

Complaint

57 F.T.C.

IN THE MATTER OF  
COURISTAN, INCORPORATED, ET AL.

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

*Docket 7853. Complaint, Mar. 30, 1960—Decision, Sept. 29, 1960*

Consent order requiring New York City distributors to cease representing falsely in advertising and on labels that certain of their rugs were composed entirely of wool and compared to domestic all-wool rugs retailing for twice the price and more; representing the size of rugs falsely in advertising as "9 x 12", and misleadingly in invoices as "9 x 12 (103 x 139)"; selling rugs under distinctively American names without revealing their Japanese origin; and advertising tubular rugs falsely as the more desirable "braided" type.

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 Couristan, Incorporated, a corporation, and Basil J. Couri, George J. Couri and David E. Murad, individually and as officers of said corporation, and as copartners trading as Couri, Murad & Co., 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 Couristan, Incorporated, 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 place of business located at 300 Fifth Avenue, New York, N.Y. Individual respondents Basil J. Couri, George J. Couri and David E. Murad are officers of said corporation. They formulate, direct and control the policies of the corporate respondent. The address of the individual respondents is the same as that of the corporate respondent.

The individual respondents also trade and do business as Couri, Murad & Co., with their office and place of business located at the same address as that of the corporate respondent.

PAR. 2. The corporate and individual respondents are now, and for some time last past have been, engaged in the sale and distribution of rugs and floor coverings, some of which are imported by Couri, Murad & Co. from foreign countries. In regard to said imported rugs and floor coverings Couri, Murad & Co. is the importer and the corporate respondent is the sales and distributing agent. Such imported rugs are labeled and advertised under such names as

Bunker Hill, Maple Glen, Valley Forge, and Stoney Creek. Respondents sell and have sold said rugs and floor coverings to retailers for resale to the public. Respondents import rugs and floor coverings not only for their own sale but also as agents for others, including retailers.

PAR. 3. In the course and conduct of their business respondents cause and have caused said rugs and floor coverings, when sold, to be shipped from their place of business in the State of New York to purchasers thereof located in various other States, and maintain, and have maintained, a substantial course of trade in said products, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents, in the conduct of their business, have been, and are engaged in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale and distribution of rugs and floor coverings.

PAR. 5. In the course and conduct of their business and for the purpose of inducing the purchase of their rugs and floor coverings, respondents have made certain statements with respect to the fiber content of said rugs and floor coverings by means of labels attached thereto, and by description of said rugs in brochures, and in price lists and other sales literature. Respondents have also made representations as to prices of said rugs in their advertising. Typical, and among such representations, but not limited thereto, are the following:

IN ADVERTISING: "Bunker Hill . . . only Couristan can give you An All-Wool Braided Rug . . ."

ON PRICE LISTS: "Bunker Hill Wool Braided Rug".

(2) ON LABEL: "All Wool Valley Forge."

ON PRICE LISTS: "All Wool Braided Rug Prices: Valley Forge . . ."

(3) ON LABEL: "Stoney Creek Wool Blend."

IN ADVERTISING: "Stoney Creek . . . Only Couristan can give you a wool blend multi-color braided rug . . ." "Wool Blend . . . Stoney Creek Braided Rugs".

ON PRICE LISTS: "Stoney Creek—Wool Blend Braided Rugs."

(4) ON LABEL: "Maple Glen: Wool Blend Tubular Rug".

ON PRICE LISTS: "Maple Glen Wool Blend Braided Rug."

A: Statements As To Wool Content:

(1) ON LABEL: "All Wool Bunker Hill."

B: Statements As To Prices:

IN ADVERTISING: "Bunker Hill. Only Couristan can give you an All Wool Braided Rug available in multi-tones with the new and exclusive reverse construction with the hidden stitch. 9 x 12, in 6 exciting patterns, and compares with domestic all-wool braided rugs retailing for more than \$159.00! Retail For \$69.00." "Stoney Creek. Only Couristan can give you a Wool Blend Multi-color Rug made with the new reverse construction, 9 x 12, in 6

exciting patterns. Here you have the greatest excitement in the industry, the finest quality rugs that compare with domestic rugs retailing for twice the price . . . Retails for \$39.00."

