

customers have been specially selected or that it intends to sell watches through stores in the United States, that its watches are in limited supply and will be sold in the future at higher prices, falsely misrepresenting savings available to purchasers, or that watches have been in continuous manufacture since 1848 or have been purchased by Americans in Europe, falsely guaranteeing the watches, and failing to disclose the true metal composition of the watches.

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 Voltaire Time, Inc., a corporation, doing business as Germinal and Germinal Voltaire, and Maurice Elk, 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. Voltaire Time, 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 630 Fifth Avenue, Rockefeller Center, New York, New York. Voltaire Time, Inc., does business under the names Germinal and Germinal Voltaire.

Respondent Maurice Elk is an individual and an officer of corporate respondent Voltaire Time, Inc. He formulates, directs and controls the acts and practices of said 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 advertising, offering for sale, sale and distribution of watches to the public.

PAR. 3. In the course and conduct of their business as aforesaid, 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 aforesaid business, and for the purpose of inducing the purchase of their products, the respondents have made, and are now making, numerous statements and

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representations in promotional material consisting of a form letter, brochure, price list and a combined questionnaire and order blank sent to the purchasing public, with respect to the foreign location of the company distributing said material, the selection of recipients of said mailings, the purpose thereof, the prices of the products offered, the savings to purchasers, the reputation of said products, their history and the length of time on the market, the advertised guarantee, and the precious metal composition of said products.

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

The Letter:

GERMINAL,
Switzerland.

Bonjour et salutations de la Suisse.

We are sending this letter to a select group of American business and professional people like yourself who have been recommended to us by an American research organization.

The courtesy we ask is that you read this letter and favor us with the answers to the enclosed questionnaire. In appreciation for your co-operation, we shall do our utmost to reward you for your kind help and assistance. (Please Read On)

Here in Neuchatel, the traditional home of fine watchmaking for more than 300 years, our master craftsmen produce the world famous Germinal-Voltaire watch. "One Of The World's Truly Fine Watches Since 1848." And here each year American travelers choose these famous watches to bring home as treasured gifts and exquisite samples of Swiss precision and beauty.

So, although many Americans wear our watches, they have never actually been sold in the U.S.A. But now after 117 years we are finally entering the American Market. Soon we hope many hundreds of fine stores in your great country will recommend these distinguished watches to their favored customers . . . and this is why we write to you.

As a person successful in the professions and commerce you can save us time and money in our marketing plans. We will be undertaking extensive advertising in America and we are most anxious to place our advertising where it will best be seen by people like yourself—would you help us by filling in and returning the enclosed questionnaire in the free envelope—it is a two minute favor that will be warmly appreciated.

We are also enclosing the brochure of the first selection of watches to be offered to the American market. In return for your participating interest we offer you to share in the shipment of these watches which is now in New York duty-paid.

Instead of the suggested retail prices at which these watches will be sold in the near future, you may select any watch of the collection and order it for just one-third of the price—you save two-thirds. This is our way of thanking you for your co-operation. You may select more than one watch if you wish, but no more than one of any style due to the limitation of this shipment.

Please fill in the questionnaire and mail to our New York office in the free envelope. On the back of the questionnaire is the invoice to order your reward at 2/3 OFF. We beg you not to delay or put off your reply. In the first place

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your immediate answers to our market questions is needed to complete our survey. Also the initial supply of watches forces us to limit this offer only to that quantity now in New York duty-paid.

Yours faithfully,

MAURICE ELQUE, *Secrétaire*.

The Brochure:

One of the World's Truly Fine Watches Since 1848
Available soon in America—for the first time in 118 years
... It is guaranteed against defects in manufacture ...
Each watch is fitted with an unbreakable mainspring, guaranteed for life.

* * * * *

Shown here is our new, recently completed factory.

* * * * *

We welcome inspection of our plant and extend to you a warm and personal invitation to visit us when and if you come to Switzerland.

The Price List:

All Germinal Voltaire Watches Carry A Lifetime Written Service Guarantee*

Style Number:		Your Cost**
USA-100	-----\$ 75.00	\$25.00
* * * * *		
USA-217	-----270.00	90.00

* On all moving parts against breakage.

The Questionnaire:

QUESTIONNAIRE * Please fill out this questionnaire and mail it to our New York office in the postage-paid envelope provided.

1. What is your favorite newspaper?

Name _____ From (city or town) _____

2. Which section of your newspaper do you turn to first? (Check the appropriate one.)

News ☐ Financial ☐ Sports ☐

3. What are your two favorite magazines? _____

4. If you wished to purchase a fine watch, to which store in your community would you go?

Name _____

Location _____

5. *OPTIONAL _____

Your Name _____

Address _____

City _____ State _____

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning but not expressly set out herein the respondents have represented, and are now representing, directly or by implication, that:

1. The letter with enclosed printed material is a solicitation from a company named Germinal with factory and headquarters located in Switzerland and with United States offices located at 630 Fifth Avenue, New York, New York.

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2. (a) The letter and the accompanying printed material are being sent to a select group of successful business and professional persons; (b) the purpose of the solicitation is to obtain advertising and marketing information for use in connection with the imminent offering for sale of Germinal-Voltaire watches through stores in the United States, and (c) in return for completing an enclosed questionnaire recipients are given the opportunity to share at a reduced price in a shipment of such watches from Switzerland which is now in New York, duty-paid.

3. The selling prices of the watches offered in respondents' letter and other promotional material are a reduced introductory offer of one-third of the prevailing prices at which said watches will immediately thereafter be sold only in stores in the United States, and that persons who buy now will save two-thirds of said prices.

4. The Germinal-Voltaire watches advertised by respondents

- (a) Are world famous,
- (b) Have been manufactured continuously since 1848,
- (c) Have been previously purchased in Europe by Americans and
- (d) Have never before been sold in the United States.

5. Through use of the statements "guaranteed against defects in manufacture," "unbreakable mainspring guaranteed for life" and "lifetime written service guarantee," that said watches are unconditionally guaranteed against manufacturing defects, that the mainspring is unconditionally guaranteed for the life of the purchaser, and that respondents will unconditionally service said watches without charge for the life of the purchaser.

PAR. 6. In truth and in fact:

1. The letter with enclosed printed matter is not a direct solicitation by a company named Germinal with headquarters and a factory located in Switzerland and with United States offices at 630 Fifth Avenue, New York, New York, but it is a solicitation by Voltaire Time, Inc., a New York corporation, with its office at said address which does not own or operate a factory wherein said watches are manufactured.

2. (a) The persons to whom said letters and accompanying printed material are sent are not a select group of successful business and professional persons; but are persons whose names were included in a general mailing list; (b) The purpose of said solicitation is not to obtain advertising and marketing information for use in connection with the imminent offering for sale of Germinal-Voltaire watches through stores in the United States; but for the purpose of then and there selling watches to recipients of such promotional material; and (c) The watches are not being sold at a reduced price, recipients are not being given a reduced price for completing

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a questionnaire nor are the watches limited to one shipment from Switzerland or otherwise available only in limited supply. Said watches are being sold at their usual and customary prices and are from a stock of watches maintained by repeated shipments from Switzerland.

3. Respondents have been offering Germinal-Voltaire watches direct to the purchaser exclusively by mail in the manner above described at the same prices for more than the past two years and, therefore, the prevailing prices of said watches are not respondents' suggested retail prices at which they say they will be sold immediately thereafter only through stores in the United States; but the prices at which said watches are actually being sold, and therefore, the represented reductions in prices of said watches and the savings based thereon are a fabrication and a delusion. Nor has the representation that such watches will be sold through retail stores been borne out.

4. The Germinal-Voltaire watches advertised by respondents:

(a) Are not world famous. They are known only through respondents' promotional material whose distribution is confined to the United States,

(b) Have been manufactured only since 1965,

(c) Have not been previously sold in Europe, hence could not have been previously purchased there by Americans, and

(d) Have been sold in the United States since the respondents started their promotion by mail in 1965.

5. Respondents' advertised guarantees of watches, parts thereof or of service are not unconditional. Instead, they are subject to conditions, limitations and charges which are not set forth in the advertising and the "lifetime" referred to is that of the watch and not that of the purchaser or original user.

Therefore, the statements and representations as set forth in Paragraphs Four and Five hereof were, and are, false, misleading and deceptive.

PAR. 7. Respondents' watches are in cases, the bezels of which have been treated or processed to simulate gold or gold alloy. Certain of the wristbands attached to respondents' watches have been likewise so treated or processed. Said watch cases are not marked to disclose clearly that the bezels are composed of base metal nor are the said wristbands so marked. The practice of respondents in offering for sale and selling watches with bezels and wristbands so treated or processed without clearly disclosing their true metal composition has the tendency and capacity to lead members of the purchasing public to believe that said bezels or said wristbands are composed of gold or gold alloy.

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Therefore, respondents' failure to clearly disclose the true metal content of said watch parts or attachments is false, misleading and deceptive.

