

IN THE MATTER OF

HYDE ATHLETIC INDUSTRIES, INC.

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

Docket C-3695. Complaint, Dec. 4, 1996--Decision, Dec. 4, 1996

This consent order prohibits, among other things, a Massachusetts-based corporation from misrepresenting that footwear made wholly abroad is made in the United States, and the consent order contains a provision indicating that the respondent would not be in violation of the order if the company makes truthful statements concerning domestic production of footwear, as long as it is accompanied by certain disclosures.

Appearances

For the Commission: *C. Steven Baker and Theresa McGrew.*

For the respondent: *David Wolf, Wolf, Greenfield & Sachs,*
Boston, MA.

COMPLAINT

The Federal Trade Commission, having reason to believe that Hyde Athletic Industries, 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 Hyde Athletic Industries, Inc., is a Massachusetts corporation which manufactures and sells footwear. Its principal office or place of business is located at 13 Centennial Industrial Park Drive, Peabody, Massachusetts.

PAR. 2. Respondent has manufactured, assembled, advertised, labeled, offered for sale, sold, and distributed athletic and other footwear under the trademark "Saucony," to consumers.

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. Respondent has disseminated or has caused to be disseminated advertisements, including product labeling, and other

promotional materials for footwear sold under the Saucony trademark including, but not necessarily limited to, the attached Exhibits 1-8.

The "Help The Country" advertisement (Exhibit 1) states:

"IT CAN EVEN HELP THE COUNTRY GET BACK ON ITS FEET."

"Built With Pride In BANGOR MAINE USA"

" Any running shoe company can help keep Americans in shape. At Saucony, we've helped keep America in shape. That's because we've been a major employer in New England since 1906. Generation after generation, our family-owned company has worked with the families of Bangor, Maine to build Saucony shoes and a history of quality craftsmanship."

"For 86 years, we've worked in America. And helped make America work. After all, it's the best way we know to keep athletes - and the economy - running smoothly."

The "Front-Runners" advertisement (Exhibit 2) states:

"IF ONLY THE OTHER FRONT-RUNNERS COULD KEEP A PROMISE FOR 86 YEARS."

"Built With Pride In BANGOR MAINE USA"

"Eight-six years ago, we pledged to build out footwear at home in New England. Since then, our family-owned company has worked with the families of Bangor, Maine to build Saucony shoes and a history of quality craftsmanship."

The "Economic Problems" advertisement (Exhibit 3) states:

"FURTHER PROOF THAT ECONOMIC PROBLEMS CAN BE SOLVED AT THE GRASS ROOTS LEVEL."

"Built With Pride In BANGOR MAINE USA"

"At Saucony, we've been a major employer in New England for 86 years. Generation after generation, our family-owned company has worked with the families of Bangor, Maine to build Saucony shoes and a history of quality craftsmanship."

"Through it all, we've discovered that the best way to solve economic problems is to build from the ground up."

The advertisements attached as Exhibits 4 and 5 include the statements made in Exhibits 2 and 3, respectively, and also include a fine print statement at the bottom of each advertisement which states:

"In-Line running shoes built in Bangor, Maine. 'Classic' running styles and some components are imported. Call 1-800-365-7282 for more details."

The advertisement attached as Exhibit 6 is a different version of the "Help The Country" Advertisement (Exhibit 1) which states:

"IT CAN EVEN HELP THE COUNTRY GET BACK ON ITS FEET."

"Built With Pride In BANGOR MAINE USA"

"Any running shoe company can help keep Americans in shape. At Saucony, we've helped keep America in shape. That's because we've been a major employer in New England since 1906. Generation after generation, our family-owned company has worked with the families of Bangor, Maine to build Saucony shoes and a history of quality craftsmanship."

A fine print statement at the bottom of this advertisement states:

"In-Line running shoes built in Bangor, Maine. 'Classic' running styles and some components are imported. Call 1-800-365-7282 for more details."

The "American" advertisement (Exhibit 7) states:

"PROUD TO BE AN AMERICAN"

"Built With Pride In BANGOR MAINE USA"

"The new wave of American patriotism sweeping the country has a few of our competitors shaking in their imported shoes. At Saucony, we've been a major employer in New England for 86 years. Generation after generation, our family-owned company has worked with the families of Bangor, Maine to build Saucony running shoes and a history of quality craftsmanship."

