

IN THE MATTER OF

SPLITFIRE, INC.

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

Docket C-3737. Complaint, April 28, 1997--Decision, April 28, 1997

This consent order prohibits, among other things, the Illinois spark plugs manufacturer from making fuel economy, emissions, horsepower, or cost savings claims without competent and reliable scientific evidence to support them. The consent order also prohibits misrepresentations regarding the existence, contents, validity, results, conclusions or interpretations of any test or study. In addition, the consent order requires the respondent to possess competent and reliable scientific evidence to substantiate claims in endorsements or testimonials.

Appearances

For the Commission: *Laura Fremont and Matthew Gold.*

For the respondent: *Edward Geltman, Squire, Sanders & Dempsey, Washington, D.C.*

COMPLAINT

The Federal Trade Commission, having reason to believe that SplitFire, 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:

1. Respondent SplitFire, Inc. is an Illinois corporation with its principal office or place of business at 4065 Commercial Avenue, Northbrook, Illinois.

2. Respondent has manufactured, advertised, labeled, offered for sale, sold, and distributed automotive products to the public, including the "SplitFire Spark Plug," an internal combustion engine spark plug with one split or forked electrode.

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.

4. Respondent has disseminated or has caused to be disseminated advertisements for SplitFire Spark Plugs, including but not necessarily limited to the attached Exhibits A through D. These advertisements contain the following statements and depictions:

...
A. "Good [Depiction of a conventional spark plug]
Conventional Plugs

...
Better [Depiction of a platinum-tipped spark plug]
Platinum Plugs

...
BEST [Depiction of a SplitFire Spark Plug]
SplitFire Plugs

...
Experts say improved combustion of the fuel/air mixture results in:
MORE POWER · MORE MILEAGE · LOWER EMISSIONS

The SplitFire Advantage

'It Only Costs More Until You Use It!'TM

Equipped with conventional spark plugs, up to 15% of the combustion cycles in a modern engine end up in 'partial misfires.' SplitFire's larger flame kernel helps reduce partial misfires, and experts say it helps improve:

PERFORMANCE

ECONOMY

EMISSIONS

* More horsepower

* More M.P.G.

* Lower emissions

...
Improved combustion efficiency means that a higher percentage of fuel is converted to power, not partially-burned exhaust. Higher efficiency means you get more out of every ounce of fuel, so you use less of it."

(Exhibit A, consumer brochure)

B. "CONSUMER RESEARCH RESULTS

SplitFire conducts continuous consumer surveys to constantly monitor 'real life' performance in all vehicle types, coast-to-coast.

...
Of all users (regardless of vehicle type, age, condition, and use) responding:

...
70% reported a gas mileage increase of from 1 to 6 more miles per gallon."

(Exhibit B, product catalog)

C. Consumer Endorser: "Yeah, I went from probably 300 miles on a full tank to almost 400."

...
Consumer Endorser: "I probably was getting, I would say about 20 miles more per tankful, and that's a lot for me!"

...
Consumer Endorser: "And when you're driving a four-wheel drive vehicle, you need all the extra gas mileage you can get."

(Exhibit C, television ad)

D. "SplitFire. At \$5.99, America knows it only costs more 'til you use it!

...
Consumer Endorser: 'I can say I've saved at least \$3 - \$4 a week.'

...
Consumer Endorser: 'They'll pay for themselves, basically, in the first 6 months you own 'em.'"

(Exhibit D, television ad)

5. Through the means described in paragraph four, respondent has represented, expressly or by implication, that:

A. Use of SplitFire Spark Plugs will result in significantly better fuel economy than will use of either conventional spark plugs or platinum-tipped spark plugs.

B. Use of SplitFire Spark Plugs will result in significantly lower emissions than will use of either conventional spark plugs or platinum-tipped spark plugs.

C. Use of SplitFire Spark Plugs will result in significantly greater horsepower than will use of either conventional spark plugs or platinum-tipped spark plugs.

D. Use of SplitFire Spark Plugs will result in significant cost savings over use of either conventional spark plugs or platinum-tipped spark plugs.

E. The testimonials or endorsements from consumers appearing in advertisements and promotional materials for SplitFire Spark Plugs reflect the typical or ordinary experience of members of the public who use SplitFire Spark Plugs.

