

IN THE MATTER OF

EUROPE CRAFT IMPORTS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND THE WOOL PRODUCTS LABELING ACTS

Docket 8211. Complaint, Dec. 7, 1960—Decision, Apr. 13, 1961

Consent order requiring New York City importers of wool products from Holland to cease violating the Wool Products Labeling Act by labeling as "55% Wool 45% Helanca", ladies' and men's ski pants which contained substantially less woolen fibers than thus represented, by rendering inconspicuous the required information as to fiber content on labels by reason of insufficient background contrast, and by using the term "Helanca" instead of the common generic name of the fiber; and to cease representing falsely, by use in advertising matter and on labels of two ski sticks inserted in a snow-covered slope and the words "Piz Palu" (a Swiss mountain) and "St. Moritz" (a Swiss village), that their said ski pants were manufactured in Switzerland.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Europe Craft Imports, Inc. a corporation, and Herman Feigenheimer and Gerda Feigenheimer, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and the Rules and Regulations promulgated under the Wool Products Labeling 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 Europe Craft Imports, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Individual respondents Herman Feigenheimer and Gerda Feigenheimer are officers of the corporate respondent. Said individual respondents cooperate in formulating, directing and controlling the acts, policies and practices of the corporate respondent, including the acts and practices hereinafter referred to. All respondents have their office and principal place of business at 488 7th Avenue, New York, New York.

PAR. 2. Subsequent to the effective date of the Wool Products Labeling Act of 1939 and more especially since 1959 respondents have imported from Holland, introduced into commerce, offered

for sale, transported and distributed in commerce, as "commerce" is defined in said Act, wool products, as "wool products" are defined therein.

PAR. 3. Certain of said wool products were misbranded by the respondents within the intent and meaning of Section 4(a)(1) of the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder, in that they were falsely and deceptively labeled or tagged with respect to the character and amount of the constituent fibers contained therein.

Among such misbranded wool products were ladies' and men's ski pants labeled or tagged as "55% Wool 45% Helanca", whereas, in truth and in fact, said products contained substantially less woolen fibers than represented.

PAR. 4. Certain of said wool products were further misbranded by the respondents in that they were not stamped, tagged or labeled as required under the provisions of Section 4(a)(2) of the Wool Products Labeling Act and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

PAR. 5. Certain of said wool products were further misbranded in violation of the Wool Products Labeling Act in that they were not labeled in accordance with the Rules and Regulations promulgated thereunder in the following respects:

(a) The required information descriptive of the fiber content contained on the labels attached to the wool products was minimized and rendered inconspicuous, so as likely to be unnoticed by purchasers and the purchaser-consumers, by reason of insufficient background contrast, making the fiber contents inconspicuous, in violation of Rule 11 of the aforesaid Rules and Regulations.

(b) The labels or tags attached to the wool products described a portion of the fiber content as Helanca instead of using the common generic name of the fiber, in violation of Rule 8 of the aforesaid Rules and Regulations.

PAR. 6. The respondents in the course and conduct of their business as aforesaid were and are in substantial competition in commerce with corporations, firms and individuals likewise engaged in the sale of wool products, including ladies' and men's ski pants.

PAR. 7. The acts and practices of the respondents as above set forth were, and are, in violation of the Wool Products Labeling Act and the Rules and Regulations promulgated thereunder, 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.

PAR. 8. In the course and conduct of their business respondents in advertising matter and on labels attached to their said ski pants depict a snow covered slope with two ski sticks inserted in the snow and accompanied with the words "Piz Palu" (a Swiss mountain) and "St. Moritz" (a Swiss village) thereby representing, directly or by implication, that their said ski pants are manufactured in Switzerland.

PAR. 9. Said statements, representations and depictions are false, misleading and deceptive. In truth and in fact, respondents said ski pants were manufactured in Holland.

PAR. 10. There is a preference on the part of many dealers and members of the public for ski pants made in Switzerland.

