

Complaint

87 F.T.C.

IN THE MATTER OF
STP CORPORATION, ET AL.

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

Docket C-2777. Complaint, Jan. 6, 1976—Decision, Jan. 6, 1976

Consent order requiring a Fort Lauderdale, Fla., manufacturer of oil and gasoline additives and oil filters and its Chicago, Ill., advertising agency, among other things to cease making false and misleading effectiveness claims and representations for its products.

Appearances

For the Commission: *Bruce J. Parker.*

For the respondents: *J. Wallace Adair, Howrey, Simon, Baker & Murchison, Washington, D.C.*

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 STP Corporation, a corporation, and Stern, Walters & Simmons, Inc., a 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. STP Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 1400 W. Commercial Blvd., Fort Lauderdale, Florida.

Respondent Stern, Walters & Simmons, Inc. is a corporation existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business located at 150 E. Huron St., Chicago, Illinois.

PAR. 2. Respondent STP Corporation is now and for some time past has been engaged in the sale and distribution of automotive filters, oil and gasoline treatments and other products to the public under the trade name STP.

Respondent Stern, Walters & Simmons, Inc. is now and for some time past has been an advertising agency; it prepared for publication advertising material including but not limited to the advertising material referred to herein, for the purpose of promoting the sale of STP Corporation products.

PAR. 3. Respondent STP Corporation, in the course and conduct of its business as aforesaid, now causes and for some time past has caused said products, when sold, to be shipped from its place of business to purchasers thereof located in various other States of the United States, and maintains, and at all times mentioned herein has maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Respondent Stern, Walters & Simmons, Inc., in the course and conduct of its businesses as aforesaid, now and for some time past has performed its said services in various States of the United States; it maintains, and at all times mentioned herein has maintained a substantial course of trade in said services in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of its business as aforesaid, and for the purpose of inducing the purchase of STP Corporation products, respondent STP Corporation has made and is now making statements and representations through advertisements published in newspapers and magazines, and by means of television and radio broadcasts. Respondent Stern, Walters & Simmons, Inc., in the course and conduct of its business as aforesaid, and for the purpose of inducing the purchase of STP Corporation products, made statements and representations through advertisements published in newspapers and magazines, and by means of television and radio broadcasts.

Typical of the statements and representations contained in said advertisements, but not all inclusive, are the following:

A. STP OIL TREATMENT

1. I'm a retired banker who likes to tinker with his car. I use STP Oil Treatment and value it very highly. I asked the dealer if it would be alright to use STP. He says, "If all our customers used it, we might just as well close down our repair shop."

2. New York Traffic. A real nightmare for taxis any time of the day. Meet cab driver Louis Cohen. He fights that traffic for a living. [Cabbie]: The secret to this job is to keep rolling. That's why I've used STP Oil Treatment in all my cabs for over six years now. That's over 300,000 miles * * * without a single starting problem or engine repair. [Anncr.] Take a tip from a cab driver. Have your service station add STP to your car's oil * * *.

3. I have a daughter in college in Arizona. She's using our Cutlass car which has 70,000 miles on it. And in her Christmas package, I included STP Oil Treatment so she could keep the old buggy running and she could get it back home one of these days.

4. If an engine's gotta go it alone, it might not make the finish. That's why there's STP Oil Treatment.

5. Being a mother with 3 little children, I don't know too much about cars. The reason I use STP Oil Treatment * * * if you had car problems, there isn't [sic] too many places around here that could help you [television advertisement showing mother with 3 small children driving car through apparently sparsely populated farming country]. It gives me

peace of mind knowing I can use a product such as STP * * * and I can get from one place to another without having to worry.

6. I drive to work in my Lincoln * * * and I do my work in my Volkswagen. Never had any engine trouble with either car * * * and I give STP Oil Treatment a lot of credit for that. This Volkswagen has nearly 262,000 miles on it and it's still going great. Did you know, with the help of STP, that's more than a quarter of a million miles.

7. I'm a firm believer in STP Oil Treatment. Ever since I bought my car new, I've had STP in the crankcase * * * and that's over 170,000 miles without engine trouble. It [sic] would still be driving today except for the damage in the front end.

8. Last year's Indy winner and U.S. National Champion Mario Andretti talks about auto racing and his plans for the future. [Mario]: Driving cars for a living is exciting, but its [sic] also very demanding. There's plenty to do without having to think about mechanical failure. That's why I rely on STP Oil Treatment to keep everything running smoothly.