PAR. 8. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals in the sale of watches of the same general kind and nature as those sold by respondents.

PAR. 9. The use by 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' product by reason of said erroneous and mistaken belief.

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 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.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the agreement and having accepted same, and the agreement containing consent order 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 issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Voltaire Time, Inc., 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 principal place of business located at 630 Fifth Avenue, Rockefeller Center, New York, New York. Voltaire Time, Inc., does business under the names Germinal and Germinal Voltaire.

Respondent Maurice Elk is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his address is the same as that of said corporation.

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 Voltaire Time, Inc., a corporation, trading as Germinal or Germinal Voltaire or under any other name or names, and its officers, and Maurice Elk, 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 watches or any other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing directly or by implication:

(a) That respondents have business headquarters or a factory located in Switzerland with offices located in the United States; or

(b) That letters, advertising, or promotional or other printed material are distributed or caused to be distributed by a business based in Switzerland.

2. Misrepresenting, in any manner, the location or domicile of respondents' business or the source or origin of respondents' solicitation, advertisements, goods, products or services.

3. Representing, directly or by implication, that respondents own or operate a factory or manufacture the products offered for sale and sold by them.

4. Representing, directly or by implication, that persons to whom advertising, promotional or other material is sent or offers of sale are made are specially selected; or misrepresenting, in any manner, the class or category of persons to whom such material is sent or to whom offers are made.

5. Representing, directly or by implication, that the purpose of solicitations or inquiries is to obtain advertising or marketing information for use in connection with the offering for sale of

watches or other products through stores in the United States; or misrepresenting, in any manner, the intent or purpose for which any solicitation, survey or inquiry is made.

6. Representing, directly or by implication, that said products are to be offered in stores in the United States.

7. Representing, directly or by implication, that said watches or any other products are being offered at a reduced price in return for the recipient completing a questionnaire.

8. Representing, directly or by implication, that said watches or any other products are in limited supply or that the offer is limited or restricted as to time or in any other manner unless any represented limitation or restriction in fact existed and was in good faith imposed and adhered to.

9. Representing, directly or by implication, that any amount is the price at which watches or any other product will be sold at a future time unless said watches or other products were, within the represented future time, put on the market in substantial numbers and in good faith offered to the public at the represented prices, in the usual course of business, and for a substantial period of time.

10. Representing, directly or by implication, that any retail price for watches or any other product is a reduced price unless such price constitutes a significant reduction from an established selling price at which said watches or other products have been sold in substantial quantities by respondents at retail in the recent regular course of business.

11. Falsely representing, in any manner, that savings are available to purchasers or prospective purchasers of respondents' products or misrepresenting, in any manner, the amount of savings available to purchasers or prospective purchasers of respondents' products.

12. Representing, directly or by implication, that watches offered for sale and sold by respondents:

(a) Are world famous or,

(b) Have been manufactured continuously since 1848 or,

(c) Have been previously purchased by Americans in Europe or,

(d) Have never before been sold in the United States.

13. Misrepresenting, in any manner, the reputation of watches or products or the places where or the length of time during which they have been manufactured or sold.

14. Representing, directly or by implication, that watches or products or the services in connection therewith are guaranteed unless the extent and nature of the guarantee, the identity of

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the guarantor and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

15. Offering for sale or selling watches, the cases or the attached wristbands of which are in whole or in part composed of base metal which has been treated with an electrolytically applied flashing or coating of precious metal of less than $1\frac{1}{2}/1000$ of an inch over all exposed surfaces after completion of all finishing operations, without clearly and conspicuously disclosing respectively on both such cases and attached wristbands or parts that they are base metal which have been flashed or coated with a thin and unsubstantial coating.

16. Offering for sale or selling watches, the cases or the attached wristbands of which are in whole or in part composed of base metal which have been treated to simulate precious metal, without clearly and conspicuously disclosing on both such cases and wristbands the true respective metal composition of such cases, wristbands or parts thereof.

17. Misrepresenting, in any manner, the metal content or composition of any of respondents' products.

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 respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

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.

By the Commission, with Commissioner Elman not participating.

IN THE MATTER OF

PRESSMAN TOY CORPORATION, Docket No. 7067
EMPIRE PLASTIC CORPORATION, Docket No. 7069

DISMISSAL ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC.
2(A) OF THE CLAYTON ACT

Complaints, Feb. 20, 1958—Decision, Oct. 20, 1970

Order reopening the proceedings against two New York City toy manufacturers, rescinding the Commission's orders to cease and desist, and dismissing the complaints against each.