PAR. 11. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations and depictions has had, and now has, the capacity and tendency to lead dealers and members of the public into the erroneous and mistaken belief that said statements, representations and depictions were and are true and into the purchase of substantial quantities of respondents' product by reason of said erroneous and mistaken belief. As a consequence thereof substantial trade, in commerce has been diverted to respondents from their competitors and substantial injury has been, and is being, done to competition in commerce.

PAR. 12. The acts and practices of said respondents as hereinabove alleged in Paragraph Eight 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. Michael P. Hughes and Mr. Charles W. O'Connell supporting the complaint.

Galef & Jacobs by Mr. Gabriel Galef of New York, N. Y., for respondents.

INITIAL DECISION BY WALTER K. BENNETT, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on December 7, 1960. The complaint charged respondents with mislabeling and misbranding woolen ski pants and with representing directly or by implication that said ski pants were manufactured in Switzerland rather than Holland. Said acts and practices were charged to be in violation of both the Wool Products Labeling Act and the Federal Trade Commission Act. The proceeding has abated as to Herman Feigenheimer who is dead.

On February 1, 1961, Counsel submitted to the undersigned hearing examiner an agreement among surviving respondents, counsel representing them and counsel supporting the complaint, providing for the entry without further notice of a consent order. The agreement was duly approved by the Director, the Acting Associate Director and the Assistant Director of the Bureau of Litigation.

The hearing examiner finds that said agreement includes all of the provisions required by Section 3.25(b) of the Rules of the Commission, that is:

A. An admission by all the respondent parties thereto of jurisdictional facts;

B. Provisions that:

1) The complaint may be used in construing the terms of the order;
2) The order shall have the same force and effect as if entered after a full hearing;

3) The agreement shall not become a part of the official record of the proceeding unless and until it becomes a part of the decision of the Commission;

4) The entire record on which any cease and desist order may be based shall consist solely of the complaint and the agreement;

5) The order may be altered, modified, or set aside in the manner provided by statute for other orders;

C. Waivers of:

1) The requirement that the decision must contain a statement of findings of fact and conclusion of law;

2) Further procedural steps before the hearing examiner and the Commission.

In addition the agreement contains the following permissive provisions: A waiver by the respondents of any right to challenge or contest the validity of the order entered in accordance with the agreement, and a statement that the signing of said 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.

Having considered said agreement, including the proposed order, and being of the opinion that they provide an appropriate basis for settlement and disposition of this proceeding; the hearing examiner hereby accepts the agreement but orders that it shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

The following jurisdictional findings are made and the following order issued:

1. Respondent Europe Craft Imports, Inc., is a corporation existing and doing business under and by virtue of the laws of the State

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of New York, with its office and principal place of business located at 488—7th Avenue, in the City of New York, State of New York.

2. Individual respondent Gerda Feigenheimer is an officer of the corporate respondent. Said individual respondent formulates, directs and controls the acts and practices of the corporate respondent. Her office and principal place of business is located at the same address as that of the corporate respondent.

3. Reliable information has been presented to the Commission that discloses that individual respondent Herman Feigenheimer is deceased.

4. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents.

ORDER

It is ordered, That respondents, Europe Craft Imports, Inc., a corporation, and its officers, and Gerda Feigenheimer, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the offering for sale, sale, transportation, or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of ski pants or other "wool products" as such products are defined in and subject to the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling or otherwise identifying such products as to the character or amount of the constituent fibers included therein.

2. Failing to affix labels to such products showing each element of information required to be disclosed by Section 4(a)(2) of the Wool Products Labeling Act of 1939.

3. Failing to use the common generic name when naming fibers in the required information.

4. Using stamps, tags, labels or other means of identification upon such wool products, which have insufficient background contrast, making the fiber contents inconspicuous.

It is further ordered, That respondents, Europe Craft Imports, Inc., a corporation, and its officers, and Gerda Feigenheimer, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of ski pants or any other product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do

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forthwith cease and desist from misrepresenting, directly or by implication, in any manner, the country of origin of their ski pants or of any other product.

It is further ordered, That the complaint be dismissed as to Herman Feigenheimer.

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 13th day of April 1961, become the decision of the Commission; and, accordingly:

It is ordered, That respondents Europe Craft Imports, Inc., a corporation, and Gerda Feigenheimer 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