

Complaint

IN THE MATTER OF

MILTON OSTROWER ET AL. TRADING AS
YANKEE LEATHER GOODS CO., INC.

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

Docket 8298. Complaint, Mar. 2, 1961—Decision, Aug. 5, 1961

Consent order requiring a New York City manufacturer of ladies' and men's belts to cease stamping with the words "Genuine Alligator Grain", belts which were not made from alligator hide or genuine leather but from a material composed of leather fibers bonded together with an adhesive material, and to cease selling such simulated leather belts without any markings to show that they were not genuine leather.

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 Milton Ostrower, Harry Ostrower and Fred Ostrower, individually and trading as Yankee Leather Goods 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. Respondents Milton Ostrower, Harry Ostrower and Fred Ostrower are partners trading as Yankee Leather Goods Co. with their principal office and place of business located at 737 Broadway, in the City of New York, State of New York.

PAR. 2. Respondents are now, and for several years last past have been, engaged in the manufacture, offering for sale, sale and distribution of ladies' and men's belts to wholesalers and retailers who resell said belts to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, ladies' and men's belts when sold to be shipped from their place of business in the State of New York to purchasers thereof located in other States of the United States and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said belts in commerce, as "commerce" is defined in the Federal Trade Commission Act. The volume of business done by respondents in said belts in commerce is now, and has been, substantial.

PAR. 4. In the course and conduct of their business, respondents have stamped or imprinted upon some of their belts "Genuine Alligator Grain". Said belts were, when sold by retailers, displayed to the purchasing public with said words affixed thereto or imprinted thereon. Said belts were manufactured from leather fibers which were bonded or pressed together by an adhesive material. These belts simulate leather.

Respondents also sell the above described belts manufactured from leather fibers with no markings thereon.

PAR. 5. There is a preference on the part of many members of the purchasing public for ladies' and men's belts made of genuine leather over belts not composed wholly of leather or belts manufactured from imitation leather.

PAR. 6. In truth and in fact said belts branded "Genuine Alligator Grain" were not manufactured from alligator hides or genuine leather but from a material composed of leather fibers pressed or bonded together with an adhesive material. Also in truth and in fact those belts, which simulate leather and are not branded or marked, are likewise manufactured from a material composed of leather fibers pressed or bonded together with an adhesive material.

PAR. 7. Respondents by means of the aforesaid acts and practices of branding some of their simulated leather belts "Genuine Alligator Grain", and by failure in other instances, to adequately disclose that other simulated leather belts sold by them are not genuine leather, furnished means and instrumentalities to others whereby the public is confused or misled as to the actual composition of said ladies' and men's belts.

PAR. 8. In the course and conduct of their business respondents are in substantial competition in commerce with corporations, firms and individuals engaged in the sale of genuine leather ladies' and men's belts.

PAR. 9. The aforesaid acts and practices of respondents in stamping simulated leather belts as "Genuine Alligator Grain", and their failure to adequately disclose the composition of certain ladies' and men's simulated leather belts sold by them has the capacity and tendency to confuse the public as to their composition and mislead the public into the erroneous and mistaken belief that said belts are wholly genuine leather, and into the purchase thereof by reason of such erroneous and mistaken belief. As a consequence thereof substantial trade in commerce has been unfairly diverted to respondents from their competitors and substantial injury has thereby been done to competition in commerce.

PAR. 10. The aforesaid acts and practices of respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and 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. Morton Nesmith for the Commission.

Blackman & Willner, New York, N.Y., for the respondents.

INITIAL DECISION BY HERMAN TOCKER, HEARING EXAMINER

The complaint in this proceeding, issued March 2, 1961, charged Milton Ostrower, Harry Ostrower and Fred Ostrower, individually and trading as Yankee Leather Goods Co., at 737 Broadway, in the City and State of New York, with violating the Federal Trade Commission Act by offering for sale, selling and distributing in commerce belts which had been misbranded. Prior to issuance of the complaint, the said respondents had caused their said business to be incorporated under the laws of the State of New York and it is now known as Yankee Leather Goods Co., Inc., engaged in business at the same address. They have agreed that any order to be entered herein may run against the corporation as well and that it and they (individually and as officers) be substituted as the respondents herein. Consequently, whenever reference is made herein to the complaint, such reference shall be deemed to include, as though named therein, the corporation, Yankee Leather Goods Co., Inc.

Respondents (with the advice of their attorney), and counsel supporting the complaint have entered into an agreement, containing consent order to cease and desist, disposing of all the issues as to all parties to this proceeding, including Yankee Leather Goods Co., Inc.

It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

By the terms of said agreement, the respondents admitted all the jurisdictional facts alleged in the complaint and agreed that the record herein may be taken as if the Commission had made findings of jurisdictional facts in accordance with the allegations.

By said agreement, the parties expressly waived any further procedural steps before the Hearing Examiner and the Commission:

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the making of findings of fact or conclusions of law; and all rights they may have to challenge or contest the validity of the order to cease and desist to be entered in accordance therewith.

Respondents agreed further that the order to cease and desist to be issued in accordance with said agreement shall have the same force and effect as if made after a full hearing.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order to be issued pursuant to said agreement; and that said order may be altered, modified or set aside in the manner prescribed by the statute for orders of the Commission.

The Hearing Examiner has considered such agreement and the order therein contained, and, it appearing that said agreement and order provide for an appropriate disposition of this proceeding, the same is hereby accepted and, upon becoming part of the Commission's decision in accordance with Sections 3.21 and 3.25 of the Rules of Practice, shall be filed; and, in consonance with the terms thereof, the Hearing Examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents named herein, and that this proceeding is in the interest of the public, and issues the following order:

ORDER

It is ordered, That respondents Yankee Leather Goods Co., Inc., a corporation and its officers, and Milton Ostrower, Harry Ostrower and Fred Ostrower, individually and as officers of said corporation, and respondents' representatives, agents or employees, directly or through any corporate or other device, in connection with the manufacturing, offering for sale, sale and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of ladies' and men's belts, or other merchandise, do forthwith cease and desist from:

1. Representing, directly or by implication, that:

(a) A product which is not made from the hide of an animal is leather.

(b) A product is made of leather if the product is made of leather fibers bonded together with an adhesive, provided, however, that this provision shall not be construed as preventing the representation that such product is composed of leather fibers and an adhesive.

2. Offering for sale or selling a product composed of leather fibers and an adhesive, which has the appearance of leather, unless

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it is clearly stated that said product is not leather, or such disclosure made that will clearly show that it is not leather, provided, however, that this provision shall not be construed as preventing the representation that the product is composed of leather fibers and an adhesive.

3. Using the term "Genuine Alligator Grain" in connection with a product that is not made from alligator hide, or misrepresenting in any manner the animal hide from which a product is made.

4. Furnishing means and instrumentalities to others whereby the public may be misled as to any of the matters prohibited in Paragraphs 1, 2, and 3 above.

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 5th day of August 1961, become the decision of the Commission; and, accordingly:

It is ordered, That 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.