PAR. 6. By use of the statements appearing in the aforesaid advertisements and on said labels and others of the same import not herein set forth, respondents represented, directly or by implication:

1. That respondents' "Bunker Hill" and "Valley Forge" rugs are composed entirely of wool.

2. That respondents' "Stoney Creek" and "Maple Glen" rugs are composed entirely of wool.

3. That respondents' "Bunker Hill" rug retailing for \$69.00 is comparable in quality or value to domestic all wool rugs retailing at more than \$159.00.

4. That respondents' "Stoney Creek" rug retailing for \$59.00 is comparable in quality or value to domestic rugs retailing for twice said price.

PAR. 7. The aforesaid statements were, and are, false, misleading and deceptive. In truth and in fact:

1. Respondents' "Bunker Hill" and "Valley Forge" rugs are not composed entirely of wool but contain a substantial quantity of fibers other than wool.

2. Respondents' "Stoney Creek" and "Maple Glen" rugs are not composed entirely of wool but contain a substantial quantity of fibers other than wool.

3. Respondents' "Bunker Hill" rugs do not compare, either in quality or value, to domestic all-wool rugs retailing for more than \$159.00.

4. Respondents' "Stoney Creek" rugs retailing for \$59.00 do not compare, either in quality or value, to domestic rugs retailing for twice said price.

PAR. 8. Respondents engage in the practice of setting out the sizes of their various rugs in advertising and price lists. For example, the following has appeared:

- (1) IN ADVERTISING: "Bunker Hill—9 x 12 in 6 exciting patterns"; "Stoney Creek—9 x 12 in 6 exciting patterns."

- (2) IN INVOICES: "Stoney Creek—9 x 12 (103 x 139)"; "Maple Glen—9 x 12 (103 x 139)"; "Valley Forge—9 x 12 (103 x 139)."

In truth and in fact said rugs are not 9 x 12 feet in size but are approximately 103 inches by 139 inches.

The use of the 9 x 12 description of the "Bunker Hill" and "Stoney Creek" rugs in advertising is, therefore, false and misleading. The practice of setting out two sizes on invoices, one incorrect and the other approximately correct, is confusing and mislead-

ing and has the tendency to cause dealers to misrepresent the size of respondents' rugs sold by them.

PAR. 9. Respondents' practice of designating their rugs, made in foreign countries, including Japan, and imported into the United States with names of American connotation such as "Bunker Hill", "Stoney Creek", "Maple Glen" and "Valley Forge" has the tendency and capacity to induce the mistaken and erroneous belief in the minds of the public that the rugs so designated were made in the United States, and constitutes an unfair and deceptive practice.

PAR. 10. There are among the members of the purchasing public a substantial number who have a preference for products originating in the United States over products originating in Japan, including rugs, and who are willing to pay higher prices to obtain such products of domestic origin when such domestic articles command higher prices.

PAR. 11. In the course and conduct of their business and for the purpose of inducing the purchase of their rugs and floor coverings, respondents, through advertisements appearing in trade papers of general circulation and upon price lists and other sales literature have referred, and now refer, to their "Bunker Hill", "Stoney Creek" and "Maple Glen" rugs as braided rugs. By such reference respondents have represented, and now represent, that such rugs are true braided rugs as "braided rugs" are known in the rug industry.

In truth and in fact, the aforementioned rugs of the respondents are not true braided rugs as known in the rug industry, but are known as tubular rugs and are constructed by a process of strands of material being wrapped around and sewn to a core or tube. The said core or tube is filled with waste and other shoddy material. The true braided rug, on the other hand, is made by the process of strands of material being braided around a single or double core, said core being composed of small cotton string. The braided rug is considered in the rug industry as being superior to the tubular rug in regard to construction and wearing qualities.

PAR. 12. The use by respondents of the false, misleading and deceptive statements, representations and practices has had, and now has, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such statements and representations were and are true, and into the purchase of substantial quantities of respondents' products because of such erroneous and mistaken belief. As a result thereof, substantial trade in commerce has been unfairly directed to respondents from their competitors and substantial injury has been done to competition in commerce.

PAR. 13. The aforesaid acts and practices of the respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondents' 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.

*Mr. Garland S. Ferguson* for the Commission.

