

parative prices, and the usual and customary retail prices of merchandise, and as to savings afforded to purchasers, and similar representations of the type dealt with in Paragraphs 1(a) and (b), 2 and 3 of this order, are based, and from which the validity of any such claim can be established.

THE PAPERCRAFT CORPORATION

Docket 8779. Order, Aug. 27, 1969

Order denying respondent's motion for issuance of requests for special reports from 510 companies pursuant to Section 6(b) of the FTC Act.

ORDER DENYING MOTION TO ISSUE SECTION 6(b) REPORTS

This matter is before the Commission upon the examiner's certification of August 1, 1969, of respondent's motion of July 30, 1969, for the issuance of special reports pursuant to Section 6(b) of the Federal Trade Commission Act.

Respondent states that it "has strong reason to believe that the figures recited in the complaint regarding the size of the market are grossly understated, and incorrect to an exceptional degree." Hence, respondent argues that only through the use of Section 6(b) reports can a reasonably accurate estimate of the market be obtained. Respondent seeks to survey 510 companies.

The examiner recommends that respondent's motion be denied because respondent has failed to demonstrate that it cannot obtain equally probative and substantial evidence without a Section 6(b) survey. The examiner also states that he does not agree with respondent's assertion that a denial of the motion would constitute a denial of a due process.

We concur in the examiner's recommendation. Accordingly,

It is ordered, That respondent's motion for the issuance of special reports pursuant to Section 6(b) of the Federal Trade Commission Act be, and it hereby is, denied.

Commissioners Elman and Nicholson concurring in the result.

BANTAM BOOKS, INC.

Docket 6802. Opinion and Order, Sept. 8, 1969

Order denying respondent's request that it be permitted to use new titles for its reprinted books.

OPINION OF THE COMMISSION

Respondent has filed a petition to reopen this proceeding, seeking to have the order, which was issued November 24, 1958, and modified by Commission order of October 28, 1968, further modified so that respondent will no longer be required to disclose the original English title under which a book has been published outside the United States.

Paragraph 2 of the order entered by the Commission on November 24, 1958, prohibited respondent, a major seller and distributor of paperback books, from using a new title in place of the original title of a reprinted book. The order was subsequently modified on October 28, 1968.¹ As modified, Paragraph 2 of the order prohibits respondent from:

Using or substituting a new title in place of the title under which a book was first published in the English language unless a statement which reveals the first English language title and that it has been published previously thereunder and each and every title under which said book was previously published in the English language in the United States and that it has been published previously thereunder appears in clear, conspicuous type upon the front cover and upon the title page of the book, either in immediate connection with the title or in another position adapted readily to attract the attention of a prospective purchaser.

Respondent states that the purpose of the order is to protect a consumer in the United States from purchasing the same book twice, under different titles. It urges that this purpose will be fulfilled if the order is modified to prohibit it from:

Using or substituting a new title in place of the title under which a book was first published in the English language in the United States unless a statement which reveals the first English language title in the United States and that it has been published previously thereunder and each and every title under which said book was previously published in the English language in the United States and that it has been published previously there-

¹ Similar orders against other publishers of paperback books were earlier modified in similar fashion on January 11, 1965, in *New American Library of World Literature, Inc.*, Docket No. 5811 (as revised October 28, 1968) [74 F.T.C. 1109], and *A. A. Wyn, Inc.*, Docket No. 6792 [74 F.T.C. 1113].

under appears in clear, conspicuous type upon the front cover and upon the title page of the book, either in immediate connection with the title or in another position adapted readily to attract the attention of a prospective purchaser.

Respondent contends that the public interest does not require disclosure of a title under which a book was previously published in the English language outside the United States and that the modification of the order to require disclosure only of the English language titles previously used in the United States will meet the purposes of the order.²

We are not persuaded by respondent's argument. If the order were modified as Bantam requests, respondent could publish, under a new title, a book originally published outside the United States in an English-speaking country without disclosure of that title. Those who purchase books by mail from such countries may well be deceived into believing that a retitled reprint is a different work. Even if not misled into purchasing the same book twice, purchasers of the retitled book may believe they are buying something which they are not, *i.e.*, a new or unfamiliar work by an author whose name is familiar to them rather than a work by that author which they have seen reviewed or otherwise know under a different title.

Respondent also contends that the present requirements of the order "could possibly cause confusion for consumers might assume that the previous English language title was used in the United States when such is not the case." The short answer to that argument is that such confusion can be avoided by a clear disclosure of the facts accompanying the disclosure of the original English title.

We do not think that respondent has made a convincing showing that it would be in the public interest to modify the order so that disclosure of the original title of retitled books published outside the United States should no longer be required. Therefore, respondent's petition will be denied. An appropriate order will be entered.

² Respondent indicates that it reads the order as requiring the disclosure of all former English language titles used outside the United States; however, it is only the original English language title of the titles used outside the United States which must be disclosed under the order.