects charges of the complaint that respondents, through the use of the name "Royal" on their machines, falsely represented that they were manufactured by the Royal Typewriter Company, and that they misrepresented the status of the corporate respondent as a manufacturer: the evidence did not sustain the first allegation, or disclose any basis for a finding that the public interest required corrective action concerning the second.

Before *Mr. Everett F. Haycraft*, hearing examiner.

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

Mr. William King, of Brooklyn, N. Y., for respondents.