9. THIS WINTER, KEEP YOUR OIL UP ALL NIGHT. Your engine won't say no to you in the morning, if you let STP Oil Treatment go to work for you at night. You see, oil alone, even all-weather oil, drains off the cylinder walls, pistons and other vital parts and runs down in the oil pan where it stiffens from the cold * * * STP helps your motor oil cling. No matter how long your car sits or how cold it gets. And you get the lubrication you need right from the start.

10. WINTERIZE YOUR OIL. Your car isn't really winter-weather-ready unless you've winterized your motor oil with STP. Let any car sit awhile — like overnight — and the oil, even all-weather oil, drains off the cylinder walls, pistons and other vital parts and runs down in the oil pan where it stiffens from the cold. So in the morning, there isn't always enough lubrication left on crucial parts to let the engine turn over easily without friction and wear. STP helps your motor oil stay up without draining down. No matter how long your car sits or how cold it gets. And you get the lubrication you need right from the start.

11. STP Oil Treatment is so rich and strong it won't drain off vital engine parts the way ordinary motor oil alone does.

12. Unlike ordinary motor oils, STP Oil Treatment clings to vital engine parts.

13. NON-FRICTION BEST SELLER * * *. The engine of your new car is subject to more friction and wear in the first 1000 miles than it is in the 10,000 miles that follow. How do you cut the friction that grinds away at engine life? Motor oil alone doesn't cut it, in our book. But STP blended with your favorite oil, does. STP, world's best-selling oil treatment, is so rich and strong it won't drain off engine parts or break down, the way ordinary motor oils alone do.

14. NEW CAR INSURANCE ONLY \$1.35. The first few miles of driving a new car may be the most fun for you. But they're the toughest for your engine * * * (P)rotect your investment by adding STP to the motor oil right from the start. STP Oil Treatment is so rich and strong it won't drain off vital engine parts the way ordinary motor oil alone does. By keeping harmful friction and wear out, STP coverage keeps your engine's youthful spirit in * * * for years.

15. A racing engine and your engine have some things in common. Heat. Friction. And wear. On the track, winning drivers like Mario Andretti rely on the strong, silent treatment that helps prevent these hazards: STP Oil Treatment. Strong because STP gives motor oil the added film strength it needs to stand up under heat and pressure. Fights damaging friction and wear like motor oil alone never could.

16. You've spent three grand or more on a sleek, suped-up, sporty car. Protect your investment. Add STP to your motor oil. At high speeds, new engines, especially high performance engines, are subject to friction that can cause metal breakdowns * * *. STP cuts the friction. Cuts the wear. Cuts it like no ordinary motor oil alone can * * *.

17. Nothing can wear down an engine's vital moving parts like friction and heat. Damage valves and rings. Bring the life cycle of any engine to a grinding halt. But you can kick that whole route with STP Oil Treatment. STP clings to metal parts better than ordinary motor oil alone. So mile after mile, your machine's engine gets all the extra lubrication it needs to cut friction to a fraction * * *.

18. [Television advertisement showing spacecraft heading for the moon, and an Indianapolis race car]. *Annrc.*: What do these two vehicles have in common? They're both the product of long years of scientific testing. They both require special care; special fuel and special lubrication. And your family car isn't any different. It needs special lubrication to protect its vital engine parts from everyday friction and wear. It needs STP Oil Treatment * * *.

19. IT'S NOT YOUR BATTERY THAT'S RUN DOWN, IT'S YOUR OIL. Your battery's not always to blame for hard winter starts. The real winter villain is probably your oil. You see, ordinary motor oil drains off and runs down to a pan — where it stiffens from the cold. Result? When you try to start your car, the engine doesn't have sufficient lubrication to turn over. So you overworrrrrk the battery 'til you, yourself, run it down. The answer — STP Oil Treatment. Unlike ordinary motor oils, STP Oil Treatment clings to vital engine parts. Gives you the lubrication you need to start up faster all winter long.

20. That summer drive is restful for you. But the pace wears your engine thin. You drive faster, farther, hotter than at any other time of the year. Which can cause ordinary motor oil to break down. Result: extreme heat on metal parts. Then engine wear. Then engine damage. Unless, of course, you use our cooling engine tonic: STP Oil Treatment. STP is so super-concentrated it clings to crucial parts, no matter how many miles you rack up in a day.

