

IN THE MATTER OF
VISIONADE VISOR COMPANY, INC., ET AL.

DECISION IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 6046. Complaint, Sept. 22, 1952—Decision, Nov. 3, 1953

Where a corporation engaged in the manufacture and interstate sale and distribution of plastic sun visors for attachment and use on the inside of automobile windshields; through advertisements in periodicals of general circulation, circulars, and other advertising matter—

- (a) Represented, among other things, that its said visors would “fit your car,” were tailor made to fit individual model cars, and gave the eyes the same protection as fine sunglasses;

The facts being that while its “Safe-T-Zone” visors were precut to fit the contour of the upper edge of windshields of many automobiles, they required some trimming and cutting for exact fittings; another type, with which they furnished a pattern and cutting instructions, was not tailor made or precut to fit any windshield; and they did not shield the eyes like fine sunglasses; and

Where two individuals, officers of said company, and similarly engaged; in similarly advertising their “Filterzone” visors—

- (b) Falsely represented that their said products were optically correct and afforded clear, true visibility, and that they filtered out all infra-red rays;

When in fact they did not have the characteristics of fine sunglasses, were not optically correct, and, while they permitted true color visibility, and filtered out approximately 75%, they permitted the transmission of about 25% of the infra-red heat rays:

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

Before *Mr. J. Earl Cox*, hearing examiner.

Mr. J. W. Brookfield, Jr. for the Commission.

Golden & Golden, of New York City, for respondents.

DECISION OF THE COMMISSION

Pursuant to Rule XXII of the Commission’s Rules of Practice, and as set forth in the Commission’s “Decision of the Commission and Order to File Report of Compliance”, dated November 3, 1953, the initial decision in the instant matter of hearing examiner J. Earl Cox, as set out as follows, became on that date the decision of the Commission.

INITIAL DECISION BY J. EARL COX, HEARING EXAMINER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on September 22, 1952, issued and subsequently served its complaint in this proceeding upon the respondents Visionade Visor Company, Inc., a corporation, and Henry I. Sobel and Albert Rothgart, copartners trading as Filterzone Auto Vision Company, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said Act. After the issuance of said complaint and the filing of respondents' answer thereto, hearings were held at which testimony and other evidence in support of and in opposition to the allegations of said complaint were introduced before the above-named Hearing Examiner, theretofore duly designated by the Commission, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final consideration by said Hearing Examiner on the complaint, the answer thereto, testimony and other evidence, proposed findings as to the facts and conclusions presented by counsel in support of the complaint, (no proposed findings as to the facts and conclusions having been presented by respondents and oral argument not having been requested), and 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, conclusion drawn therefrom, and order:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Visionade Visor 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 located at 641 Lexington Avenue, Brooklyn 21, New York. Respondents, Henry I. Sobel and Albert Rothgart, are copartners trading as Filterzone Auto Vision Company with their office and principal place of business also located at 641 Lexington Avenue, Brooklyn 21, New York. Said respondents, Henry I. Sobel and Albert Rothgart, are officers of Visionade Visor Company, Inc.

PAR. 2. Respondents are now, and for more than one year last past have been, engaged in the manufacture, sale, and distribution of plastic sun visors for attachment and use on the inside of automobile windshields. Respondents cause their said products, when sold, to be transported from their place of business in the State of New York to purchasers thereof at their respective points of location in various other States of the United States and in the District of Columbia

Respondents maintain, and at all times mentioned herein have maintained, a course of trade in their said products in commerce between and among the various States of the United States and in the District of Columbia. The corporate respondent, Visionade Visor Company, Inc., sells and distributes most of its sun visors under the name "Safe-T-Zone", although it uses and has used other trade names. The partnership, Filterzone Auto Vision Company, sells and distributes its sun visors only under the trade name "Filterzone".

