

Complaint

75 F.T.C.

IN THE MATTER OF

JACOBY-BENDER, INC., ET AL.

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

Docket 8728. Complaint, Jan. 27, 1967—Decision, April 8, 1969

Consent order requiring a Queens County, N.Y., distributor of watchbands and identification bracelets to cease mislabeling its products as to the foreign origin of certain component parts.

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 Jacoby-Bender, Inc., a corporation, and William E. Stark, individually and as an officer of said corporation, 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 Jacoby-Bender, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 62-10 Northern Boulevard, Woodside, Queens County, New York.

Respondent William E. Stark is an officer of the corporate respondent. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale or distribution of metal expansion watch bands, identification bracelets and other products to distributors, jobbers and retailers for resale to the public.

PAR. 3. In the course and conduct of their aforesaid business, respondents now cause, and for some time last past have caused, their said products when sold, to be shipped from their place of business in the State of New York to purchasers thereof located in various other States of the United States, and maintain, and

at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their said business, the respondents obtain substantial quantities of certain of the components of their products from foreign countries, such as the metal expansion watch band component known as the "chain" for expansion watch bands from Hong Kong. Said foreign made components are employed in the manufacture and assembly of their products.

Before manufacture and assembly of such foreign made components, said items contain a visible foreign origin mark engraved on a surface thereof. After manufacture or assembly of said components into a finished product such as a watch band, the surface on which such foreign origin mark has been engraved is combined with the other components in such a manner as to conceal the said foreign origin mark without destroying, damaging or disassembling the said finished product.

After manufacture and assembly of said watch bands as aforesaid, the finished product containing some of such foregoing foreign made components and the packaging thereof contain numerous statements and representations whereby respondents affirmatively represent, and have represented, that said watch bands, or the substantial components thereof, were made in whole, or in part, in the United States.

Typical and illustrative of such statements and representations, but not all inclusive thereof, are the following:

EXPERTLY CRAFTED IN THE U.S.A. * * * JACOBY-BENDER,
INC., NEW YORK, U.S.A.

* * * * *
Union Made in U.S.A.
* * * * *

U.S.A.

PAR. 5. By and through the use of the foregoing statements, representations and practices and others similar thereto not specifically set out herein, respondents represent, and have represented, directly or by implication, that their said products are wholly of domestic origin.

PAR. 6. In truth and in fact, said products are not wholly of domestic origin but in fact contain a substantial component made in Hong Kong.

Therefore, the statements and representations as set forth in

Paragraphs Four and Five hereof were and are false, misleading and deceptive.

PAR. 7. In the absence of an adequate disclosure that a product, or any of the substantial components thereof, including metal expansion watch bands, is of foreign origin, the public believes and understands that it is of domestic origin, a fact of which the Commission takes official notice.

As to the aforesaid articles of merchandise, a substantial portion of the purchasing public have a preference for said articles which are of domestic origin, of which fact, the Commission also takes official notice.

Respondents failure to clearly and conspicuously disclose the country of origin of said articles of merchandise, or, substantial components thereof, is, therefore, to the prejudice of the purchasing public.

PAR. 8. By the aforesaid practices, the respondents place in the hands of wholesalers, distributors and retailers, means and instrumentalities by and through which they may mislead and deceive the public as to the origin of their metal expansion watch bands or a substantial part or parts thereof.

PAR. 9. In the conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of products of the same general kind and nature as those sold by respondents.

PAR. 10. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' products by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of 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 methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

Mr. Herbert L. Blume and Mr. Mario V. Mirabelli supporting the complaint.

Mr. Philip K. Schwartz and Mr. Paul B. Gibney, Jr., for respondents.

INITIAL DECISION BY EDGAR A. BUTTLE, HEARING EXAMINER

NOVEMBER 16, 1967

PRELIMINARY STATEMENT

This proceeding was initiated by the issuance of the Commission's complaint on January 27, 1967. The complaint charges violation of Section 5 of the Federal Trade Commission Act (15 U.S.C.A. 45, *et seq.*) by the corporate respondent, Jacoby-Bender, Inc., a corporation, and the individual respondent, William E. Stark, individually and as an officer of the respondent corporation. The violations alleged charge deceptive acts and practices and unfair methods of competition in connection with the use of expansion watchband parts such as the substantial component known as the "chain," which respondents imported from Hong Kong and sold and distributed in "commerce" as defined by Section 4 of the Federal Trade Commission Act (15 U.S.C.A. 44), without identification as to source. The complaint appears to encompass all substantial parts although complaint counsel's proof was offered only as to the "chains."

On the last day of the hearing, September 25, 1967, complaint counsel and respondents' counsel agreed on the entry of an order upon consent, subject to certain findings and conclusions, to enable a clear understanding of the order and its contemplation. The order consented to by respondents is the proposed order annexed to the complaint. The consent, however, was subject to certain findings and conclusions which were to be, substantially, as indicated by respondents' counsel. These proposed findings and conclusions are hereinafter referred to.

Respondents' counsel contend, incident to consent, that the scissors imported by respondent Jacoby-Bender, Inc., illustrated by RX 1 and RX 2, must be construed to be an unsubstantial part of the finished watchband of the company since the evidence (*i.e.*, the testimony of William E. Stark, Tr. 199-202) as to their insignificance as a component part is entirely uncontradicted. Complaint counsel appears to have agreed and has not objected to the admissibility of the Stark testimony, or conclusions to be drawn therefrom, which as propounded by respondents' counsel are as follows:

1. The scissors imported by Jacoby-Bender, Inc., Respondents' Exhibits 1 and 2, are not a substantial part or component of the finished watchband of the company.

2. The scissors are excluded from the coverage of the order referred to below.

3. Any reference to any item, component or part of a watchband set forth in this order is limited to and means a substantial item or a substantial component or a substantial part.

4. The order herein is understood as being applicable to all sales by respondents in the United States and its possessions, but is not applicable to re-export since the order may only contemplate products of respondents distributed for sale in the United States.

In connection with the foregoing, complaint counsel indicated that he had no evidence in opposition thereto which he could adduce to the effect that the scissors were a substantial item or a substantial component or a substantial part of the watchbands sold by respondents.

Regardless of any stipulations entered into by complaint counsel and respondents' counsel (pursuant to which respondents' counsel were willing to consent to the entry of an order identical to the one annexed to the complaint subject to certain findings and conclusions aforementioned), the evidence itself as evaluated by the examiner would result in the same findings and conclusions, whether or not counsel's stipulations are relied upon or the evidence itself without regard to such stipulations. The construction of the stipulations does not, therefore, appear to be realistically material.

The hearing examiner has carefully considered the proposed findings of fact and conclusions supplemented by briefs of complaint counsel, and such proposed findings and conclusions if not herein adopted, either in the form proposed or in substance, are rejected as not supported by the record or as involving immaterial matters.

FINDINGS OF FACT

1. Respondent Jacoby-Bender, Inc., is a corporation organized, existing and doing business under and by virtue of the State of New York, with its principal office and place of business located at 62-10 Northern Boulevard, Woodside, Queens County, New York (Amended Answer, p. 1; Tr. 8, 14, 17).

2. Respondent William E. Stark is an officer of the corporate respondents. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His business is the same as that

of the corporate respondent (Amended Ans.; Tr. 9, 12, 14, 17-23, 26, 57, 126, 134, 135, 200).

3. Respondents are now, and for some time past have been, engaged in the advertising, offering for sale, sale and distribution of metal expansion watchbands, identification bracelets and other products to distributors, jobbers and retailers for resale to the public (Tr. 15, 17; CXs 12, 47-92, 106).

4. In the course and conduct of their business, respondents now cause, and for some time past have caused, their products when sold, to be shipped from their place of business in the State of New York to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein, have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act (Amended Ans.; Tr. 17, 26; CXs 47-106).

5. In the course and conduct of their said business, the respondents obtain substantial quantities of certain of the components of their products from foreign countries, such as the metal expansion watchband component known as the "chain" for expansion watchbands from Hong Kong. Said foreign-made components are employed in the manufacture and assembly of their products.

After manufacture and assembly of substantial quantities of said watchbands made with chains imported from Hong Kong, the advertising for such products, such as brochures, catalogs and packaging in which such products are sold to the ultimate consumer, contains numerous statements and representations whereby respondents affirmatively represent, and have represented, that said watchbands, or the substantial components thereof, were made in whole or in part in the United States.

Typical and illustrative of such statements and representations, but not all inclusive thereof, are the following:

EXPERTLY CRAFTED IN THE U.S.A. * * *
JACOBY-BENDER, INC., NEW YORK, U.S.A.

* * * * *
Union Made In U.S.A.
* * * * *

U.S.A.

(Amended Ans.; Tr. 18, 19, 53, 95, 96, 100, 101, 117, 118; CXs 101, 103.)