F. 70% of SplitFire Spark Plug users achieve a gas mileage increase of from 1 to 6 more miles per gallon.

6. Through the means described in paragraph four, respondent has represented, expressly or by implication, that it possessed and relied upon a reasonable basis that substantiated the representations set forth in paragraph five, at the time the representations were made.

7. In truth and in fact, respondent did not possess and rely upon a reasonable basis that substantiated the representations set forth in paragraph five, at the time the representations were made. Therefore, the representation set forth in paragraph six was, and is, false or misleading.

8. Through the means described in paragraph four, respondent has represented, expressly or by implication, that competent and reliable studies or surveys show that 70% of SplitFire users achieve a gas mileage increase of from 1 to 6 more miles per gallon.

9. In truth and in fact, competent and reliable studies or surveys do not show that 70% of SplitFire users achieve a gas mileage increase of from 1 to 6 more miles per gallon. Therefore, the representation set forth in paragraph eight was, and is, false or misleading.

10. 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.

Complaint

123 F.T.C.

EXHIBIT A

SplitFire. . .
"IT ONLY COSTS MORE
UNTIL YOU USE IT!"



Conventional Plug produces a "lean" mixture of fuel and air.
 SplitFire Plug produces a "rich" mixture of fuel and air.

Improved combustion efficiency means that a higher percentage of fuel is converted to power, not partially burned exhaust. Higher efficiency means you get more out of every ounce of fuel, so you use less of it.

The SplitFire Spark Plug design has earned a United States patent. SplitFire doesn't look like any other spark plug (plug, it doesn't look like any other spark plug).

MORE POWER AT ANY RPM!



SplitFire produces more power at any RPM. In a dynamometer test, a 1968 Ford Mustang equipped with SplitFire Spark Plugs has been breaking records in all classes, 1000 to 10000 RPM.

PHOTOGRAPHIC PROOF!



Under the GM spark plug 335 hour torture test, "standard" plugs usually require replacement every 100 to 200 hours. The SplitFire Plug, however, has been tested for 1000 hours. The SplitFire Plug also kept the combustion chamber cleaner (right) compared to standard plugs (left).

—HOT ROD

COMBUSTION VARIABLES AND PARTIAL MISFIRES

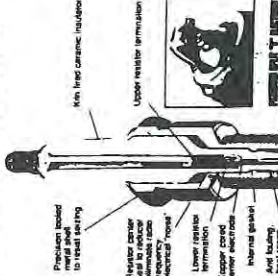
What causes partial misfires? It can be any one — or a combination — of factors. Among the most common:

- Fuel/air ratio too rich/too lean
- Incomplete mixture of fuel and air
- Contaminated fuel
- Worn mechanical parts
- Carbon build-up
- Oil fouling

Modern engines with high energy ignition systems and electronic fuel injection typically have a misfire rate below 5 percent. Insignificant? Hardly. Even a 2.5 percent misfire rate means one partial misfire every single second. And all engines worsen with time.

Older cars, with point and condenser ignition systems, carburetors and less sophisticated combustion chambers, can show a partial misfire rate approaching 15 percent (that's six per second at 2500 RPM).

The First Major Breakthrough Over Conventional Spark Plugs in 75 Years.



Precision honed to 100,000ths of an inch.
 Non-fired ceramic insulator.
 Upper resistor (termination).
 Reflector insulator (seals to resistor, eliminates radio interference, electrical "noise").
 Lower resistor.
 Copper core (cover electrode).
 Internal gasket.
 And housing (heat ring).
 Center insulator.

THIS IS THE ENEMY: A POWER-ROBBING, FUEL-WASTING, EMISSION-CAUSING PARTIAL MISFIRE. Equipped with conventional spark plugs, up to 15 percent of the combustion cycles in a modern engine end up in "partial misfires." The spark plug actually fires, but the resulting flame does not cause total ignition. Here is a typical example:



Not all of the exhaust from an engine cycle is burned. The combustion is incomplete.

There may be the beginning of an engine cycle, but the flame does not burn the entire cycle (all).

The conventional flame that cannot burn enough heat and energy to cause complete combustion is lost.

