

Complaint

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IN THE MATTER OF
DAVID CRYSTAL, INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

Docket 6412. Complaint, Sept. 13, 1955—Decision, Feb. 22, 1956

Consent order requiring a manufacturer in New York City to cease representing—through use in advertisements in periodicals and on attached labels the word "London", the word "Limited" or its abbreviation "Ltd.", a pictorial simulation of the British Royal Coat of Arms, and the phrase "By Appointment to H. M. the Late King George VI"—that the men's and women's clothing it manufactured was made in England.

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

Mr. R. D. Young, Jr. for the Commission.

Mr. Arnold M. Grant, of New York City, for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that David Crystal, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, David Crystal, 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 498 Seventh Avenue, New York, New York.

PAR. 2. Respondent is now, and for several years last past has been, engaged in the design, manufacture, sale and distribution of men's and women's wearing apparel.

In the course and conduct of its business, respondent ships its said wearing apparel from the State of New York to the purchasers thereof located in various other States and in the District of Columbia, and maintains, and has maintained, a course of trade in said wearing apparel, in commerce, between and among the various States of the United States and in the District of Columbia.

3. In the course and conduct of its business as aforesaid, and for the purpose of inducing the purchase of its said wearing apparel, in commerce, respondent made and is now making certain

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statements in advertisements inserted in periodicals and on labels attached to said wearing apparel. Among and typical, but not all inclusive, of said statements so made are the following:

(a) By Appt Shirtmakers to H.M. the Late King George VI

A.

IZOD LTD.

J. (Coat of Arms)

of London

Izod of London, New York 18, New York

(b) A.

IZOD LTD. (Coat of Arms)

J.

of London

American Producers—David Crystal, Inc.

(c) A. J. IZOD LTD.

of London

D'Armigene Sleeve Golfer

Pat. #2,668,955

by Vin Draddy

(d) The shirts, walking shorts, and beach trunks,
all designed by Izod of London. * * *

PAR. 4. Through the use of the aforesaid statements, and others of similar import but not specifically set out herein, respondent represented and now represents that its said wearing apparel was and is designed and manufactured in London, England.

PAR. 5. The aforesaid statements and representations were and are false, misleading and deceptive. In truth and in fact, said wearing apparel was not and is not designed or manufactured in London, England, but on the contrary said wearing apparel was and is designed and manufactured in New York, New York, by David Crystal, Inc., respondent herein.

PAR. 6. There is a preference on the part of substantial numbers of the purchasing public for wearing apparel designed or manufactured in London, England.

PAR. 7. In the course and conduct of its business respondent was and is in substantial competition in commerce with other corporations and with firms and individuals engaged in the sale of wearing apparel of the same nature as that sold by respondent.

PAR. 8. The use by respondent of the foregoing false, misleading and deceptive statements and representations had, and now have, the tendency and capacity to mislead and deceive the purchasing public into the erroneous and mistaken belief that such representations and statements were and are true and to cause substantial numbers of the purchasing public, because of such erroneous and mistaken belief, to purchase substantial quantities of respondent's

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products. As a result, trade has been and is now being unfairly diverted to respondent from its competitors and substantial injury has been and is now being done to competition in commerce.

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

INITIAL DECISION BY EVERETT F. HAYCRAFT, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondent on September 13, 1955, charging it with having violated the Federal Trade Commission Act through the making of certain false, misleading and deceptive representations regarding the place of design and manufacture of men's and women's wearing apparel. In lieu of submitting answer to said complaint, respondent entered into an agreement for consent order with counsel supporting the complaint, disposing of all the issues in this proceeding, which agreement has been duly approved by the Director and the Assistant Director of the Bureau of Litigation.

Respondent, pursuant to the aforesaid agreement, has admitted all the jurisdictional facts alleged in the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations. Respondent in the agreement waived any further procedural steps before the hearing examiner and the Commission; the making of findings of fact or conclusions of law; and all of the rights it may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement. It was further provided that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and said agreement; that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission; that said agreement is for settlement purposes only and does not constitute an admission by respondent that it has violated the law as alleged in the complaint. The agreement also provided that the order to cease and desist issued in accordance with said agreement may be entered in this proceeding without further notice to respondent; that, when so entered, it shall have the same force and effect as if entered after a full hearing; that it may be altered, modified or set aside in the

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manner provided for other orders; and that the complaint may be used in construing the terms of the order.

This proceeding having now come on for final consideration by the hearing examiner on the complaint and the aforesaid agreement for consent order, and it appearing that said agreement provides for an appropriate disposition of this proceeding, the aforesaid agreement is hereby accepted and is ordered filed upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, and in consonance with the terms of said agreement, the hearing examiner makes the following jurisdictional findings and order:

1. Respondent David Crystal, Inc., is a corporation 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 498 7th Avenue, in the City of New York, State of New York.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding, which is in the public interest, and of the respondent hereinabove named; the complaint herein states a cause of action against said respondent under the provisions of the Federal Trade Commission Act.

ORDER

It is ordered, That the respondent, David Crystal, Inc., a corporation, its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of wearing apparel in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing directly or by implication that the country of origin of the design or manufacture of respondent's wearing apparel is England or any part of the British Isles, or any other country, if such is not the fact.

2. Using any pictorial representation which simulates in appearance the British Royal Coat of Arms unless accompanied by clear and conspicuous language indicating country of origin.

3. Using the word London to designate the place of design or manufacture of wearing apparel sold or manufactured by respondent unless in fact said wearing apparel was designed or manufactured in London, England, as the case might be.

4. Using the word "Limited," or its abbreviation "Ltd.," to designate, describe or refer to any wearing apparel which respondent manufactures or designs unless the word "Limited" or its abbrevia-

tion "Ltd." is used as part of the name of a corporation actually in existence.

5. Using the phrase "By Appointment to H. M. the Late King George VI" or any other words or phrases of similar import to designate, describe or refer to any wearing apparel which respondent manufactures, sells and distributes unless said wearing apparel is designed or manufactured in England or the British Isles.

DECISION OF THE COMMISSION AND ORDER TO FILE
REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 22nd day of February, 1956, become the decision of the Commission; and, accordingly:

It is ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

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IN THE MATTER OF

IRVING STERN ET AL. TRADING AS STERN BROTHERS
JEWELRY MANUFACTURING COMPANY ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT*Docket 6428. Complaint, Oct. 18, 1955—Decision, Feb. 22, 1956*

Consent order requiring New York jewelry manufacturers and their out-of-town distributors to cease branding jewelry, particularly chokers and bracelets, of less than 14 karat gold, with the mark "14 K".

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

Mr. Donald K. King for the Commission.

Schaeffer & Goldstein, of New York City, for respondents.

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 Irving Stern, Hyman Stern, Harry Stern and Sylvia Stern hereinafter described as respondents, have violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereto would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondents Irving Stern and Hyman Stern are brothers, trading and doing business as a copartnership under the name Stern Brothers Jewelry Manufacturing Company with their principal office and place of business located at 64 W. 48th Street, New York, New York. Respondents Harry Stern and Sylvia Stern are man and wife trading and doing business as a copartnership under the name Twin Jewelry Company. Their office and principal place of business is also located at 64 W. 48th Street, New York, New York.

PAR. 2. Respondents Irving and Hyman Stern manufacture various types of gold jewelry, particularly chokers and bracelets which they sell to jobbers and wholesalers located in the city of New York. Respondents Harry and Sylvia Stern act as the out-of-town distributors for Irving and Hyman Stern. They do no manufacturing of any kind and buy merchandise exclusively from respondents Irving and Hyman Stern. The two partnerships share the same office and are operated in conjunction with each other.