PAR. 3. In connection with the sale and distribution of their said sun visors in commerce and as an inducement for the purchase thereof by members of the purchasing public, the respective respondents through use of advertisements printed in periodicals having a general circulation and of circulars and other advertising matter distributed through the United States mails and otherwise, have made the following statements:

(a) Statements made by Visionade Visor Company, Inc.—

Tailor made to fit your car.

Shields your eyes like fine sun glasses, yet permits clear vision at all times.

Approved by motor vehicle bureaus of all states requiring approval.

(b) Statements made by Filterzone Auto Vision Company—

Filterzone is made in several custom models to fit most cars.

Custom cut to fit your windshield.

Only Filterzone is made of Plyotron.

Filters out infra red (heat) rays.

Scientifically formulated and optically correct.

Optically correct.

Clear, true visibility.

Approved by motor vehicle bureaus of all states requiring approval.

PAR. 4. Through the use of the above statements, the respondent, Visionade Visor Company, Inc., has represented and represents that its sun visors fit most automobiles, shield the eyes like fine sunglasses yet permit clear vision at all times, and that said visors have been approved by the motor vehicle bureaus of all states requiring approval.

Through the use of the above-quoted statements the respondents, Henry I. Sobel and Albert Rothgart, copartners trading as Filterzone Auto Vision Company, have represented that their visors are custom cut to fit most automobiles, that the material from which their said visors are made is Plyotron, that this is a unique material not used by makers of other plastic visors, that their visors filter out the infra red or heat rays, that their visors are optically correct and afford clear, true visibility, and that they have been approved by the motor vehicle bureaus of all states requiring approval.

PAR. 5. The corporate respondent's various visors have been, and are, made of vinyl plastic of 20 gauge thickness or less. Its "Safe-T-

Zone" visors are precut to fit the contour of the upper edge of the windshields of many automobiles, but do require some trimming and cutting for exact fittings. Another type of visor which it has sold and distributed consists of straight plastic strips which must be cut by the purchaser to fit the contour of the windshield of the automobile, and with this type visor the respondent furnishes a pattern and cutting instructions. These visors are not tailor made or precut to fit any automobile windshield. This respondent's visors are not optically correct, but contain imperfections, and do not shield the eyes like fine sunglasses. They do permit true color distinction and have the optical characteristics of low-grade sunglasses. They have been approved by the motor vehicle bureaus of the States of Pennsylvania, Washington, New Hampshire, Virginia and Minnesota, which are the only states, according to the record, having statutory or other requirements that inside plastic visors be approved before being offered for sale.

"Filterzone" visors are made of 30-gauge Bakelite vinyl plastic which the respondents, Henry I. Sobel and Albert Rothgart, trading as Filterzone Auto Vision Company, purchase in opaque calendar sheets and thereafter process so that it becomes transparent and proper for use as an inside windshield visor. This processed plastic material is designated by said respondent as Plyotron, a name adopted by them and registered with the United States Patent Office as applicable to this specific product. The record shows that 30-gauge Bakelite vinyl plastic is not sold by the manufacturer to any other producer of automobile sun visors and that the material designated Plyotron is unique with said respondents.

"Filterzone" visors are made in 11 different models to conform to the contours of the windshields of various models of automobiles listed in a "Car Guide" printed on the back of the package in which the visors are sold. Each package indicates by letter and number the model of the visor which it contains and the purchaser by examining the package prior to purchase may select the visor model particularly designed for his type automobile. These visors, when applied to the designated automobiles, do not require trimming, although on occasion there may be some overlapping in the middle of the windshield, in which event the customer may find it aesthetically desirable to trim at that point.

"Filterzone" visors have been approved by the five states mentioned above which require approval. They do not have the characteristics of fine sun glasses, are not optically correct, but do permit true color visibility. They filter out approximately 75 percent and permit the transmission of approximately 25 percent of the infra red heat rays.

Order

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Except as to the statement that its sun visors have been approved by motor vehicle bureaus of all states requiring approval, the representations made by the corporate respondent, Visionade Visor Company, Inc., are false, misleading and deceptive.