THIS IS A POWER SPLITTING, FUEL WASTING, EMISSION-CAUSING PARTIAL MISFIRE. Maximum engine efficiency is lost.

Exhausted engine cycles by the unburned fuel being lost. The unburned fuel being lost means a loss of power, a loss of fuel, and a loss of heat.

FUEL WASTING
 Fuel waste combustion means that a large amount of fuel is never converted to energy.

The SplitFire Advantage:
 SplitFire Spark Plugs help expose the flame to the entire combustion chamber, ensuring a more complete combustion cycle.



SplitFire
 Conventional



LOWER OCTANE NEEDS — THE SplitFire ADVANTAGE

It's a fact that only a very small percentage of cars are produced with a manufacturer's requirement for any thing more than regular unleaded 87 octane fuel.

Many motorists, however, in response to an ever increasing loss of power — or hesitation — or hesitation — decide to go to the dealer's manual. They decide their car "needs" premium fuel — making it a continuous additional expense of approximately 20 cents per gallon.

There's an easy, economical alternative.

At the HOT ROD photographs clearly show SplitFire plugs a more complete burn — which leaves the combustion chamber cleaner and virtually free of unburned fuel and carbon build up that can cause pre-ignition. That same combustion efficiency reduces the unburned fuel — and with it, the source of hesitation.

Results, obviously, vary depending upon initial car condition, age, and operation, but read these reviews and check that last period again. Consider this:

90 percent of SplitFire users surveyed reported equal or better performance with lower octane fuel!

EXHIBIT A p. 1

1231

Complaint

EXHIBIT A

SplitFire

• MORE POWER
• MORE MILEAGE
• LOWER EMISSIONS

30 DAY MONEY-BACK TRIAL PERIOD

SplitFire SPARK PLUGS
U.S. Patent 4,658,774

Good

Conventional Plugs

- Shorter life span (10,000 miles)
- More frequent oil changes
- More engine wear
- More frequent spark plug replacement
- More frequent tune-ups
- More frequent ground electrode wear
- More frequent ground electrode replacement

Better

Platinum Plugs

- Longer life span (20,000 miles)
- Less frequent oil changes
- Less engine wear
- Less frequent spark plug replacement
- Less frequent tune-ups
- Less frequent ground electrode wear
- Less frequent ground electrode replacement

BEST

SplitFire Plugs

- SplitFire open electrode heart
- Patented design allows larger and quicker flame development
- Flare design not blocked by ground electrode
- Expects any improved combustion of the air/fuel mix
- Expects any improved combustion of the air/fuel mix

The SplitFire Advantage

"It Only Costs More Until You Use It!"

SplitFire plugs are made to replace conventional plugs in virtually all gasoline engines. Owners of older and less efficient cars who simply replaced their SplitFire Spark Plugs reported dramatic performance improvement.

2 YEAR* LIMITED WARRANTY AGAINST DEFECTS

30 DAY* MONEY-BACK TRIAL PERIOD

Every SplitFire comes with a 100% satisfaction guarantee. Money back 30 day trial period.

For SplitFire Technical Assistance, please call 1-800-477-5647
9:00 AM - 5:00 PM EST
*100% money back guarantee on defective plugs only

EXHIBIT A p. 2

FREQUENTLY ASKED QUESTIONS - WITH ANSWERS YOU'LL LIKE.

- Q. Are SplitFire Spark Plugs restricted to high performance engines?
- A. No. SplitFire plugs are made to replace conventional plugs in virtually all gasoline engines. Owners of older and less efficient cars who simply replaced their SplitFire Spark Plugs reported dramatic performance improvement.
- Q. Does the installation of SplitFire Spark Plugs require a change in ignition timing?
- A. No. Timing should not be altered from your vehicle manufacturer's specification.
- Q. Do I need to gap SplitFire Spark Plugs prior to installation?
- A. Yes. The gap of the SplitFire Spark Plugs should be set to your vehicle manufacturer's specification. (Do not use bench-type gapping tool.)
- Q. Do SplitFire Spark Plugs come in resistor and non-resistor types? What about heat ranges?
- A. SplitFire plugs are made to replace conventional plugs in virtually all gasoline engines. SplitFire plugs are made to replace conventional plugs in virtually all gasoline engines. SplitFire plugs are made to replace conventional plugs in virtually all gasoline engines.
- Q. What if my car has an on-board computer?
- A. An increasing percentage of vehicles are equipped with a variety of sensors which report to an on-board computer. Cars with this equipment generally require a 200 to 500 mile "burn in" period after the computer is adjusted to the improved combustion efficiency.
- Q. Why do SplitFire Spark Plugs cost more than a standard plug?
- A. The ultra premium design of our SplitFire Spark Plug, with its exclusive patented ground electrode, requires the highest manufacturing technology available today. And as the experts point out, SplitFire's exclusive increased fuel economy along with the ability to burn more efficiently, means fuel. "It only costs more until you use it!"