A fine print statement at the bottom of this advertisement states:

"In-Line running shoes built in Bangor, Maine. 'Classic' running styles and some components are imported. Call 1-800-365-7282 for more details."

The "PRIDE IN AMERICA" advertisement (Exhibit 8) states:

"PROUD TO BE AN AMERICAN."

"Built With Pride In BANGOR MAINE USA"

"For decades, the people of Bangor, Maine have been building Saucony running shoes with superior American craftsmanship."

"In honor of these American shoemakers..."

"The Saucony Bangor is the newest addition to our line of high quality American-built running shoes."

"TRADE IN YOUR IMPORTS AND WE'LL SEND YOU \$10 FOR BUYING THE SAUCONY BANGOR."

A fine print statement at the bottom of this advertisement states:

"In Line Running Shoes are built in Bangor, Maine using imported components, except the Class Running styles which are assembled abroad."

PAR. 5. Through the use of the statements contained in the advertisements referred to in paragraph four, including, but not necessarily limited to, the advertisements attached as Exhibits 1-8, respondent has represented, directly or by implication, that all Saucony footwear is made in the United States.

PAR. 6. In truth and in fact, a substantial amount of Saucony footwear is wholly made in foreign countries. Therefore, the representation set forth in paragraph five was, and is, false and misleading.

PAR. 7. The acts and 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.

Commissioner Starek dissenting.

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Complaint

EXHIBIT 1



IT CAN EVEN HELP THE COUNTRY GET BACK ON ITS FEET.

Any running shoe company can help keep Americans in shape. At Saucony, we've helped keep America in shape. That's because we've been a major employer in New England since 1906. Generation after generation, our family-owned company has worked with the families of Bangor, Maine to build Saucony shoes and a

history of quality craftsmanship.

In fact, the people of Saucony have built quite a reputation over the years. In 1942, we marched out a line of upward-winning army boots to help the war effort. During the "race for space" in the 1960's, the first astronaut to walk in space walked in a pair of Saucony boots. And when astronauts ran tests aboard the space

shuttle in 1991, they were running in our shoes.

For 86 years, we've worked in America. And helped make America work. After all, it's the best way to know to keep athletes - and the economy - running smoothly.



Saucony.

WE'RE IN THE SHOE BUSINESS, NOT SHOW BUSINESS.

Kangaroo Crossing
Worcester

Saucony Running Shoes are available at:
The Frontrunner
Mills

City Sports
All Locations

EXHIBIT 1

Complaint

122 F.T.C.

EXHIBIT 2



IF ONLY THE OTHER FRONT-RUNNERS COULD KEEP A PROMISE FOR 86 YEARS.

Of all the big names in the running shoe business, Saucony is the only one with a history of keeping promises. Eighty-six years ago, we pledged to build our footwear at home in New England. Since then, our family-owned company has worked with the families of Bangor, Maine to build Saucony shoes and a history of quality craftsmanship.

In fact, the people of Saucony have built quite a reputation over the years. In 1942, we marched out a line of award-winning army boots to help the war effort. During the "race for space" in the 1960's, the first astronaut to walk in space walked in a pair of Saucony boots. And when astronauts ran tests aboard the space shuttle in 1991, they were running

in our shoes.

Since 1906, we've been a part of America. And tried to do our part for America. From Bangor to Baton Rouge to Bakersfield, that's a track record that will only improve in the future.