21. Watch out! Those wild beasts of heat, friction and wear can claw apart engine parts. You need extra protection against those mill-eating predators. The extra protection of STP Oil Treatment. STP lubricates better than regular motor oil alone. Helps your engine endure ferocious attacks * * * On dirt. On hard stuff. Load your machine with STP while you still can. It's survival of the fittest.

22. [Television demonstration] *Annrc.*: On the left, Jesse Takamiyama, biggest and most popular sumo wrestler in all Japan * * * he's come here to challenge Andy Granatelli in a test of strength. [Advertisement shows Granatelli and Takamiyama arm wrestling] *SFX*: GRUNTS OF EXERTION. [Shows Granatelli acknowledging Takamiyama's strength with a grin]. *Andy*: no wonder you're champ! Next contest, I choose the weapons. [Shows Takamiyama dipping a screwdriver tip into a can labelled "motor oil"]. *Andy*: Put it in there. And try to hang on! [Shows Takamiyama holding onto oil-coated screwdriver tip with no effort]. *Jesse*: It's very easy, Andy. *Andy*: I know. Now the *real* test (emphasis original). [Shows Takamiyama putting screwdriver tip in STP Oil Treatment can]. *Annrc.*: STP Oil Treatment is slipperier than motor oil alone * * * so this time, Andy should do better. *SFX*: CLANG! [Shows Takamiyama unable to hold onto screwdriver] *Andy*: You can't win them all, Jesse. [Shows Takamiyama returning to try again and again]. *SFX*: CLANG!

23. [Television demonstration, with voice of Mike Maertens, Nora Springs, Iowa]: Dear STP — Our mass media class at Nora Springs * * * High School has been conducting tests on a number of products. We chose to test STP Oil Treatment when we saw your commercial. We dipped a screwdriver in motor oil and found we could hang on. Then we repeated the procedure with STP and found we could not hang on * * * which proves STP is slipperier than motor oil alone. In conclusion, we found your product is as advertised.

24. ANTI-FREEZE FOR OIL. Short of Antarctica, all-weather oil doesn't really freeze. But tell that to your no-go car some cold winter morning when the oil is so still in the pan it can't get up in time to help turn over the engine. Or save your breath (and

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battery) by adding STP to the oil at your favorite gas station. STP Oil Treatment stays up all night * * * Lubricates you off to a racing start better than oil alone can. * * * Maybe it did startle you to learn there's an antifreeze for oil * * * [Advertisement pictures an engine covered with snow and icicles, with a match being lit under the engine].

B. STP GAS TREATMENT

1. STP Gas Treatment cleans and tunes your engine as you drive. Restores all the pep and power you expect from that four-wheel flame. Next time you fill 'er up, try STP Gas Treatment in your tank. If that doesn't light her fire, nothing will.

2. *Now* when you add it to your gas it cleans your spark plugs better, it cleans your carburetor better * * * so you're cleaning and tuning your engine as you drive. [emphasis in original].

3. Indianapolis, May 30 * * * Mario Andretti's car endured more punishment than your car's engine encounters in a lifetime * * * (A)nd STP Gas Treatment helped him get the mileage he needed to finish, kept his fuel system clean and trouble free, kept his engine tuned as he drove * * *.

4. If STP products worked so well for Mario Andretti, think what they'll do for your own family car * * *. (A)dd a can of STP Gas Treatment to your fuel today to clean your fuel system, tune your engine as you drive and give you the go-power that helped Andretti win the 500.

5. STP * * * cleans and tunes your engine as you drive * * * You'll feel the difference with the very first can.

6. [Television advertisement, audio portion]. *Charley*: Hey, Bill, get rid of that clunker yet? *Bill*: No, its running great now. C'n hardly believe it * * * (P)ut some new stuff in the tank * * * This is somethin' different. STP Gas Treatment. It's like a complete motor tune-up. * * * (K)now the best part, Charley. I was thinkin' of sellin' that car. And I fixed it fine * * * for only 65 .

7. Add it to your fuel and it eliminates power-robbing deposits of gun and varnish. Cleans and tunes your engine as you drive.

8. [Voice of Andy Granatelli, from audio portion of television advertisement]: Gentlemen, clean your engines. You'll really feel the difference.