6. By and through the use of the foregoing statements, representations and practices and others similar thereto not spe-

cifically set out herein, respondents represent, and have represented, directly or by implication, that their said products are wholly of domestic origin.

7. In truth and in fact, said products are not wholly of domestic origin but in fact contain a substantial component, namely the "chain," made in Hong Kong.¹ Therefore, the statements and representations as aforesaid whereby respondents affirmatively represent that said products are of domestic origin were and are false, misleading and deceptive (Tr. 17, 18-19, 71-74, 79-81, 93-94, 106-07, 111-17, 123-24, 166-68; CXs 3-16, 93-95, 100, 101, 103).

8. In the absence of an adequate disclosure that a product, or any of the substantial components thereof, including metal expansion watchbands, is of foreign origin, the public believes and understands that it is of domestic origin, a fact of which the Commission takes official notice.

As to the aforesaid articles of merchandise, a substantial portion of the purchasing public have a preference for said articles which are of domestic origin, of which fact the Commission also takes official notice.

Respondents' failure to clearly and conspicuously disclose the country of origin of said articles of merchandise, or substantial components thereof, as well as the aforesaid affirmative misrepresentation of domestic origin of said articles of merchandise, or substantial components thereof, is, therefore, to the prejudice of the purchasing public.

9. In the conduct of their business, respondents have been in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of products of the same general kind and nature as those sold by respondents.

10. One of the present components of some of the watchbands

¹ The component known as the "chain" is used in the "half-skeleton" model of metal expansion watchband. This model consists of a short "skeleton" set between two metal portions of equal length (and is illustrated by CX 10). In this model, the skeleton consists of about one-third of the length of the watchband. Attached to both ends of this skeleton are two nonexpandable and identically congruent extensions called "arms" which attach to either end of the watch. The effect is that the watch is held on the wearer's wrist between the two "arm" portions of the watchband.

The chain consists of nonexpandable, unfinished metal links which, when processed and covered with a decorative outer shell, as well as with connecting devices at the ends, constitute an "arm."

The parts which constitute the arm are: the chain, end plate, adapter plate, watch end shell, adapter shell, and top shells. The chain, as imported, is subject to substantial processing before being incorporated in the watchband. However, the chain forms the core of the arm, and the arms constitute approximately two-thirds of the length of a half-skeleton model watchband. For this reason, the chain is a substantial component of any half-skeleton model watchband.

of Jacoby-Bender is a component referred to in this proceeding as a "scissors," both half-scissors (RX 1) and full scissors (RX 2).²

It is found that the scissors imported by respondent Jacoby-Bender, as illustrated by RX 1 and RX 2, are not a substantial part of the finished watchband of Jacoby-Bender since the evidence as to their insignificance as a component part is entirely uncontradicted.

CONCLUSIONS

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

2. The complaint herein states a cause of action and this proceeding is in the public interest.

3. For the reasons set forth in Finding 7, footnote 1, hereof, the chain constitutes a substantial component of those watchbands produced by respondent Jacoby-Bender containing said part.

4. Therefore, the aforesaid acts and practices of respondent, in using chains imported from Hong Kong in watchbands sold and distributed in the various states of the United States as set forth above, were to the prejudice and injury of the public and of respondents' competitors, and constituted unfair methods of competition in commerce and unfair and deceptive practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

5. An order to cease and desist directed at said acts and practices should therefore issue against respondents.

6. However, the scissors imported by Jacoby-Bender (either RX 1 or RX 2) is not a substantial part or component of the finished watchband of the company (Tr. 200-03).

7. The said scissors are excluded from the coverage of the order referred to herein. Obviously this is without prejudice to the right of the Commission to subsequently issue a complaint relating to this component part, which has been proved without contradiction at this hearing to be an unsubstantial and insignificant component (Tr. 196-200).

8. Any reference to any item, component or part of a watchband set forth in said order is limited to and means a sub-

² William E. Stark testified, with respect to the scissors, that it is an insignificant part of the completed watchband of respondent Jacoby-Bender, and there is no contrary or other evidence on this subject.

stantial item or a substantial component or a substantial part.

9. The order herein shall be construed to apply to all sales by respondents in the United States and its possessions, but inapplicable to re-export items since the order may contemplate only products of respondents distributed for sale in the United States.

ORDER

It is ordered, That respondents Jacoby-Bender, Inc., a corporation, and its officers, and William E. Stark, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of metal expansion watchbands or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale, selling or distributing any such products which are substantially, or which contain a substantial part or parts, of foreign origin or fabrication without affirmatively disclosing the country or place of origin or fabrication thereof on the products themselves, by marking or stamping on an exposed surface, or on a label or tag affixed thereto, of such a degree of permanency as to remain thereon until consummation of consumer sale of the products, and of such conspicuousness as likely to be observed by and read by purchasers and prospective purchasers making casual inspection of the products.

2. Offering for sale, selling or distributing any such product packaged, mounted in a container, or a display card or other display device, without disclosing the country or place of foreign origin of the product, or substantial part or parts thereof, on the front or face of such packaging, container, display card or other display device, so positioned as to clearly have application to the product so packaged or mounted, and of such degree of permanency as to remain thereon until consummation of consumer sale of the product, and of such conspicuousness as likely to be read by purchasers making casual inspection of the product as so packaged or mounted.

3. Using the words "Made in U.S.A." or "New York, U.S.A." or any other word or words of similar import or meaning, in connection with any such product which con-

tains a substantial item, component or part made in Hong Kong or any other foreign country, without clearly disclosing the country of origin of such item, component or part in the manner set out above in Paragraphs 1 and 2 hereof.

4. Representing, in any other manner, that any such product which contains a substantial item, component or part made in Hong Kong or any other foreign country, is made in the United States without clearly disclosing the country of origin of such item, component or part in the manner set out above in Paragraphs 1 and 2 hereof.

5. Representing, directly or by implication, that any product or part thereof made in a foreign country is made in the U.S.A.

6. Placing in the hands of distributors, retailers and others, means and instrumentalities by and through which they may deceive and mislead the purchasing public concerning any merchandise in the respects set out above.

DECISION AND ORDER

The Commission having issued its complaint in this proceeding on January 27, 1967, charging respondents Jacoby-Bender, Inc., a corporation, and William E. Stark, individually and as an officer of said corporation, with violation of the Federal Trade Commission Act, and hearings having subsequently been held at termination of which the hearing examiner issued his initial decision on November 16, 1967, from which initial decision counsel supporting the complaint filed appeal; and

An "Agreement Containing Consent Order to Cease and Desist" having been submitted to the Commission for its consideration which agreement contains, *inter alia*, a consent order; an admission by the signatory respondents of all the jurisdictional facts alleged in the complaint; statements that the record on which the decision of the Commission shall be based shall consist solely of the complaint and the agreement together with specified exhibits and any comments which may be filed as there provided, and that said agreement is for settlement purposes only and does not constitute an admission by the signatory respondents that the law has been violated as alleged in the complaint; and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the agreement, which also

recites that respondent William E. Stark is a former officer of the corporate respondent and which further provides that, if and when the Commission enters its decision in disposition of the proceeding based on the agreement, the initial decision of the hearing examiner will be vacated; and

The Commission having determined that the agreement constitutes an adequate basis for appropriate disposition of this proceeding, and having accepted same, and the agreement having thereupon been placed on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby makes the following jurisdictional findings, and enters the following order:

1. Respondent Jacoby-Bender, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 62-10 Northern Boulevard, Woodside, Queens County, New York.

Respondent William E. Stark is a former officer of said corporation and his address is 1 Hudson Harbor, Edgewater, New Jersey 07083.

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 Jacoby-Bender, Inc., a corporation, and its officers, and William E. Stark, individually and as a former officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of metal expansion watchbands or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Offering for sale, selling or distributing any such products which are substantially, or which contain a substantial part or parts, of foreign origin or fabrication without affirmatively disclosing the country or place of origin or fabrication thereof on the products themselves, by marking or stamping on an exposed surface, or on a label or tag affixed thereto, of such a degree of permanency as to remain thereon until consummation of consumer sale of the products, and

of such conspicuousness as likely to be observed by and read by purchasers and prospective purchasers making casual inspection of the products.

2. Offering for sale, selling or distributing any such product packaged, mounted in a container, on a display card or other display device, without disclosing the country or place of foreign origin of the product, or substantial part or parts thereof, on the front or face of such packaging, container, display card or other display device, so positioned as to clearly have application to the product so packaged or mounted, and of such degree of permanency as to remain thereon until consummation of consumer sale of the product, and of such conspicuousness as likely to be read by purchasers making casual inspection of the product as so packaged or mounted: *Provided, however,* That as used in prohibitions 1 and 2 of this order, the term "substantial part" shall not be construed to include (a) a scissors component similar to Respondents' Exhibits 1 or 2, in such metal expansion watchbands, or (b) the using of two push pin components in its non-metal bands and up to seven push pin components in its metal bands, or (c) a spring ring component in its products.