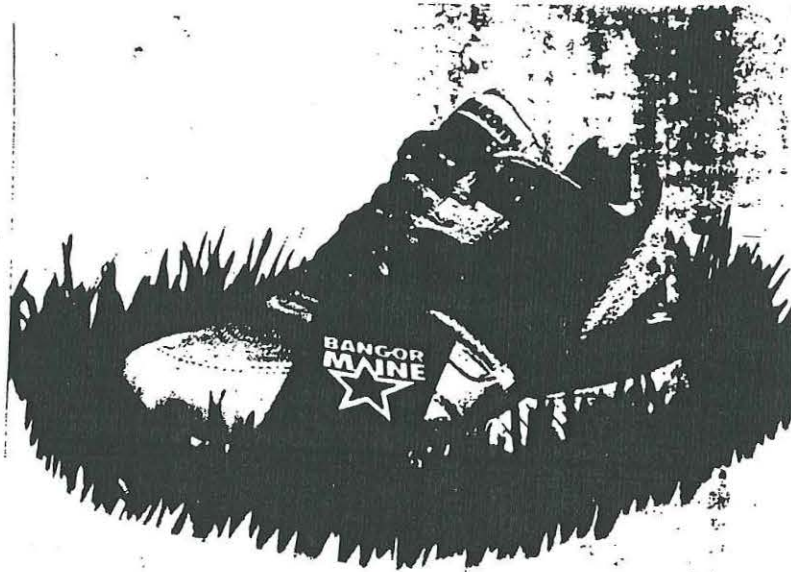


Saucony.

THE SHOE BUSINESS, NOT SHOW BUSINESS.

EXHIBIT 2

EXHIBIT 3



FURTHER PROOF THAT ECONOMIC PROBLEMS CAN BE SOLVED AT THE GRASS ROOTS LEVEL.

Maine's small running shoe company can't keep the entire country running strong, but we can certainly help our part of it. At Saucony, we've been a major employer in New England for 86 years. Generation after generation, our family-owned company has worked with the families of Bangor, Maine to build

Saucony shoes and a history of quality craftsmanship.

In fact, the people of Saucony have built quite a reputation over the years. In 1942, we marched out a line of award-winning army boots to help the war effort. During the "race for space" in the 1960's, the first astronaut to walk in space walked in a pair of Saucony boots. And when

astronauts ran tests aboard the space shuttle in 1991, they were running in our shoes.

Since 1906, we've helped shape America. And helped keep it in shape. Through it all, we've discovered that the best way to solve economic problems is to build from the ground up.

Saucony.

WE'RE IN THE SHOE BUSINESS, NOT SHOW BUSINESS.

Call 1-800-365-SALCONY for the dealer nearest you or visit:

Fast Feet
Springfield

Edward Hanlon
Framingham

Mohr's Sporting Goods
Haverhill

Southern
Winchester

Select Foot Locker and
Lodi Foot Locker stores

EXHIBIT 3

Complaint

122 F.T.C.

EXHIBIT 4

IF ONLY THE OTHER FRONT-RUNNERS COULD KEEP A PROMISE FOR 86 YEARS.



Of all the big names in the running shoe business, Saucony is the only one with a history of keeping promises. Eighty-six years ago, we pledged to build our shoes in New England. Since then, our company has worked

Bangor, Maine to build Saucony shoes and a history of quality craftsmanship. From Bangor to Baton Rouge to Bakersfield, that's a track record that will only improve in the future.



Saucony.

WE

BUSINESS, NOT SHOW BUSINESS.

Runners High
Menlo Park

dealer nearest you or visit

Vintage Sports Company
Sonoma

Sports A Foot
Petaluma

For more information, call 1-800-365-7382 for more details.

EXHIBIT 4

EXHIBIT 5

FURTHER PROOF THAT ECONOMIC PROBLEMS CAN BE SOLVED AT THE GRASS ROOTS LEVEL.



Maybe a small running shoe company can't keep the entire country running strong, but we can certainly help our part of it. At Saucony, we've been a major employer in New England for 86 years. Generation after generation, our family-owned company has worked with the families

of Bangor, Maine to build Saucony shoes and a history of quality craftsmanship. Through it all, we've discovered that the best way to solve economic problems is to build from the ground up.



Saucony.

WE'RE IN THE SHOE BUSINESS, NOT SHOW BUSINESS.

Call 1-800-365-SALCONY for the dealer nearest you or visit

Athlete's Foot
Greensboro

Omega Sports
All Locations

R&M Sports
Greensboro

Sportline of Hilton Head
Greensboro

Athletic World
Chapel Hill

31 color running shoes built in Bangor, Maine. "Classic" running styles and some components are imported. Call 1-800-365-7382 for more details.

EXHIBIT

Complaint

122 F.T.C.

EXHIBIT 6

© 1992 Hise America Industries, Inc.

IT CAN EVEN HELP THE COUNTRY GET BACK ON ITS FEET.