9. Just add a can to your gasoline and, right away, it starts cleaning up on engine deposits.

C. STP Dual Oil Filter

1. STP Double Oil Filter. A filter in a filter to double clean your oil.

2. Two separate filters working together for dual filtration.

3. Because we utilize two filters, instead of just one, the STP Double Oil Filter is a lot less likely to clog.

4. The STP Internal Differential Pressure Valve * * * control(s) the amount of oil flow through the two filters depending on engine and weather demands.

5. [From audio portion of television advertisement]: ANDY GRANATELLI: You're looking at a rotary engine. We're testing the double oil filter on it now * * * because I believe the Wankel Rotary Engine will power the cars of tomorrow. Meanwhile, get the STP Double Oil Filter for your present car. Not just a single filter on it like the three leading brands, but a filter * * * [sound effects] * * * in a filter [showing one filter being inserted inside another] for extra protection. Next oil change, ask for the STP Double Oil Filter. A filter in a filter to double clean your oil.

6. STP Corporation unconditionally guarantees this filter. It meets or exceeds all

listed American automobile manufacturers' original equipment and/or warranty specifications.

PAR. 5. By and through the use of the statements, representations, and demonstrations set out in Paragraph Four above, and others of similar import not specifically set out herein, respondents have represented and are now representing that:

STP OIL TREATMENT

1. Every car needs STP Oil Treatment in order to obtain adequate protection against friction and wear; [see particularly Paragraph Four, subparagraphs A 13-18];

2. Every motor oil requires the addition of STP Oil Treatment in order to provide adequate engine lubrication; [see particularly Paragraph Four, subparagraphs A 9-21];

3. STP Oil Treatment makes every car which uses it easier to start in cold weather; [see particularly Paragraph Four, subparagraphs 9, 10, 19, 24];

4. STP Oil Treatment eliminates friction and wear in an automobile engine; [see particularly Paragraph Four, subparagraphs A-14];

5. The use of STP Oil Treatment will prevent every car which uses it from breaking down or requiring engine repairs; [see particularly Paragraph Four, subparagraphs A 1-8];

6. The screwdriver television demonstration proves that STP Oil Treatment mixed with motor oil will lubricate engines better than motor oil alone; [see particularly Paragraph Four, subparagraphs A 22];

STP GAS TREATMENT

7. STP Gas Treatment will provide a complete engine tune-up, or the equivalent of a complete engine tune-up, as the car is driven; [see particularly Paragraph Four, subparagraphs B 1-7];

8. STP Gas Treatment will clean the entire engine; [see particularly Paragraph Four, subparagraphs B 1-8];

STP DUAL OIL FILTER

9. The STP Dual Oil Filter meets or exceeds all automobile manufacturers' original equipment specifications for oil filters; [see particularly Paragraph Four, subparagraph C 6];

10. The motor oil flows consecutively through two separate filters, and therefore receives two separate cleanings, each time it passes through the STP Dual Oil Filter [see Paragraph Four, subparagraphs C 1-5].

PAR. 6. In truth and in fact:

STP OIL TREATMENT

1. Every car does not need STP Oil Treatment in order to obtain adequate protection against friction and wear.
2. Every motor oil does not require the addition of STP Oil Treatment in order to provide adequate engine lubrication.
3. STP Oil Treatment does not make every car which uses it easier to start in cold weather.
4. STP Oil Treatment does not eliminate friction and wear in an automobile engine.
5. The use of STP Oil Treatment will not prevent every car which uses it from breaking down or requiring engine repairs.
6. The screwdriver television demonstration does not prove that STP Oil Treatment mixed with motor oil will lubricate engines better than motor oil alone.

STP GAS TREATMENT

7. STP Gas Treatment will not provide a complete tune-up or the equivalent of a complete tune-up, as the car is driven.
8. STP Gas Treatment will not clean the entire engine.

STP DUAL OIL FILTER

9. The STP Dual Oil Filter does not meet or exceed all automobile manufacturers' original equipment specifications for oil filters.
10. The motor oil does not flow consecutively through two separate filters, and does not therefore receive two separate cleanings, each time it passes through the STP Dual Oil Filter.

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

PAR. 7. In the course and conduct of its business as aforesaid, and at all times mentioned herein, respondent STP Corporation has been, is now in substantial competition in commerce with corporations, firms and individuals in the sale of additives and other automotive products of the same general kind and nature as those sold by respondent STP Corporation.

In the course and conduct of its business as aforesaid, and at all times mentioned herein, respondent Stern, Walters & Simmons has been and is now in substantial competition in commerce with corporations, firms, and individuals in the business of rendering advertising services.

PAR. 8. The use by respondents of the aforesaid false, misleading and

deceptive statements, representations, and demonstrations 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, representations, and the demonstrations were and are true and into the purchase of substantial quantities of STP Corporation products, by reason of said erroneous and mistaken belief.

PAR. 9. 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 Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the bureau proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violations of the Federal Trade Commission Act; 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 aforesaid draft of complaint, a statement that the signing of such 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 thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its Rules, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Proposed respondent STP Corporation is a corporation existing and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business located at 1400 W. Commercial Blvd., Fort Lauderdale, Florida.

2. Proposed respondent Stern, Walters & Simmons, Inc. is a corporation existing and doing business under and by virtue of the laws of the State of Illinois, with its principal place of business located at 150 E. Huron St., Chicago, Illinois.

3. 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

A

It is ordered, That respondents STP corporation, and Stern, Walters & Simmons, Inc., corporations, and their officers, successors, assigns, representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device:

1. In connection with the advertising, offering for sale, sale, or distribution of STP Oil Treatment, or any other product the customary or usual use of which is as an additive to motor oil, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that any such product:

- a. Prevents cars which use it from experiencing mechanical breakdowns or from requiring repairs;
- b. Cures or remedies mechanical malfunctions;
- c. Eliminates friction or wear or is required to protect against friction or wear;
- d. Acts or performs like or has the effect of antifreeze in the oil; or will enable cars to start, or to start more easily, in cold weather;
- e. Is required in order to obtain lubrication from motor oil;
- f. Is slipperier than motor oil alone.

2. In connection with the advertising, offering for sale, sale, or distribution of STP Oil Treatment, or any other product the customary or usual use of which is as an additive to motor oil, or which is advertised for such use, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the capacities, characteristics, or qualities of motor oil or of any grade or weight of motor oil.

B

It is further ordered, That respondents STP Corporation, and Stern, Walters & Simmons, Inc., corporations, and their officers, successors, assigns, representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device in connection with

the advertising, offering for sale, sale or distribution of STP Gas Treatment, or any other product the customary or usual use of which is as an additive to gasoline, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that any such product:

1. Tunes an engine, or will provide the equivalent of a complete engine tune-up, or makes engine tune-ups unnecessary;
2. Provides any portion of an engine tune-up unless, in immediate conjunction therewith, respondents disclose, clearly and conspicuously, that the advertised product does not provide all of the features of a mechanical engine tune-up;
3. Cleans or helps to clean an entire engine without clearly designating the component or components or functional areas of the engine or other portions of the motor vehicle which are affected.

C

It is further ordered, That respondents STP Corporation, and Stern, Walters & Simmons, Inc., corporations, and their officers, successors, assigns, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device in connection with the advertising, offering for sale, sale or distribution of oil filters in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do cease and desist from:

1. Representing, directly or by implication, that any such product:
 - a. Meets, conforms with, or exceeds any automotive manufacturers' specifications, or is approved by any automobile manufacturer for use in connection with any vehicle or engine, when such is not the fact;
 - b. "Double cleans" motor oil, or representing in any other manner that any such product filters motor oil more than once each time the oil flows through the filter cannister except as provided in paragraph 2, immediately below, unless the motor oil flows through two or more filtering elements in series each time the motor oil flows through the filter cannister.
2. Using the words "dual," "double," "double stage," "two filters in one," "two stage," "filter within a filter," or any other terminology which suggests the presence of more than one filtering element, to describe any automotive oil filter without clearly disclosing that the motor oil is filtered only once each time it flows through the filter cannister, unless the motor oil flows through two or more filtering elements in series each time the motor oil flows through the filter cannister. In television advertising, the disclosure that motor oil may be filtered only once each time it flows through the filter cannister when

such is the fact shall be made in such a manner that it is clearly disclosed.

D

It is further ordered, That respondents STP Corporation and Stern, Walters & Simmons, Inc., corporations, and their officers, successors, assigns, agents, representatives and employees, directly or through any corporation, subsidiary division or other device, in connection with the advertising, offering for sale, sale or distribution of STP Oil Treatment, or any other product the customary or usual use of which is as an additive to motor oil, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from disseminating any advertisement in which a representation of benefit is made as to such product when used as an additive to motor oil unless (1) such representation is true; (2) respondent STP Corporation possesses and relies upon, prior to the time such representation is first made, a competent and reliable scientific test or tests or other objective data which substantiate such representation; or (3) with respect to respondent Stern, Walters & Simmons, Inc., respondent possesses and relies upon, prior to the time such representation is first made, a reasonable basis for such representation which shall consist of an opinion in writing signed by a person qualified by education and experience to render such an opinion (who, if qualified by education and experience, may be a person retained or employed by respondent's client) that a competent and reliable scientific test or tests or other objective data exist to substantiate such representation; *provided* that any such opinion also discloses the nature of such test or tests or other objective data and *provided further* that respondent neither knows, nor has reason to know, nor upon reasonable inquiry could have known, that such test or tests or other objective data do not in fact substantiate such representation or that any such opinion does not constitute a reasonable basis for such representation.

E

It is further ordered, That respondents STP Corporation and Stern, Walters & Simmons, Inc., corporations, and their officers, successors, assigns, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device in connection with the advertising, offering for sale, sale or distribution of STP Oil Treatment, STP Gas Treatment, STP Oil Filters, or any other product manufactured, sold or distributed by STP Corporation the customary or usual use of which is as an additive to motor oil or gasoline or as an

oil filter, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do cease and desist from:

1. Advertising by or through the use of or in conjunction with any test, experiment, or demonstration or the result thereof, or any other information or evidence that appears or purports to confirm or prove, or is offered as confirmation, evidence, or proof of any fact, product characteristic or the truth of any representation, which does not accurately demonstrate, prove or confirm such fact, product characteristic, or representation.

2. Using any pictorial or other visual means of communication with or without an accompanying verbal text which directly or by implication creates a misleading impression in the minds of viewers as to the true state of material facts which are the subject of said pictures or other visual means of communication.

3. Misrepresenting in any manner or by any means any characteristic, property, quality, or the result of use of any such product.

It is further ordered, That respondents STP Corporation and Stern, Walters & Simmons, Inc., shall forthwith distribute a copy of this order to each of their operating divisions and to each of their officers, agents, representatives or employees engaged in the creation or approval of advertisements.

It is further ordered, That respondents STP Corporation and Stern, Walters & Simmons, Inc., notify the Commission at least thirty (30) days prior to any proposed change in said 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 this order.

It is further ordered, That respondents STP Corporation and Stern, Walters & Simmons, Inc., shall, within sixty (60) days after service of this order upon them, file with the Commission, in writing, a report setting forth in detail the manner and form in which they have complied with this order.

Commissioner Hanford dissented on the grounds that the order is too weak and that STP should be explicitly required to qualify its future claims.

Complaint

87 F.T.C.

IN THE MATTER OF

PARKER ADVERTISING, INC.

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

Docket C-2778. Complaint, Jan. 12, 1976—Decision, Jan. 12, 1976

Consent order requiring a Palos Verdes Peninsula, Calif., advertising agency, among other things to cease representing that any automobile tire has any safety or performance characteristic or is superior in quality or performance to other tires; and making any generalized safety claims, such as "security." Further, respondent is required to have a "reasonable basis" in substantiation of claims regarding the safety or performance characteristics of any automobile product.

Appearances

For the Commission: *Bruce Parker.*

For the respondent: *Anthony Liebig, Lillick, McHose & Charles, Los Angeles, Calif.*

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 Parker Advertising, Inc., a corporation, hereinafter referred to as respondent, has 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 Parker Advertising, Inc. is a corporation, organized, existing and doing business under and by virtue of the laws of the State of California with its principal offices and place of business located at 609 Deep Valley Dr., Palos Verdes Peninsula, California.

PAR. 2. Respondent Parker Advertising, Inc. has been, and now is, an advertising agency of Bridgestone Tire Company of America, Inc., and has prepared and placed for publication advertising material, including but not limited to the advertising referred to herein, to promote the sale of the RD-170V steel belted radial tire, an automobile passenger tire sold and distributed by Bridgestone Tire Company of America, Inc.

PAR. 3. In the course and conduct of its business, respondent Parker Advertising Inc., has disseminated, and caused the dissemination of advertisements concerning the aforementioned product by various means in or affecting commerce, including but not limited to, advertisements printed in magazines and newspapers distributed by

the mail and across State lines, and transmitted by television and radio stations located in various States of the United States and in the District of Columbia, having sufficient power to carry such broadcasts across State lines, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said product.

PAR. 4. Among the advertisements so disseminated or caused to be disseminated by respondent is a print advertisement attached as Exhibit A.

PAR. 5. Through the use of the aforesaid statements and representations made in Exhibit A, respondent represented and is now representing, directly or by implication, that the RD-170V steel-belted radial tire is the best radial tire in America.

PAR. 6. At the time respondent made the representation as alleged in Paragraph Five, respondent did not possess and rely on a reasonable basis consisting of steel-belted radial tire is superior in terms of overall performance to all other radial tires in America. Therefore, the making of said representation as alleged in Paragraph Five constituted, and now constitutes, an unfair and deceptive act or practice in and affecting commerce.

PAR. 7. Further, through the use of the aforesaid statements and representations made in Exhibit A, respondent represented and is now representing, directly or by implication, that the RD-170V steel-belted radial tire is superior to all other radial tires in America with respect to the following characteristics:

1. Puncture protection;
2. Cornering and stopping; and
3. Gas mileage.

PAR. 8. Further, through the use of the aforesaid statements and representations made in Exhibit A respondent represented and is now representing, directly or by implication, that the RD-170V steel-belted radial tire provides a degree of long-run security and comfort that is rare in all other radial tires in America.

PAR. 9. At the time respondent made the statements and representations as alleged in Paragraphs Seven and Eight, respondent did not possess and rely on a reasonable basis consisting of competent scientific tests for making said statements and representations as herein alleged constituted, and now constitute, unfair and deceptive acts or practices in or affecting commerce.

PAR. 10. In the course and conduct of its aforesaid business, and at all times mentioned herein, respondent Parker Advertising, Inc., has been, and now is in substantial competition in or affecting commerce with other advertising agencies.

PAR. 11. The use by respondent of the aforesaid false, misleading,

deceptive or unfair statements and representations as alleged herein, and the dissemination of the aforesaid unfair or deceptive advertisements, has had, and now has, the capacity and tendency to mislead members of the consuming public into the purchase of substantial quantities of the RD-170V steel-belted radial tire sold and distributed by Bridgestone Tire Company of America, Inc. Further, as a result thereof, substantial trade is being unfairly diverted to respondent Parker Advertising, Inc., from its competitors.

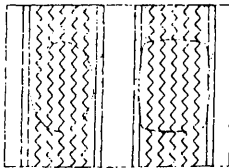
PAR. 12. The aforesaid acts and practices of respondent, as herein alleged, including the dissemination of unfair or deceptive advertisements, were and are all to the prejudice and injury of the public and of respondent Parker Advertising, Inc.'s competitors, and constituted and now constitute, unfair and deceptive acts or practices and unfair methods of competition in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act.

EXHIBIT A The best radial tire in America?

Now that radial rather than ordinary bias ply tires are becoming the safer-driving standard for thoughtful motorists, just what does it take to be tops in this radial revolution?

Among other things, superior wear—up to 40,000 miles or better. First rate puncture protection. Superior cornering and stopping. A quiet, comfortable ride and noticeably better gas mileage. And a price that keeps the cost per tire mile down in the mini-digits.

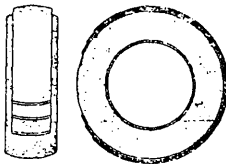
Bridgestone designed its RD-170V steel belted radial to meet all these requirements.



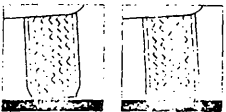
In our research laboratories, we found the right rubber compounds and tread to guarantee 40,000 easy-riding miles with a good

grip on all kinds of pavement. Then Bridgestone built a special radial tire factory.

For puncture protection we incorporated three steel belts (from our own steel cord



plant) instead of the usual two. They girdle the tire, hold the tread traction-firm and reduce tread-wearing squirm.



Additional fabric plies running straight across the



**BRIDGESTONE
TIRES** -5-

The time-honored quality tire. —

bead at a 90 degree angle work in parallel to permit maximum flexing without sawing or grinding.

Bridgestone's special combination of resilient fabric plies with girdling steel belts provides a rare degree of long-run security and comfort.

Among 3,200 types of Bridgestone tires do we build the best radial in America? You be the judge. Visit your Bridgestone dealer today.



Check the Yellow Pages for your local Bridgestone Tire Dealer.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the bureau proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violations of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of such agreement is for settlement purposes only and does not constitute an admission by respondent 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 thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Parker Advertising, Inc. is a corporation, organized, existing and doing business under and by virtue of the laws of the State of California with its principal offices and place of business located at 609 Deep Valley Dr., Palos Verdes Peninsula, California.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent and the proceeding is in the public interest.

ORDER

I

It is ordered, That respondent Parker Advertising, Inc., a corporation, its successors and assigns, officers, representatives, agents, employees, directly through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of any product in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that any automobile tire has any safety or performance characteristic or is superior in quality or performance to other tires, either overall or with respect to any such characteristic, unless at the time such representation is first disseminated respondent has a reasonable basis for such representation based on competent scientific tests in the possession of respondent or its client, and respondent has relied upon such tests. *Provided, furthermore,* That with respect to any representation concerning the safety of automobile tires which representation is not expressly limited to a specific safety characteristic(s), the basis for such a representation shall include, at the minimum, tests for the following characteristics: (a) stopping; (b) cornering; (c) puncture protection; and (d) high speed performance.

2. Failing to maintain in conjunction with Paragraph One of this order, all test results, data, and information which come into its possession and which constitute a basis for said representation, all of which shall be available in written form for inspection, upon reasonable notice, for at least three years following the final use of the representation.

3. Making any representation, directly or by implication, regarding the safety or performance characteristics of any automotive product, unless at the time such representation is first disseminated respondent has a reasonable basis for such representation in the possession of respondent or its client, and respondent has relied upon such basis. *Provided, however,* That with respect to automobile tires, the only reasonable basis for such a representation shall be competent scientific tests as specified in Paragraph One of this order.

4. Failing to provide for the maintenance of, in conjunction with Paragraph Three of this order, all test results, data, and information which come into its possession and which constitute a basis for said representation, all of which shall be available in written form for inspection, upon reasonable notice, for at least three years following the final use of the representation.

II

It is further ordered, That for the purpose of Paragraph One of Part I of this order:

1. A claim of "security" shall be construed as a safety claim in connection with automobile tires.

2. A representation as to the quality or performance characteristics of any automobile tire implies that it is superior in quality or performance to any other automobile tire or all other automobile tires if it is phrased in the comparative or superlative degree, or if any

advertising contained such representation conveys a net impression of comparative superiority.

III

It is further ordered, That respondent Parker Advertising, Inc., shall forthwith deliver a copy of this order to each of its operating divisions.

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change 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 that may affect the compliance obligations arising out of the order.

It is further ordered, That respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist.

IN THE MATTER OF
KOSCOT INTERPLANETARY, INC., ET AL.

MODIFYING ORDER, ETC., IN REGARD TO ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT AND SEC. 2 OF THE
CLAYTON ACT

Docket 8888. Decision, Nov. 18, 1975—Modifying Order, Jan. 13, 1976

Order modifying an earlier order dated Nov. 18, 1975, 40 F.R. 60044, 86 F.T.C. 1106, by deleting Paragraph VI requiring Koscot Interplanetary, Inc. to deliver copies of Section II of order to salespersons, franchisees, and distributors of their products and services; and requiring respondent to secure signed statements acknowledging each party's receipt of said copies.

Appearances

For the Commission: *Quentin P. McColgin* and *David D. Keehn*.

For the respondents: *Kenneth M. Robinson*, Washington, D.C.

ORDER MODIFYING FINAL ORDER

Respondent Koscot Interplanetary, Inc. has petitioned for reconsideration of the Commission's order issued November 18, 1975. Respondent asks that Paragraph VI be deleted. This paragraph requires circulation of certain portions of the order to those who undertake to distribute respondent's cosmetics. Complaint counsel oppose the petition, arguing that counsel for respondent in the administrative proceeding before the Commission had full opportunity to object to Paragraph VI, but instead indicated to the Commission at oral argument that he had no objection to those portions of the administrative law judge's order not dealing with restitution.

Ordinarily the Commission will not reconsider an issue where there has previously been an opportunity for the issue to be argued before the Commission (Rules of Practice, Section 3.55). However, the Commission may modify its order in appropriate circumstances (Section 3.72). Given the circumstances recited in petitioner's letter we will grant the request that Paragraph VI of the order of November 18, 1975, be deleted as to petitioner Koscot Interplanetary, Inc.

Respondent has also expressed uncertainty as to the meaning of Paragraph VII of the order. This is a standard reporting provision included in all Commission orders. It merely requires that the Commission be informed of any change in the corporation which might affect its compliance with an order. Such changes might include dissolution or sale to a new owner. At such time as the order in this matter becomes final, staff of the Commission in charge of compliance