

Complaint

117 F.T.C.

IN THE MATTER OF

EL PORTAL LUGGAGE, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3499. Complaint, June 20, 1994--Decision, June 20, 1994*

This consent order prohibits, among other things, a Nevada-based retailer of luggage and other leather goods from misrepresenting the identity of the country of origin of any product it sells, and from removing, altering, obliterating, or concealing any country of origin designation attached to a product that it receives or offers for sale.

*Appearances*For the Commission: *Sylvia Kundig* and *Barry L. Costilo*.For the respondent: *Pro se*.

COMPLAINT

The Federal Trade Commission, having reason to believe that El Portal Luggage, Inc., a corporation, ("respondent"), has violated the provisions 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, alleges:

PARAGRAPH 1. Respondent El Portal Luggage, Inc., is a Nevada corporation, with its principal office or place of business at 4432 Aldebaran Avenue, Las Vegas, Nevada.

PAR. 2. Respondent owns and operates 18 retail luggage stores located in the western United States. It sells luggage and small leather goods, including planners, portfolios, shoulder bags, carry-on luggage, and standard size suitcases. The luggage lines sold by El Portal include Ralph Lauren Polo, Tumi, and Yamani.

PAR. 3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

PAR. 4. Some of the goods that respondent has offered for sale, and sold, are foreign-made. These goods have been delivered to respondent with labels affixed thereto that state the country-of-origin.

PAR. 5. From at least as early as 1990, respondent has on various occasions deliberately removed labels that state the foreign country-of-origin from such goods before they were offered for sale.

PAR. 6. During much of this period, window and in-store signs in certain of respondent's stores that offered the goods identified in paragraph five have emphasized that many of the products respondent sells are made in the United States.

PAR. 7. Through the acts and practices referred to in paragraphs five and six, respondent has represented, directly or by implication, that the goods without the labels referred to in paragraph five were manufactured in the United States.

PAR. 8. In truth and in fact, the goods referred to in paragraph seven were not manufactured in the United States. Therefore, the representation as set forth in paragraph seven was, and is, false and misleading.

PAR. 9. The acts or practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

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 San Francisco Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation 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 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 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 makes the following jurisdictional findings and enters the following order:

1. Respondent El Portal Luggage, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada, with its office and principal place of business located at 4432 Aldebaran Avenue, Las Vegas, Nevada.

2. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

3. 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, El Portal Luggage, Inc., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the labeling, advertising, promotion, 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 misrepresenting, in any manner, directly or by implication, the identity of the country-of-origin of any product.

II.

It is further ordered, That respondent, El Portal Luggage, Inc., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any

corporation, subsidiary, division or other device, in connection with the 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 removing, altering, obliterating, or concealing any country-of-origin designation that is on or attached to any product that respondent receives and offers for sale.

III.

It is further ordered, That for five (5) years after the last date of dissemination of any representation covered by this order, respondent, or its successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying all materials that were relied on in disseminating such representations.

IV.

It is further ordered, That the respondent shall:

A. Within thirty (30) days after the date of service of this order, provide a copy of this order to each of its current directors and officers, and to each employee, agent, and representative having any sales, advertising, or policy responsibility with respect to the subject matter of this order, and obtain from each such person a signed statement acknowledging receipt of this order; and

B. For ten (10) years from the date of issuance of this order, provide a copy of this order to each of its directors and officers, and to each employee, agent, and representative having any sales, advertising, or policy responsibility with respect to the subject matter of this order, within fifteen (15) days after such person commences his or her duties, and obtain from each such person a signed statement acknowledging receipt of this order.

V.

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

VI.

It is further ordered, That respondent shall, within sixty (60) days after the date of service of this order upon it and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

IN THE MATTER OF

SONIC TECHNOLOGY PRODUCTS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket 9252. Complaint, Feb. 25, 1992--Decision, June 21, 1994*

This consent order prohibits, among other things, a California company and its officers from representing that any ultrasonic pest control device can eliminate rodent or flea infestations, and from misrepresenting the results of any scientific studies regarding their ultrasonic pest control products.

Appearances

For the Commission: *Matthew D. Gold, David M. Newman and Sylvia J. Kundig.*

For the respondents: *Caswell O. Hobbs, Peter E. Halle and Patrick J. Pascarella, Morgan, Lewis & Bockius, Washington, D.C.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Sonic Technology Products, Inc., a corporation ("Sonic" or "respondent"), and W. Lowell Robertson and Brian Phillip Jobe, individually and as officers of said corporation (also each a "respondent"), have violated the provisions 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, alleges:

PARAGRAPH 1. Respondent Sonic is a California corporation, with its office and principal place of business located at 120 Richardson Street, Suite C, Grass Valley, California.

PAR. 2. Respondent W. Lowell Robertson resides in Nevada City, California. Respondent Robertson is and was at all times pertinent to this complaint an officer and director of Sonic. Individually or in concert with others, Robertson formulates, directs, controls, or participates in Sonic's business practices, including the acts and practices set forth herein.