

IN THE MATTER OF
VINYL IMPROVEMENT PRODUCTS COMPANY
CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-3087. Complaint, April 30, 1982—Decision, April 30, 1982

This consent order requires Vinyl Improvement Products Company (VIPCO), a manufacturer and seller of residential vinyl siding products, among other things, to cease paying for or disseminating any advertisement for vinyl siding that contains an energy-related claim. The order requires the firm to distribute a copy of the order to all personnel engaged in the promotion of vinyl siding. Further, VIPCO must mail to each business entity which has sold or distributed its products during the previous year a letter which advises that vinyl siding by itself does not save energy.

Appearances

For the Commission: *Steven H. Meyer and Michael Dershowitz.*

For the respondent: *Joseph J. Lyman, Lyman, Kyhos & Rales,*
Washington, D.C.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by that Act, the Federal Trade Commission, having reason to believe that Vinyl Improvement Products Company, a corporation, hereinafter sometimes referred to as respondent, has violated the provisions of Section 5 of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Vinyl Improvement Products Company is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Ohio, with its principal office and place of business located at 1441 Universal Drive, Columbus, Ohio.

PAR. 2. Respondent is now, and for some time past, has been engaged in the manufacture, advertising, promotion, offering for sale, sale and distribution of residential vinyl siding products.

PAR. 3. In the course and conduct of its business, respondent now causes, and for some time has caused, its residential vinyl siding products, when sold, to be shipped from its manufacturing plant in Columbus, Ohio to its distributors and retailers in various States of

the United States. For the purpose of inducing the purchase of its residential vinyl siding products by the consuming public, respondent disseminates and causes the dissemination of, and for some time has disseminated and caused the dissemination of certain advertisements and promotional materials through the use of the United States mail. Accordingly, respondent maintains, and has maintained, a substantial course of business, including the acts and practices as hereinafter set forth, which are in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Through the use of said advertisements and other promotional materials, respondent has made statements with regard to its vinyl siding products. Among these are the following statements:

Conserve energy

* * * * *

Lowers your fuel bills summer and winter

Enjoy a significant savings on heating costs . . .

* * * * *

Vinyl does not retain heat or cold . . . This resistance to heat and cold makes vinyl a superior Energy Saving material for insulation.

. . . can really help protect the home against expensive energy loss. Because it is solid vinyl, which does not readily transfer heat or cold, it helps keep out winter's freezing and summer's sweltering temperatures.

* * * * *

. . . insulates 1000 times better than ordinary aluminum siding.

Better insulation value than traditional siding such as aluminum or steel.

PAR. 5. By and through the use of statements set forth in Paragraph Four, respondent has represented and is now representing directly or by implication, that:

- a. vinyl siding, by itself, significantly conserves energy;
- b. vinyl siding, by itself, affords significant fuel bill savings;
- c. vinyl siding, by itself, is an effective insulating material because it is heat resistant;
- d. vinyl siding is superior to aluminum siding because it significantly exceeds aluminum siding in insulation value;

PAR. 6. In truth and in fact, contrary to respondent's representations set forth in Paragraph Five:

- a. vinyl siding, by itself, does not significantly conserve energy;
- b. vinyl siding, by itself, does not afford significant fuel bill savings;
- c. vinyl siding, by itself, is not an effective insulating material and is not heat resistant; indeed, because it is a very thin material, vinyl siding conducts heat at a high rate.
- d. vinyl siding does not exceed aluminum siding in insulation value; indeed, there is little, if any, difference in the insulation value of vinyl and aluminum siding.

Therefore, said advertisements and promotional materials were, and are false, deceptive, misleading or unfair.

PAR. 7. At the time respondent made the statements and representations alleged in Paragraphs Four and Five, it did not possess and rely upon a reasonable basis for such representations. Therefore, the statements and representations set forth and alleged in Paragraphs Four and Five were and are unfair, deceptive, or misleading.

PAR. 8. By and through the use of the aforementioned advertisements and promotional materials, respondent has represented and is now representing, directly or by implication, that it had a reasonable basis for the statements and representations set forth and alleged in Paragraphs Four and Five. In truth and in fact, respondent had no reasonable basis for the statements and representations set forth and alleged in Paragraphs Four and Five. Therefore, said advertisements and promotional materials were and are unfair, deceptive or misleading.

PAR. 9. The use by respondent of the aforesaid false, misleading, unfair or deceptive advertising and promotional materials, and the placement in the hands of its distributors and retailers of the means and instrumentalities by and through which others have used the aforesaid false, misleading, unfair or deceptive advertisements and promotional materials have had, and now have, the capacity and tendency to mislead consumers into the erroneous and mistaken belief that said statements and representations were and are true and complete, and into the purchase of respondent's vinyl siding products by reason of said erroneous and mistaken belief.

PAR. 10. The acts and practices of respondent as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors, and constituted and now constitute unfair methods of competition and unfair and deceptive acts and practices

in or affecting commerce, in violation of Section 5 of the Federal Trade Commission Act. The acts and practices of respondent, as herein alleged, are continuing and will continue in the absence of the relief herein requested.

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 of Consumer Protection proposed to present to the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorneys, 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 said 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 has 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 Vinyl Improvement Products Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 1441 Universal Drive, in the City of Columbus, State of Ohio.