WHETHER YOU'RE PASSING CARS...OR GAS PUMPS...OR EMISSIONS CONTROL CHECKS -WITH SplitFire, YOU'LL WIN. OR YOU'LL GET YOUR MONEY BACK!

SplitFire Is The Most-Tested, Most-Talked-About, Most-Prized New Automotive Product In The Past 75 Years!



HOT ROD "Overall gas mileage over a 4,000-mile test...a 4.78 percent gain."

MIATA "We recommend this plug for all Miata owners, even in new cars."

TRUCKIN' "It seems too simple, but elapsed times at the dragstrip have been lowered by a tenth of a second and live extra horsepower in the dyno room have been accomplished by merely installing these plugs."

SUPER FORD "A mostly stock, 99.5.0 liter Mustang ran 10 quicker in the quarter mile..."

MOPAR MUSCLE "In street applications the plugs are less prone to fouling and deposit build-up, resulting in better performance and longer life."

MUSTANG ILLUSTRATED "We found that the hydrocarbon (emissions) rate was reduced over 50 percent."

SUPER FORD "Ran 10 quicker in the quarter mile. Mileage, Power and Emissions gains!"

CHRYSLER POWER "It's so unique and advanced that all OEM vehicles will use the SplitFire patent..."

Complaint

123 F.T.C.

EXHIBIT B

**CONVENTIONAL PLUGS COST CONSUMERS MORE—
MUCH MORE—THAN SPLITFIRES!**

Patented SplitFire Spark Plugs only cost more than conventional spark plugs . . . until you start to use them.

Let's talk money:

FUEL SAVINGS

If you drive 12,000 miles a year in a 6-cylinder car—and you get *half* the miles per gallon increase ("4 extra miles per gallon") reported by *TRUCKIN' Magazine* . . .

Over two years, if your mileage increased from 18 MPG to 18 MPG . . . your savings on fuel (at \$1.25 per gallon) would not only completely pay for the SplitFires—it would also give you an additional cash savings of \$129.25!

This example assumes that you pay \$36 dollars for your set of SplitFires—and, to repeat, assumes that you get *half* the mileage increase reported by *TRUCKIN' Magazine*.

Because no two cars are the same, you might save less—or much, much more!

There's no risk to see how much you'll save: Every SplitFire comes with a no-questions-asked, 30-day money-back guarantee!

EMISSIONS TEST SAVINGS

None of us want our vehicles to pollute the environment—and an ever-growing number of cities and states are passing strict emissions control tests to make sure no one does.

Until SplitFire, the corrective options for a vehicle that fails an emissions control test were financially costly and time consuming: Major tune-ups and timing readjustments; new sensors and/or onboard computer controls; new catalytic converters . . . and on and on.

What's the quick, easy, money-saving alternative? The pros know:

MUSTANG ILLUSTRATED: "We found (that by installing SplitFire Spark Plugs) the hydrocarbon (emissions) rate was reduced over 50 percent . . ."

HOT ROD: "The emissions reduction alone warrants using SplitFire Spark Plugs in those cars having trouble passing local emissions checks."

Those aren't *claims*, those are *quotes*. Simply replacing conventional spark plugs with SplitFires can not only help save the environment—they could save you substantial corrective repair money too!

There's no risk to see how much you'll save: Every SplitFire comes with a no-questions-asked, 30-day money-back guarantee!

OCTANE SAVINGS

Only a very small percentage of cars are produced with a manufacturer's requirement for "premium" or even "mid-range" gasoline.

Many motorists, in response to an ever-increasing loss of power and/or decreased "drivability" (rough idle, hard starts and "run on?") decide they "need" premium fuel.

Using conventional plugs costs them a penalty of approximately 20 cents on every gallon of gas they buy! 90 percent of SplitFire owners surveyed reported equal or better performance on *split-testing* fuel.

At 12,000 miles per year and 18 MPG (the same example from "Fuel Savings" above), saving 20 cents per gallon would save \$133.22 per year. That's in addition to the miles per gallon savings!

With SplitFires, the more you drive the more you save!

There's no risk to see how much you'll save: Every SplitFire comes with a no-questions-asked, 30-day money-back guarantee!

CONSUMER RESEARCH RESULTS

In addition to on-going technical testing in engineering labs, SplitFire conducts continuous consumer surveys to constantly monitor "real life" performance in all vehicle types, coast-to-coast.

These surveys are not restricted to any one area or type of vehicle or type of use. While primary reasons for initial purchase ("want more power" . . . "want better mileage" . . . "have to cut emissions") vary significantly, the degree of overall user satisfaction rate did not. Of all users (regardless of vehicle type, age, condition, and use) responding:

- 82% reported an increase in power with SplitFire
- 70% reported a gas mileage increase of from 1 to 6 more miles per gallon
- 100% experienced "no spark plug fouling"
- 91% said they would buy SplitFires for other vehicles and/or equipment they own
- 94% intend to replace their current set of SplitFires with a new set of SplitFires.

1231

Complaint

EXHIBIT C

Tape labeled:

Splitfire Spark Plugs
"Economy #1"
SFE-101193 (:30)

Yeah I went from probably 300 miles on a full tank to almost 400.

(on screen: Splitfire - the Patented Performance Spark Plug)

America is talking about Splitfire.

I probably was getting, I would say about 20 miles more per tankful, and that's a lot for me!

And when you're driving a four wheel drive vehicle, you need all the extra gas mileage you can get.

I have them on my motorcycle, my boat, and my car. I love 'em.

(Splitfire: The Patented Performance Spark Plug -

In [sic] only costs more until you use it)

Splitfire, at \$5.99 it only costs more 'till you use it.

EXHIBIT D

Splitfire Spark Plugs/Wire Set
"Testimonial"

SFT-94-803WS (:50/:10)

My truck has 99,000 miles on it, and it's like a brand new engine.

(onscreen: America is taling [sic] about Splitfire. The patented performance spark plug)

America is talking about Splitfire. I feel like I have a new engine.

No hesitation. You hit your passing gear, you're gone! Right now!

("U.S. patent #4268774")

Splitfire won a United States patent. It doesn't look like any other sparkplug, it doesn't work like any other sparkplug.

(conventional spark plug - U.S. patented Splitfire)

I love 'em. I have them on my motorcycle, my boat, and my car. I love them. I love them.

(Splitfire - the patented performance spark plug)

Splitfire, at \$5.00, America knows it only costs more, 'till you use it!

(It only costs more until you use it.)

I can say I've saved at least \$3 - \$4/week.

Probably getting, I would say about 20 miles more per tankful. And that's a lot for me! They'll pay for themselves, basically, in the first 6 months you own 'em!

(Splitfire - the patented performance spark plug - It only costs more until you use it.)

Splitfire -- it only costs more, 'till you use it!

Here's another Splitfire breakthrough! Twin coil wire sets -- with a dual firing path to every plug.

(Box shown. More power! More mileage! 30-day money back guarantee!

Details in store.)

More power, and more mileage, or your money back!

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 the complaint that the San Francisco Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the 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 the respondent that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true, 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 a 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 SplitFire, Inc. is an Illinois corporation with its principal office or place of business at 4065 Commercial Avenue, Northbrook, Illinois.

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

DEFINITIONS

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

1. "*Competent and reliable scientific evidence*" shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

2. Unless otherwise specified, "*respondent*" shall mean SplitFire, Inc., a corporation, its successors and assigns, and its officers, agents, representatives and employees. For purposes of this order, "successors" shall include, but not be limited to:

(a) Any person who

(1) Markets the SplitFire spark plug, any split-electrode spark plug, or any spark plug with more than two electrodes; and

(2) Holds or has held an ownership interest in and/or serves or has served as an officer of respondent SplitFire, Inc.; and

(b) Any entity that

(1) Markets the SplitFire spark plug, any split-electrode spark plug, or any spark plug with more than two electrodes; and

(2) Is owned or controlled, wholly or in part, by any person who holds or has held an ownership interest in respondent SplitFire, Inc. and/or serves or has served as an officer of respondent SplitFire, Inc.

3. "*In or affecting commerce*" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

I.

It is ordered, That respondent, 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 the "SplitFire Spark Plug," or any other motor vehicle product, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, about:

- A. The effect of such product on a vehicle's fuel economy;
- B. The effect of such product on a vehicle's level of emissions;
- C. The effect of such product on a vehicle's horsepower; or

D. The comparative or absolute cost savings that such product will contribute to or achieve,

unless, at the time it is made, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

II.

It is further ordered, That respondent, 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 motor vehicle product, in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, the existence, contents, validity, results, conclusions or interpretations of any test, study, or research.

III.

It is further ordered, That respondent, 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 motor vehicle product, in or affecting commerce, shall not represent, in any manner, expressly or by implication, that the experience represented by any user testimonial or endorsement of the product represents the typical or ordinary experience of members of the public who use the product, unless:

A. At the time it is made, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation; or

B. Respondent discloses, clearly and prominently, and in close proximity to the endorsement or testimonial, either:

1. What the generally expected results would be for users of the product, or

2. The limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to experience similar results.

For purposes of this Part, "endorsement" shall mean as defined in 16 CFR 255.0(b).

IV.

It is further ordered, That respondent, 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 motor vehicle product, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, about the benefits, performance, or efficacy of such product, unless, at the time the representation is made, respondent possesses and relies upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the representation.

V.

It is further ordered, That respondent SplitFire, Inc. and its successors and assigns shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All advertisements and promotional materials containing the representation;

B. All materials that were relied upon in disseminating the representation; and

C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

VI.

It is further ordered, That respondent SplitFire, Inc. and its successors and assigns, shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondent shall deliver this order to current personnel within thirty (30) days after the date of

service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

VII.

It is further ordered, That respondent SplitFire, Inc., and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the corporation that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C.

VIII.

It is further ordered, That respondent SplitFire, Inc., and its successors and assigns, shall, within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade 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.

IX.

This order will terminate on April 28, 2017, 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 Part 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 Part.

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 Part as though the complaint had never been 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.

Complaint

123 F.T.C.

IN THE MATTER OF

ZALE CORPORATION

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3738. Complaint, April 28, 1997--Decision, April 28, 1997*

This consent order prohibits, among other things, the Texas-based chain of retail jewelry stores from misrepresenting the composition or origin of any imitation, cultured or natural pearl product. The consent order requires the respondent to include a word such as "artificial," "imitation," or "simulated" in close proximity to any representation that an imitation pearl product contains pearls; and to include a word such as "cultured" or "cultivated" in close proximity to any representation that a cultured pearl product contains pearls. In addition, the consent order requires the respondent, for three years, to make available to consumers in their stores an information sheet that describes the origin of imitation, cultured or natural pearls.

Appearances

For the Commission: *Matthew Gold.*

For the respondent: *Alan P. Shor*, in-house counsel, Irving, TX.

COMPLAINT

The Federal Trade Commission, having reason to believe that Zale Corporation, 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:

1. Respondent Zale Corporation is a Delaware corporation with its principal office or place of business at 901 W. Walnut Hill Lane, Irving, Texas.

2. Respondent operates the country's largest chain of retail jewelry stores with more than 1,200 locations throughout the United States, Guam, and Puerto Rico.

3. Respondent has manufactured, advertised, labeled, offered for sale, sold, and distributed the "Ocean Treasures" line of imitation pearl jewelry, and numerous other lines of cultured pearl jewelry, to the public. These lines of jewelry have included bracelets, earrings, pendants, rings and strands. None of respondent's jewelry products has included natural pearls.