3. Using the words "Made in U.S.A." or "New York, U.S.A." or any other word or words of similar import or meaning, in connection with any such product which contains an item, component or part made in Hong Kong or any other foreign country, without clearly disclosing the country of origin of such item, component or part in the manner set out above in Paragraph 1 whenever the words appear on the product, and in the manner set out above in Paragraph 2 whenever the words appear on the packaging, container, display card or other display device.

4. Representing, in any other manner, that any such product which contains an item, component or part made in Hong Kong or any other foreign country, is made in the United States without clearly disclosing the country of origin of such item, component or part in the manner set out above in Paragraph 1 whenever the representation appears on the product, and in the manner set out above in Paragraph 2 whenever the representation appears on the packaging, container, display card or other display device.

5. Representing, directly or by implication, that any such product made in a foreign country is made in the U.S.A.;

or using any word or term which represents or suggests that any product, containing a part whether substantial or insubstantial (including scissors) made in a foreign country, is made in the U.S.A. without clearly disclosing the country of origin of such part in the manner set out above in Paragraph 1 whenever the representation appears on the product, and in the manner set out above in Paragraph 2 whenever the representation appears on the packaging, container, display card or other display device.

6. Placing in the hands of distributors, retailers and others, means and instrumentalities by and through which they may deceive and mislead the purchasing public concerning any merchandise in the respects set out above.

It is further ordered, That the order herein shall be construed to apply to all sales by respondents in the United States and its Possessions and in Puerto Rico, but shall be inapplicable to export items.

It is further ordered, That nothing contained in prohibitions 3, 4, 5 and 6 of this order shall be construed to prohibit respondents from:

(1) Making disclosure of the name and address of the respective respondents by nondeceptively imprinting such name together with its address on packages, containers, display devices or guarantees for its products, and such address may also be set forth by designating the city and/or state, or

(2) Nondeceptively stamping on the backs of said products the letters "U.S.A." in manner and in size and coloring not likely to be observed or read by purchasers and prospective purchasers at retail, making casual inspection of said products, it being understood that stamping in size of type no larger or in greater color prominence than that on Commission Exhibit 100 and Consent Agreement Exhibits 1 and 2 attached to the Consent Agreement shall not be deemed to be in violation of said prohibitions,

and neither of the foregoing shall be construed to be a representation of place of origin of the product or any part or component thereof.

It is further ordered, That nothing herein shall be construed to prohibit the respondent corporation from selling, distributing, or using, until June 1, 1969, watchbands or watchband parts in inventory as of the date of service of this order which are stamped

with the words "U.S.A.," or "U.S.A. Pat. _____" or "U.S. Pat. _____" or packages, containers, display devices or guarantee forms in inventory as of said date imprinted with those words.

It is further ordered, That the foregoing shall be without prejudice to the rights of respondents (a) to seek a ruling from the Commission pursuant to § 3.61 of the Commission's Rules with respect to the use of push pin components in excess of the foregoing numbers, or (b) to seek advice from the Commission regarding the use in their products of parts thereof made in a foreign country.

It is further ordered, That the Initial Decision of the hearing examiner be, and it hereby is, vacated.

It is further ordered, For purposes of the reports of compliance to be filed in this matter that the country of origin or fabrication of the leather components of watchbands made in the United States from foreign skins (including alligator, sea turtle, seal, etc.) shall be deemed to be the country where such skins are finished but acceptance of such reports of compliance may be rescinded pursuant to § 3.61(d) of its Rules if the Commission subsequently determines that the country where the skins were taken and/or tanned are material facts and that they should be disclosed in the public interest; and in such event, the respondents shall be afforded 180 days after notice of such determination within which to comply therewith.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the 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 this order.

IN THE MATTER OF

THE SEEBURG CORPORATION

ORDER, OPINIONS, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
SECTION 7 OF THE CLAYTON ACT

*Docket 8682. Complaint, Apr. 22, 1966—Decision—Apr. 10, 1969**
Order requiring a Chicago, Ill., manufacturer of vending machines to

*Paragraph D of order modified pursuant to a decision of the Court of Appeals, Sixth Circuit, 425 F.2d 124 (8 S.&D. 1146), December 10, 1970, 77 F.T.C. 1540.