Any running shoe company can help keep Americans in shape. At Saucony, we've helped keep America in shape. That's because we've been a major employer in New England since 1906. Generation after generation, our family-owned company has worked with the town of Bangor, Maine to build Saucony shoes and a history of quality craftsmanship. After all, it's the way we know to keep the town and the economy—running smoothly.

**Built With Pride In
BANGOR
MAINE
USA**

WE'RE IN THE SHOE BUSINESS NOT SHOW BUSINESS.

Call 1-800-365-7467

Big 5 Sporting Goods
All Locations

Copelands Sports
All Locations

SEE YOU AT VISIT

Fleet Feet Sports
All Locations

Sport Chalet
All Locations

EXHIBIT 7

PROUD TO BE AN AMERICAN.



The new wave of American patriotism sweeping the country has a few of our competitors shaking in their imported shoes. At Saucony, we've been a major employer in New England since 1906. Generation after generation, our family-owned company has worked with the families of Bangor, Maine to

build Saucony running shoes and a history of quality craftsmanship. So the next time you see a pair of Saucony shoes on the road, remember, our pride is showing.



Saucony.

WE'RE IN THE SHOE BUSINESS, NOT SHOW BUSINESS.

Call 1-800-365-SAUCONY for the dealer nearest you or visit

Fleet Feet
Davis

Fleet Feet
Salem

Fleet Feet
Fair Oaks

Fleet Feet
Roseville

Sporting Feet
All Locations

Some running shoes built in Bangor, Maine. "Classic" running shoes and some components are imported. Call 1-800-365-7282 for more details.

EXHIBIT 7

Complaint

122 F.T.C.

EXHIBIT 8



**PROUD TO
BE AN
AMERICAN.**



**SHOW YOUR PRIDE IN AMERICA AND VOTE.
THEN SHOW YOUR PRIDE IN AMERICAN CRAFTSMANSHIP.**

For centuries the people of Bangor, Maine have been building Sittumy running shoes with superior American craftsmanship. Each pair represents the pride and character of our workers. In honor of these American shoemakers, Sittumy is building a running shoe with their name and the Sittumy Runners as the newest addition to our line of high quality American made running shoes. The Bangor mill is the source of the finest leather and the finest stitching. The Sittumy Runners are supported and cushioned by a special Sittumy running shoe. And the Sittumy Runners are the only running shoes that are made in America.

TRADE IN YOUR OLD FOR BUYING

WE'VE GOT A LOT OF NEW SHOES TO CHOOSE FROM. WE'VE GOT THE BEST QUALITY SHOES AT THE LOWEST PRICES. WE'VE GOT THE BEST SERVICE AND THE BEST PRICES. WE'VE GOT THE BEST SERVICE AND THE BEST PRICES.

WE'RE IN THE SHO

get your size. He's h... it wears. After you buy a pair of
Saucony Hungers at a fine sporting athletic shoe dealer.

TRADE IN YOUR IMPORTS AND WE'LL SEND YOU \$10
FOR BUYING THE SAUCONY BANGOR.

mail us the original store receipt, the coupon below, the UPC code on the Bangor shoe box and your unpaired running shoes—then we'll send you a \$100 gift card. To be eligible for \$100, those shoes received must be in usable condition and returned to the homeless. So please give a new leader a helping hand by donating your old shoes to the homeless.

Saucony

WE'RE IN THE SHOE BUSINESS NOT SHOW

in Los Blurring when are built in Bangor Maine using improved components except the 1700 Running wheel

EXHIBIT 9

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 Chicago 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, its counsel, 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, or that the facts 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 Hyde Athletic Industries, Inc., is a Massachusetts corporation with its principal office or place of business at 13 Centennial Industrial Park Drive, Peabody, Massachusetts. Proposed respondent is a U.S. manufacturer, importer, and seller of footwear, with manufacturing facilities in Bangor, Maine.

2. The acts and practices of the 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

DEFINITION

For purposes of this order, the term "*clearly and prominently*" shall mean as follows:

A. In a television or video advertisement, the disclosure shall be presented simultaneously in both the audio and video portions of the advertisement. The audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. The video disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for an ordinary consumer to read and comprehend it.

B. In a radio advertisement, the disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.

C. In a print advertisement, the disclosure shall be in a type size, and in a location, that is sufficiently noticeable so that an ordinary consumer will see and read it, in print that contrasts with the background against which it appears. In multipage documents, the disclosure shall appear on the cover or first page.

D. On a product label, the disclosure shall be in a type size, and in a location on the principal display panel, that is sufficiently noticeable so that an ordinary consumer will see and read it, in print that contrasts with the background against which it appears.

Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement or on any label.

I.

It is ordered, That respondent, Hyde Athletic Industries, Inc., 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 manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any footwear 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, that footwear made wholly abroad is made in the United States.

Provided, however, that respondent will not be in violation of this order, if, in connection with a truthful representation about domestic production of its footwear, it makes one of the following disclosures, if truthful, in a clear and prominent manner.

- A. "Most Saucony models are made in the USA"; or
- B. "Models __ are not made in the USA"; or
- C. "Only models __ are imported"; or
- D. "__ % of Saucony footwear is made in the USA."

This proviso shall not apply to any advertising, labeling or promotional material containing any depiction of or other representation relating to footwear made wholly abroad.

II.

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:

- A. All materials that were relied upon in disseminating such representations; and
- B. All tests, reports, studies, surveys, demonstrations, or other evidence in its possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

III.

It is further ordered, That the respondent shall distribute a copy of this order to each of its operating divisions and to each of its officers, agents, representatives, or employees engaged in the preparation or placement of advertisements, promotional materials, product labels or other such sales materials covered by this order.

IV.

It is further ordered, That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as a 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 under this order.

V.

It is further ordered, That respondent shall, within sixty (60) days after 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.

VI.

It is further ordered, That this order will terminate on December 4, 2016, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later;

Provided, however, that the filing of such a complaint will not affect the duration of:

A. Any paragraph in this order that terminates in less than twenty (20) years;

B. This order's application to any respondent that is not named as a defendant in such complaint; and

C. This order if such complaint is filed after the order has terminated pursuant to this paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this paragraph as though the complaint was never filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline

for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

Commission Starek dissenting.

DISSENTING STATEMENT OF COMMISSIONER ROSCOE B. STAREK, III

I would have preferred to have issued the original consent agreement rejected by the Commission last fall. As I have consistently stated, case-by-case enforcement -- rather than a regulatory proceeding -- is the appropriate means to evaluate the "Made in USA" standard.¹ Since a majority of the Commission has opted to conduct a broad review of the "Made in USA" standard, however, it is premature for the Commission to condone use of the Made in USA claims set forth in the safe harbor until it proclaims what the standard is.

¹ See Request for Public Comment in Preparation for Public Workshop Regarding "Made in USA" Claims in Product Advertising and Labeling, 60 FR 53930 (October 18, 1995) (Dissenting Statement of Commissioner Roscoe B. Starek, III); Hyde Athletic Industries, Inc., File No. 922-3236 (Dissenting Statement of Commissioner Roscoe B. Starek, III).

IN THE MATTER OF

RBR PRODUCTIONS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3696. Complaint, Dec. 10, 1996--Decision, Dec. 10, 1996*

This consent order prohibits, among other things, a New Jersey-based company and its officer from misrepresenting the health, safety and environmental benefits of its beauty salon disinfectant products and aerosol spray, and requires the respondents to possess reliable and competent scientific evidence to substantiate such representations.

Appearances

For the Commission: *Janet Evans* and *C. Lee Peeler*.

For the respondents: *Pro se*.

COMPLAINT

The Federal Trade Commission, having reason to believe that RBR Productions, Inc., a corporation, and Richard Rosenberg, individually and as an officer and director of said corporation ("respondents"), 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 RBR Productions, Inc., is a New Jersey corporation, with its offices and principal place of business located at 1010 Hoyt Avenue, Ridgefield, New Jersey. From time to time, RBR Productions, Inc., does business under the name of Isabel Cristina Beauty Care Products.

Respondent Richard Rosenberg is or was at relevant times herein an officer and director of RBR Productions, Inc. Individually or in concert with others, he formulates, directs, and controls the acts and practices of the corporate respondent, including the acts and practices alleged in this complaint. His office and principal place of business is the same as that of RBR Productions, Inc.

PAR. 2. Respondents have advertised, offered for sale, sold, and distributed products for use in beauty salons, including Let's Dance,