Except as to the statements that their sun visors are made in several custom models to fit most cars, are the only sun visors made of Plyotron, and are approved by the motor vehicle bureaus of all states requiring approval, the representations made by Henry I. Sobel and Albert Rothgart, copartners trading as Filterzone Auto Vision Company, are false, misleading and deceptive.

PAR. 6. The use by the respondents of the representations hereinbefore found to be false, misleading and deceptive has had, and now has, the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such representations are true and to induce a substantial portion of the purchasing public because of such erroneous and mistaken belief to purchase respondents' visors in commerce.

CONCLUSION

The aforesaid acts and practices of the respondents as herein found to be false, misleading and deceptive, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER

It is ordered, That the respondent Visionade Visor Company, Inc., its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of its plastic automobile visors or any other visors made of materials having the same or similar properties in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

1. That its visors will fit more makes or models of automobiles than is the fact, or are tailor made to fit individual model cars.
2. That its visors give the eyes the same protection as fine sun glasses.

It is further ordered, That the respondents, Henry I. Sobel and Albert Rothgart, individually or as copartners trading as Filterzone Auto Vision Company, or trading under any other name, jointly or severally, their representatives, agents and employees, directly or

400

Order

through any corporate or other device, in connection with the offering for sale, sale or distribution of the plastic automobile visors, or any other visors made of materials having the same or similar properties, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

1. That their visors are optically correct and afford clear, true visibility.

2. That their visors filter out all infra red rays or any greater proportion of infra red rays than is actually the fact.

ORDER TO FILE REPORT OF COMPLIANCE

It is ordered, That the respondents herein 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 [as required by said declaratory decisions and order of November 3, 1953].

IN THE MATTER OF
NATIONAL ELECTRONIC DISTRIBUTORS ASSOCIATION,
INC. ET AL.

CONSENT SETTLEMENT IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 6090. Complaint, Apr. 1, 1953—Decision, Nov. 5, 1953

Where some 350 corporations, individuals, and partnerships, engaged in the interstate sale and distribution at wholesale of electronic equipment and supplies, purchased from the manufacturers, in competition with other electronic distributors similarly engaged except insofar as such competition had been lessened, restrained, and forestalled by the acts and practices below set forth; and members, subject to certain requirements as to minimum investment and gross annual dollar volume of business, of an association organized for the stated purpose, among others, of promoting cooperation among members and acquiring and disseminating among them information regarding conditions in the field of manufacture and wholesale distribution of such equipment and supplies; acting through and by means of their association, and its officers and directors, and in some instances between and among themselves—

- (a) Conspired and combined together and with others, and pursued a common and concerted planned course of action to adopt, carry out, and maintain certain policies and trade practices, executed and carried out as below set forth, which tended to and did restrict membership in said association to such distributors as said members were willing to compete with, and to prevent the acquisition of membership by other wholesalers, and

Where said association, officers, directors, and members, pursuant to said policies and practices—

- (b) Caused manufacturers of such equipment and supplies to sell the same only through said members or through established legitimate wholesale distributors recognized by said respondents;
- (c) Urged upon such manufacturers the policy and practice of protecting distributors against a price decline on unsold inventory of such merchandise purchased within 60 days prior thereto; and
- (d) Urged upon such manufacturers the adoption and granting to wholesale distributors of uniform cash discount terms of 2% 10th prox.; and the fixing and maintaining of suggested resale prices for such merchandise reflecting a uniform markup from distributors' costs; and

Where said association members, and, as the case might be, said association, its officers and directors, pursuant to and in furtherance of, and with result of effectuating the aforesaid objectives, policies, and trade practices, and pursuant to the aforesaid combinations, etc.; acting through and by means of said association—

- (e) Agreed to, and to a substantial extent did, formulate, adopt, follow, carry out, and make effective the policies and practices above set out; and agreed to, and did, hold meetings at which aforesaid policies and practices were adopted and agreed to; and