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

For purposes of this order, the following definitions shall apply:

Advertisement means any illustration, depiction, written or oral statement, or other representation, whether the same appears in a television or radio broadcast, newspaper or label, brochure, leaflet, circular, mailer, book insert, journal, catalog, sales promotion material, other periodical literature, billboard, public transit card, point of purchase display, or in any other media.

Energy-related claim means any general or specific representation that, directly or by implication, describes or refers to energy savings, efficiency or conservation, fuel savings, insulating value, air infiltration, conductance of heat, or heat gain or loss.

Vinyl siding product means any vinyl siding product made from vinyl and used for residential purposes, and includes siding which is directly backed with material such as backerboard or drop-in panels. For purposes of this order, "vinyl siding product" does not include "siding systems," which are a combination of vinyl siding and any other product(s) which contain "insulation" as that word is defined by the Commission's Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation, 16 CFR 460 (1980).

PART I

It is ordered, That respondent Vinyl Improvement Products Company, a corporation, its successors and assigns, and its officers, 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 any vinyl siding product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from disseminating, causing to be disseminated, or paying in whole or in part for any advertisement which contains an energy-related claim.

PART II

It is further ordered, That respondent forthwith deliver a copy of this order to all present and future employees, personnel, or agents and representatives of respondent engaged in the creation, design, printing or dissemination of any advertisement promoting respondent's vinyl siding products; and that respondent obtain a signed statement acknowledging receipt of the order from each said person or entity.

PART III

It is further ordered, That respondent shall:

1. within thirty (30) days from the date of service of this order, send on Vinyl Improvement Products Company stationery, via first class mail, the letter attached hereto as Exhibit A, to each business entity which respondent's records show has been engaged in the offering for sale, sale or distribution of respondent's vinyl siding products directly or indirectly to the consuming public within one year prior to the date of service of this order; and
2. supply to the Federal Trade Commission upon request the names and addresses of those parties to whom respondent distributed the material required by Paragraph 1 of PART III of this order.

PART IV

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 which may affect compliance obligations arising out of this order.

PART V

It is further ordered, That the 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 this order.

EXHIBIT A

- ON VIPCO STATIONERY -

Dear Distributor or Retailer:

Some of the promotional materials which have been used for vinyl siding have contained claims that vinyl siding can produce energy savings. Because vinyl siding, by itself, does not save energy, we no longer make such claims. This is to advise you that you should stop representing that vinyl siding, itself, is an energy savings material.

You should note, however, that this applies only to energy savings claims made for vinyl siding alone, and not to advertising for insulation products such as Barrier Board. The labeling and advertising of insulation is covered by the FTC Home

Insulation Rule. Please remember that the Rule requires that the Fact Sheets we have distributed for Barrier Board must be given to the ultimate consumer whenever this product is sold. If you have any questions about the materials we have provided, or advertisements that you have developed, we would be pleased to advise you on such matters.

Sincerely,

VINYL IMPROVEMENT PRODUCTS COMPANY
(VIPCO)

Complaint

99 F.T.C.

IN THE MATTER OF
GENERAL ELECTRIC COMPANY

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT AND SEC. 7 OF
THE CLAYTON ACT

Docket C-3088. Complaint, May 4, 1982—Decision, May 4, 1982

This consent order requires a Fairfield, Conn. diversified, industrial company, among other things, to divest its stock in Applicon, a major producer of stand-alone, turnkey, interactive graphics computer aided design/computer aided manufacturing ("CAD/CAM") systems, under a two-part divestiture plan to be completed by March 31, 1982. Pending divestiture, the order prohibits GE from exerting any influence over Applicon's operations; voting its stock in a manner which would be contrary to that in which it votes all other shares; and obtaining, from Applicon, confidential information of any kind. Additionally, for a five-year period, any GE employee who was in any way affiliated with Applicon is barred from serving in any position in Calma Company, a Sunnyvale, Calif. subsidiary of United Telecommunications, Inc., including its board of directors; prohibited from disclosing confidential information received during their tenure with Applicon, and barred from intervening in any of Calma's business operations. GE is also prevented from discriminating against Applicon, when purchasing CAD/CAM systems and products and restricted, for a ten-year period, from acquiring any interest in any firm engaged in the manufacture and sale of CAD/CAM products without prior Commission approval.

Appearances

For the Commission: *George S. Cary, Daniel J. Yakoubian and Donna Bowling.*

For the respondent: *Joseph Handors*, in-house counsel, Fairfield, Conn.

COMPLAINT

The Federal Trade Commission, having reason to believe that respondent, subject to the jurisdiction of the Commission, has acquired Calma Company ("Calma"), a wholly-owned subsidiary of United Telecommunications, Inc., in violation of Section 7 of the Clayton Act, as amended (15 U.S.C. 18), and Section 5 of the Federal Trade Commission Act, as amended (15 U.S.C. 45), and that a proceeding in respect thereof would be in the public interest, hereby issues its complaint, pursuant to Section 11 of the Clayton Act (15 U.S.C. 21) and Section 5(b) of the Federal Trade Commission Act (15 U.S.C. 45(b)), stating its charges as follows: