

IN THE MATTER OF
HARRY G. KRIEGEL TRADING AS SUPERIOR PRODUCTS

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

Docket 6670. Complaint, Apr. 8, 1957—Decision, Nov. 7, 1957

Order requiring a seller in New York City to cease representing falsely in advertisements in newspapers and periodicals and material supplied to his distributors that attachment of his colored sheet of transparent plastic designated "Color V" to a black-and-white television set would produce the same effect as a color television; would eliminate glare and prevent and relieve eyestrain caused by viewing television; and was an electronic device.

Mr. Brockman Horne for the Commission.

Mr. Harry G. Kriegel, of New York, N.Y., *pro se*.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

This proceeding involves charges that respondent Harry G. Kriegel, an individual trading as Superior Products, has violated the Federal Trade Commission Act by using false, misleading, and deceptive advertising by mail to sell and has sold in interstate commerce throughout the country a product designated as "Color V." The complaint was filed April 8, 1957, and was lawfully served thereafter upon respondent, who in due course answered by letter dated July 26, 1957, which was filed and treated as an answer on July 30, 1957, respondent contending, in substance, therein that he was not the owner of Superior Products and that at any rate the sale of said "Color V" screens was discontinued June 1, 1956.

Upon proper order served upon the parties, initial hearing was held in Washington, D.C., whereat Commission's counsel appeared but respondent did not appear or present any evidence in his behalf under his answer or otherwise. Commission's counsel presented evidence in support of his case-in-chief and rested. The hearing examiner thereupon closed the proceeding for the taking of evidence, and Commission's counsel at the close of the hearing having submitted his proposed findings, conclusion and order, respondent was given to and including September 9, 1957, in which to submit his proposed findings, conclusion and order, of which due notice was given. Respondent did not file any such proposals.

Upon due and impartial consideration of the whole record, it is found that the material allegations of the complaint are sustained

by the evidence, the hearing examiner specifically finding the facts as alleged in the several paragraphs of the complaint to be as follows:

Respondent does business as a sole proprietorship, and his office and principal place of business is located at 673 Broadway, New York 12, New York.

Respondent is now, and for some time last past has been, selling and distributing a product designated as "Color V" which is a sheet of transparent plastic upon which is sprayed paint of orange color blending into green at one border and blue at the opposite border and designed to be fastened over the viewing screen of a television set. Respondent sells this product by mail to consumers, and sells, or offers to sell, it to agents and distributors for resale to consumers, throughout the country.

In the course and conduct of his business, respondent causes his product, referred to above, when sold, to be shipped from the State of New York to the purchasers thereof located in various states of the United States and has maintained a course of trade in said products, in commerce, among and between various states of the United States.

In the course and conduct of the business hereinbefore described and for the purpose of inducing the purchase of the aforesaid products in commerce as "commerce" is defined in the Federal Trade Commission Act, respondent, through the use of statements and representations appearing in advertisements inserted in newspapers and periodicals circulated generally among the purchasing public, and in advertising material supplied by respondent to his agents and distributors, has represented, directly or by implication:

1. That by attaching the product "Color V" to a black-and-white television set said television will thereby produce the same visual effect as a color television in that the objects appearing upon the viewing screen will be shown in the same colors as the objects being broadcast.

2. That said product is an electronic device.

3. That the use of said product will eliminate glare from television screens.

4. That the use of said product will prevent and relieve eyestrain caused by viewing television.

The statements and representations hereinabove referred to are false, misleading, and deceptive. In truth and in fact:

1. The attaching of said product to a black-and-white television set does not give the same visual effect as a color television in that

objects appearing upon the viewing screen will not be shown in the same colors as the objects being broadcast.

2. Said product is not an electronic device.

3. The use of said product will not eliminate glare from television screens.

4. The use of said product will not prevent or relieve eye-strain caused by viewing television.

Respondent, by furnishing to its agents and distributors various forms of advertising matter containing the statements referred to hereinbefore, thereby furnishes to said agents and distributors means and instrumentalities by and through which they may mislead and deceive the purchasing public in the respects set out in said paragraphs hereinabove stated.

Respondent, in the conduct of his business, is and has been in substantial competition in commerce with other individuals and with firms and corporations engaged in the sale of the same or like products.

The use by the respondent of the false, misleading, and deceptive statements and representations hereinabove referred to, in connection with the offering for sale of the product "Color V," has had and now has the capacity and tendency to mislead and deceive purchasers and prospective purchasers into the erroneous and mistaken belief that such statements and representations were true and to induce the purchase of substantial quantities of said product because of such erroneous and mistaken belief. As a consequence thereof, substantial trade in commerce has been and is now being unfairly diverted to respondent from his competitors and injury has been and is now being done to competition in commerce.

There being jurisdiction of the person of respondent, upon the foregoing findings of fact the hearing examiner makes the following conclusions of law:

1. The aforesaid acts and practices of the respondent, as herein found, were and are all to the prejudice and injury of the public and of respondent's competitors and constituted and now 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.

2. The Federal Trade Commission has jurisdiction over all of said respondent's acts and practices which have been hereinabove found to be false, misleading, and deceptive.

3. The public interest in the proceeding is clear, specific, and substantial.

Upon the foregoing findings of fact and conclusions of law, the following order is hereby entered:

ORDER

It is ordered, That respondent Harry G. Kriegel, an individual trading under the name of Superior Products, or under any other name, and respondent's representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of a plastic sheet to be fastened over the viewing screen of a television set, designated as "Color V," or any other product of substantially similar construction or possessing substantially the same characteristics, whether sold under the same or any other name, 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 by the use of such product—

(a) In connection with the operation of a black-and-white television set, said television set will thereby produce the same visual effect as a color television set or misrepresenting in any manner the color provided by said product when used in connection with a television set;

(b) Glare will be eliminated from television screens;

(c) Eye strain caused by viewing television will be prevented or relieved.

2. That such product is an electronic device.

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 did, on the 7th day of November, 1957, become the decision of the Commission; and, accordingly:

It is ordered, That respondent Harry G. Kriegel, an individual trading as Superior Products, shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with the order to cease and desist.

IN THE MATTER OF
CIMIER WATCH CORP. ET AL.

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

Docket 6703. Complaint, Jan. 8, 1957—Decision, Nov. 9, 1957

Consent order requiring two concerns doing business at the same address in New York City to cease misrepresenting their "Cimier" watches by display cards and posters furnished to jobbers and dealers and by them distributed to retailers, which advertised the watches falsely as "Golden De Luxe," "Jeweled Movement," with "One Year Unconditional Guarantee"; and by the word "jeweled" imprinted on the face of the watches.

Mr. Frederick McManus supporting the complaint.

Mr. Ruben Schwartz and *Mr. Robert W. Adler*, of New York City, for respondents.

INITIAL DECISION BY JOSEPH CALLAWAY, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on January 8, 1957, charging them with violation of the Federal Trade Commission Act as alleged in said complaint. After service of the complaint, all respondents and their counsel, except AB-Swiss Watch Corporation on September 19, 1957 entered into an agreement with counsel supporting the complaint for a consent order to cease and desist from the practices complained of, which agreement purports to dispose of all of the issues in this proceeding, without hearing. This agreement has been duly approved by the Assistant Director and the Director of the Bureau of Litigation and has been submitted to the undersigned, heretofore designated to act as hearing examiner herein for his consideration in accordance with Rule 3.25 of the Rules of Practice of the Commission.

It is noted that said agreement contains a provision that the complaint be dismissed as to respondent AB-Swiss Watch Corporation, based on the dissolution of that corporate respondent. This agreement is considered as a joint motion to dismiss as to said respondent and is granted.

In said agreement, respondents Cimier Watch Corporation, a corporation, Irving Abelov and Barnett Shiff, individually and as officers of respondent Cimier Watch Corporation and as copartners trading as Swiss Time Company, have admitted all the jurisdictional facts alleged in the complaint and have agreed that the record may