*Mehler, Goldsborough & Ives*, of Washington, D.C., by *Mr. George S. Ives*, for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with misrepresenting certain rugs and floor coverings sold by them, in violation of the Federal Trade Commission Act. An agreement has now been entered into by respondents and counsel supporting the complaint which provides, among other things, that respondents admit all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding; such order to have the same force and effect as if entered after a full hearing; respondents specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified, or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Couristan, Incorporated is a New York corporation with its office and place of business located at 300 Fifth Avenue, New York, N.Y. Individual respondents Basil J. Couri, George J. Couri and David E. Murad are officers of said corporation and formulate, direct and control the practices of said corporate respondent, with their address the same as that of the corporate re-

spondent. Said individual respondents are also copartners trading as Couri, Murad & Co., with their office and place of business located at the same address as said corporate respondent.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

## ORDER

*It is ordered,* That respondents Couristan, Incorporated, a corporation, and its officers, and Basil J. Couri, George J. Couri and David E. Murad, individually and as officers of said corporation, and trading under the name of Couri, Murad & Co., or under any other name, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of rugs and floor coverings, or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the term "wool" or any other word or term indicative of wool to designate or describe any product or portion thereof which is not composed wholly of wool, the fiber from the fleece of the sheep or lamb, or hair of the angora or cashmere goat, or hair of the camel, alpaca, llama or vicuna, which has never been reclaimed from any woven or felted product; provided that in the case of products or portions thereof which are composed in substantial part of wool and in part of other fibers or materials, the term "wool" may be used as descriptive of the wool content of the product or portion thereof if there are used in immediate connection or conjunction therewith, in letters of at least equal size and conspicuousness, words truthfully designated each constituent fiber or material thereof in the order of its predominance by weight, provided further that if any fiber or material so designated is not present in a quantity of five percentum or more of the total fiber weight of the product, the percentage thereof shall be stated. Nothing herein shall prohibit the use of the terms "reprocessed wool" or "reused wool" when the products or those portions thereof referred to are composed of such fibers. The terms "reprocessed wool" and "reused wool" as herein used are to be defined as in Section 2(c) and (d) of the Wool Products Labeling Act.

2. Misrepresenting the constituent fibers of which their products are composed, or the percentages or amounts thereof, on labels, in advertising, or in any other manner. Provided, however, that nothing hereinabove contained in paragraphs 1 and 2 hereof shall re-

lieve the respondents from their obligation to comply with the requirements of the Textile Fiber Products Identification Act, which became effective March 3, 1960, or forbid the respondents thereafter from labeling and otherwise offering products subject to that Act in the manner prescribed thereby and rules and regulations promulgated thereunder by the Commission.

3. Using two or more sets of figures to represent the size of their products which are at variance, or in conflict, or representing directly or indirectly the size of said products to be of larger dimensions than is the fact.

4. Using the words "Bunker Hill", "Stoney Creek", "Maple Glen", or "Valley Forge", or any other distinctly American name in advertising or in labeling to designate or describe the aforesaid products which are not in fact made in the United States, or using any other word or term in advertising or in labeling as descriptive of the aforesaid products which represents, directly or indirectly, that said products are made in a country other than the one in which they are in fact made, without clearly and conspicuously revealing in immediate connection with each of the aforesaid names, words or terms the actual country of origin of such products.

5. Using the term "braided" to describe or designate any rug which is not constructed by a braiding process, or misrepresenting in any manner the manner of manufacture of their rugs.

6. Representing in any manner that their products are of a quality comparable to domestic rugs, floor coverings, or other products, unless such is the fact.

7. Representing in any manner that their products are of a value comparable to domestic rugs or floor coverings retailing at a higher price unless the merchandise to which the advertised products are compared is of a like grade and quality in all material respects and is generally available for purchase at the comparative price in the same trade area, or areas, where the claim is made; or if not available, such fact shall be clearly disclosed.

And, it appearing that said agreement further provides for amending the complaint in the manner hereinafter set forth,

*It is further ordered,* That the complaint be, and it hereby is, amended by deleting from lines 19-20, in paragraph 11 the words "said core being composed of small cotton string," so that, as amended, the sentence of which such words now form a part shall read "The true braided rug, on the other hand, is made by the process of strands of material being braided around a single or double core."

STARDAY RECORDING & PUBLISHING CO., INC., ET AL. 801

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Complaint

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice,