actually imposed and in good faith adhered to by respondents.

7. Representing, directly or by implication, that any price for respondents' products or services is a special or sale price, unless such price constitutes a significant reduction from an established selling price at which such products or services have been sold in substantial quantities by respondents in the recent regular course of their business; or misrepresenting in any manner the savings available to purchasers or prospective purchasers of respondents' products or services.

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

IN THE MATTER OF

DELCO CARPETS, INC., TRADING AS DELCO CARPET MILLS, INC.*

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE FEDERAL TRADE COMMISSION AND THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACTS

Docket 8692. Complaint, July 11, 1966—Decision, Dec. 21, 1966

Order requiring a Los Angeles, Calif., installer of wall to wall carpeting to cease misbranding, falsely advertising, and deceptively guaranteeing its merchandise and misrepresenting that it manufactures its carpeting.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Textile Fiber Products Identification Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Delco Carpet Mills, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said Acts and the Rules and Regulations promulgated under the Textile Fiber Products Identification Act, and it appearing to the Commission that a proceeding by it in re-

*Reported as amended by the hearing examiner so as to state the correct corporate name.

spect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Delco Carpet Mills, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California.

The respondent is engaged in the sale and installation of wall to wall carpeting. The respondent has its office and principal place of business at 3623 West Jefferson Boulevard, Los Angeles, California.

PAR. 2. Subsequent to the effective date of the Textile Fiber Products Identification Act on March 3, 1960, respondent has been and is now engaged in the introduction, delivery for introduction, sale, advertising, and offering for sale, in commerce, and in the transportation or causing to be transported in commerce, and in the importation into the United States, of textile fiber products; and has sold, offered for sale, advertised, delivered, transported and caused to be transported, textile fiber products, which have been advertised or offered for sale in commerce; and has sold, offered for sale, advertised, delivered, transported and caused to be transported, after shipment in commerce, textile fiber products, either in their original state or contained in other textile fiber products; as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

PAR. 3. Certain of said textile fiber products were misbranded by respondent within the intent and meaning of Section 4(a) of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, in that they were falsely and deceptively stamped, tagged, labeled, invoiced, advertised, or otherwise identified as to the name or amount of constituent fibers contained therein.

Among such misbranded textile fiber products, but not limited thereto, were floor coverings which were falsely and deceptively advertised in the Los Angeles Times, a newspaper published in the city of Los Angeles, State of California, and having a wide circulation in said State and various other States of the United States, in that the respondent in disclosing the fiber content information as to floor coverings containing exempted backings, fillings, or paddings, failed to set forth such fiber content information in such a manner as to indicate that it applied only to the face, pile, or outer surface of the floor coverings and not to the exempted backings, fillings, or paddings.

PAR. 4. Certain of said textile fiber products were further misbranded by respondent in that they were not stamped, tagged, labeled or otherwise identified as required under the provisions of Section 4(b) of the Textile Fiber Products Identification Act and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded textile fiber products, but not limited thereto, were rolls of carpeting on display in the respondent's showroom with labels which failed:

(a) To disclose the true percentage of the fibers present by weight; and

(b) To disclose the name, or other identification issued and registered by the Commission, of the manufacturer of the said carpeting or one or more persons subject to Section 3 of the said Act with respect to such carpeting.

PAR. 5. Certain of said textile fiber products were falsely and deceptively advertised in that respondent in making disclosures or implications as to the fiber content of such textile fiber products in written advertisements used to aid, promote, and assist directly or indirectly in the sale or offering for sale of said products, failed to set forth the required information as to fiber content as specified by Section 4(c) of the Textile Fiber Products Identification Act and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

Among such textile fiber products, but not limited thereto, were floor coverings which were falsely and deceptively advertised in the Los Angeles Times, a newspaper published in the city of Los Angeles, State of California, and having a wide circulation in said State and various other States of the United States, in that the said textile fiber products were advertised by means of fiber implying terms such as "Acrilans" without the aforesaid required information being set forth.

PAR. 6. Certain of said textile fiber products were falsely and deceptively advertised in violation of the Textile Fiber Products Identification Act in that they were not advertised in accordance with the Rules and Regulations promulgated thereunder.

Among such textile fiber products, but not limited thereto, were textile fiber products which were falsely and deceptively advertised by means of advertisements placed by the respondent in the Los Angeles Times, a newspaper published in Los Angeles, California, in the following respects:

A. In disclosing the required fiber content information as to

floor coverings containing exempted backings, fillings, or paddings, such disclosure was not made in such a manner as to indicate that such required fiber content information related only to the face, pile, or outer surface of the floor covering and not to the backing, filling, or padding, in violation of Rule 11 of the aforesaid Rules and Regulations.

B. A fiber trademark was used in advertising textile fiber products without a full disclosure of the fiber content information required, in the said advertisement, in violation of Rule 41(a) of the aforesaid Rules and Regulations.

C. A fiber trademark was used in advertising textile fiber products containing only one fiber and such fiber trademark did not appear at least once in the said advertisement, in immediate proximity and conjunction with the generic name of the fiber in plainly legible and conspicuous type, in violation of Rule 41(c) of the aforesaid Rules and Regulations.

PAR. 7. The acts and practices of the respondent as set forth above were, and are, in violation of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, and constituted, and now constitute unfair methods of competition and unfair and deceptive acts or practices, in commerce, under the Federal Trade Commission Act.

PAR. 8. In the course and conduct of its business respondent now causes and for some time last past, has caused its said products namely floor coverings to be advertised and offered for sale in issues of the Los Angeles Times, a newspaper published in the city of Los Angeles, State of California, and distributed in interstate commerce and thereby has been engaged in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 9. In the course and conduct of its business in soliciting the sale of and in selling the aforesaid products, respondent has advertised:

By direct from the mills—Save to 40% off and more.

* * * * * * *

CARPET MILL CLEAR OUT

To make room for shipment arriving ahead of schedule from our Georgia mill

* * * * * * *

CARPET MILL BARGAIN DAYS

PAR. 10. In the course and conduct of its business in soliciting the sale of and in selling the aforesaid products the respondent

has represented on invoices that it has mills at Ft. Oglethorpe, Georgia, and Los Angeles, California.

PAR. 11. In the course and conduct of its business in soliciting the sale of and in selling the aforesaid products, respondent does business under the name Delco Carpet Mills, Inc., and uses said name on letterheads, invoices, labels and tags, and in various advertisements of its products.

PAR. 12. By means of the aforesaid advertisements and invoices and through the use of the word "Mills" as part of respondent's corporate name, respondent represents that it owns or operates mills or factories in which the textile products sold by it are manufactured and that such mills or factories are located in Georgia and California.

PAR. 13. Although respondent does have a single carpet loom located in its place of business, such loom is used only infrequently, and produces only a minute portion of its stock and in truth and in fact respondent does not own, operate, or control any mills or factories in Georgia or California where the aforesaid products sold by it are manufactured. Further the respondent maintains its sole place of business in Los Angeles, California.

PAR. 14. There is a preference on the part of many consumers and the purchasing public to buy products including floor coverings, directly from factories or mills, believing that by doing so lower prices and other advantages thereby accrue to them.

PAR. 15. In the course and conduct of its business as aforesaid, the respondent has made representations in newspapers to the buying public respecting a guarantee of their carpeting. Said representations have been made in advertisements appearing in issues of the aforementioned Los Angeles Times, among others.

Illustrative and typical of such representations, but not all inclusive, is the following.

10 Year Unconditional Guarantee

PAR. 16. Through the use of the statements and representations set forth above and others similar thereto, but not specifically set out herein, respondent has represented, directly or indirectly, to a substantial portion of the purchasing public that such merchandise was unconditionally guaranteed for ten years' normal wear.

PAR. 17. In truth and in fact said merchandise was not in fact unconditionally guaranteed for a period of ten years as neither the nature or extent of the guarantee nor the manner in which the guarantor would perform were set forth in connection there-

with. The foregoing and similar statements made by respondent as hereinabove stated were therefore false, misleading and deceptive.

PAR. 18. In the conduct of its business, at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of textile products of the same general kind and nature as those sold by respondent.

PAR. 19. The use by respondent of the aforesaid false, misleading and deceptive statements, representations and practices 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 and representations were, and are, true, and into the purchase of substantial quantities of respondent's products by reason of said erroneous and mistaken belief.

PAR. 20. The aforesaid acts and practices of respondent as alleged in Paragraphs Nine, Ten, Eleven and Fifteen were, and are, 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 commerce in violation of Section 5(a) (1) of the Federal Trade Commission Act.

Mr. Michael P. Hughes for the Commission.

Mr. Samuel Duskin, 4034 Buckingham Road, Suite 216, Los Angeles, Calif., for respondent.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

NOVEMBER 9, 1966

I. THE COMPLAINT

The complaint in this proceeding issued on July 11, 1966, charged the respondent named therein with violations of the Textile Fiber Products Identification Act, with violations of the Rules and Regulations promulgated thereunder, and with unfair and deceptive acts and practices in commerce in violation of the Federal Trade Commission Act.

II. ORIGINAL ANSWER AND ADMISSION ANSWER

On August 15, 1966, counsel for the respondent filed an answer denying in substance the principal allegations of the complaint. At the hearing on October 4, 1966, counsel for the respondent

submitted a motion requesting permission to withdraw his original answer and, in lieu thereof, he admitted on behalf of the respondent the truth of ". . . the entire contents of the complaint. . . ." Counsel for the respondent further stated that respondent agreed ". . . to be bound by . . . the order which is part and parcel of the complaint. . . ." Respondent's motion was thereupon granted.

III. AMENDMENT OF THE COMPLAINT

At the hearing, counsel for the respondent stipulated with counsel supporting the complaint that the correct name of the respondent corporation is Delco Carpets, Inc., but that the respondent had been trading under the name Delco Carpet Mills, Inc. Counsel supporting the complaint thereupon submitted a motion requesting that the complaint herein be amended so that it would state the correct corporate name of the respondent. The motion was granted and the complaint thereupon deemed amended so as to state the correct corporate name as follows:

Delco Carpets, Inc., a corporation,
trading as
Delco Carpet Mills, Inc.

IV. PROPOSED FINDINGS AS TO THE FACTS

The hearing examiner designated October 28, 1966, as the date on or before which counsel might, at their election, submit proposed findings as to the facts and conclusions. Counsel supporting the complaint has submitted such proposals and since they conform to the allegations of the complaint and to the amendment thereof, they are accepted as the findings as to the facts in this proceeding. Counsel for the respondent has not submitted proposed findings as to the facts.

V. FINDINGS AS TO THE FACTS

1. Respondent Delco Carpets, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of California. Respondent Delco Carpets, Inc., does business under the name Delco Carpet Mills, Inc.

The respondent is engaged in the sale and installation of wall to wall carpeting. The respondent has its office and principal place of business at 3623 West Jefferson Boulevard, Los Angeles, California.

2. Subsequent to the effective date of the Textile Fiber Prod-

ucts Identification Act on March 3, 1960, respondent has been and is now engaged in the introduction, delivery for introduction, sale, advertising, and offering for sale, in commerce, and in the transportation or causing to be transported in commerce, and in the importation into the United States, of textile fiber products; and has sold, offered for sale, advertised, delivered, transported and caused to be transported, textile fiber products which have been advertised or offered for sale in commerce; and has sold, offered for sale, advertised, delivered, transported and caused to be transported, after shipment in commerce, textile fiber products, either in their original state or contained in other textile fiber products; as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act.

3. Certain of said textile fiber products were misbranded by respondent within the intent and meaning of Section 4(a) of the Textile Fiber Products Identification Act and the Rules and Regulations promulgated thereunder, in that they were falsely and deceptively stamped, tagged, labeled, invoiced, advertised, or otherwise identified as to the name or amount of constituent fibers contained therein.

Among such misbranded textile fiber products, but not limited thereto, were floor coverings which were falsely and deceptively advertised in the Los Angeles Times, a newspaper published in the city of Los Angeles, State of California, and having a wide circulation in said State and various other States of the United States, in that the respondent in disclosing the fiber content information as to floor coverings containing exempted backings, fillings, or paddings, failed to set forth such fiber content information in such a manner as to indicate that it applied only to the face, pile, or outer surface of the floor coverings and not to the exempted backings, fillings, or paddings.

4. Certain of said textile fiber products were further misbranded by respondent in that they were not stamped, tagged, labeled or otherwise identified as required under the provisions of Section 4(b) of the Textile Fiber Products Identificaton Act and in the manner and form as prescribed by the Rules and Regulations promulgated under said Act.

Among such misbranded textile fiber products, but not limited thereto, were rolls of carpeting on display in the respondent's showroom with labels which failed:

(a) To disclose the true percentage of the fibers present by weight; and

(b) To disclose the name, or other identification issued and registered by the Commission, of the manufacturer of the said carpeting or one or more persons subject to Section 3 of the said Act with respect to such carpeting.

5. Certain of said textile fiber products were falsely and deceptively advertised in that respondent in making disclosures or implications as to the fiber content of such textile fiber products in written advertisements use to aid, promote, and assist directly or indirectly in the sale or offering for sale of said products, failed to set forth the required information as to fiber content as specified by Section 4(c) of the Textile Fiber Products Identification Act and in the manner and form prescribed by the Rules and Regulations promulgated under said Act.

Among such textile fiber products, but not limited thereto, were floor coverings which were falsely and deceptively advertised in the Los Angeles Times, a newspaper published in the city of Los Angeles, State of California, and having a wide circulation in said State and various other States of the United States, in that the said textile fiber products were advertised by means of fiber implying terms such as "Acrilans" without the aforesaid required information being set forth.

6. Certain of said textile fiber products were falsely and deceptively advertised in violation of the Textile Fiber Products Identification Act in that they were not advertised in accordance with the Rules and Regulations promulgated thereunder.

Among such textile fiber products, but not limited thereto, were textile fiber products which were falsely and deceptively advertised by means of advertisements placed by the respondent in the Los Angeles Times, a newspaper published in Los Angeles, California, in the following respects:

(a) In disclosing the required fiber content information as to floor coverings containing exempted backings, fillings, or paddings, such disclosure was not made in such a manner as to indicate that such required fiber content information related only to the face, pile, or outer surface of the floor covering and not to the backing, filling, or padding, in violation of Rule 11 of the aforesaid Rules and Regulations.

(b) A fiber trademark was used in advertising textile fiber products without a full disclosure of the fiber content information required, in the said advertisement, in violation of Rule 41(a) of the aforesaid Rules and Regulations.

(c) A fiber trademark was used in advertising textile fiber

products containing only one fiber and such fiber trademark did not appear at least once in the said advertisement, in immediate proximity and conjunction with the generic name of the fiber in plainly legible and conspicuous type, in violation of Rule 41(c) of the aforesaid Rules and Regulations.

7. In the course and conduct of its business respondent now causes and for some time last past, has caused its said products, namely floor coverings, to be advertised and offered for sale in issues of the Los Angeles Times, a newspaper published in the city of Los Angeles, State of California, and distributed in interstate commerce and thereby has been engaged in commerce, as "commerce" is defined in the Federal Trade Commission Act.

8. In the course and conduct of its business in soliciting the sale of, and in selling, the aforesaid products, respondent has advertised:

Buy direct from the mills—Save to 40% off and more.

* * * * * * *

CARPET MILL CLEAR OUT

To make room for shipment arriving ahead of schedule from our Georgia mill.

* * * * * * *

CARPET MILL BARGAIN DAYS

9. In the course and conduct of its business in soliciting the sale of, and in selling, the aforesaid products the respondent has represented on invoices that it has mills at Ft. Oglethorpe, Georgia, and Los Angeles, California.

10. In the course and conduct of its business in soliciting the sale of, and in selling, the aforesaid products, respondent does business under the name Delco Carpet Mills, Inc., and uses said name on letterheads, invoices, labels and tags, and in various advertisements of its products.

11. By means of the aforesaid advertisements and invoices and through the use of the word "Mills" as part of respondent's trade name, respondent represents that it owns or operates mills or factories in which the textile products sold by it are manufactured and that such mills or factories are located in Georgia and California.

12. Although respondent does have a single carpet loom located in its place of business, such loom is used only infrequently, and produces only a minute portion of its stock and in truth and in fact respondent does not own, operate, or control any mills or fac-

tories in Georgia or California where the aforesaid products sold by it are manufactured.

13. There is a preference on the part of many consumers and the purchasing public to buy products including floor coverings, directly from factories or mills, believing that by doing so lower prices and other advantages thereby accrue to them.

14. In the course and conduct of its business as aforesaid, the respondent has made representations in newspapers to the buying public respecting a guarantee of their carpeting. Said representations have been made in advertisements appearing in issues of the aforementioned Los Angeles Times among others.

Illustrative and typical of such representations, but not all inclusive, is the following.

10 Year Unconditional Guarantee

15. Through the use of the statements and representations set forth above and others similar thereto, but not specifically set out herein, respondent has represented, directly or indirectly, to a substantial portion of the purchasing public that such merchandise was unconditionally guaranteed for ten years' normal wear.

16. In truth and in fact said merchandise was not unconditionally guaranteed for a period of ten years as neither the nature or extent of the guarantee nor the manner in which the guarantor would perform were set forth in connection therewith. The foregoing and similar statements made by respondent as hereinabove stated were therefore false, misleading and deceptive.

17. In the conduct of its business, at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals in the sale of textile products of the same general kind and nature as those sold by respondent.

18. The use by respondent of the aforesaid false, misleading and deceptive statements, representations and practices 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 and representations were, and are, true, and into the purchase of substantial quantities of respondent's products by reason of said erroneous and mistaken belief.

VI. CONCLUSIONS

The acts and practices of the respondent as set forth above in Findings One through Six were, and are, in violation of the Textile Fiber Products Identification Act and the Rules and Regula-

tions promulgated thereunder, and constituted, and now constitute unfair methods of competition and unfair and deceptive acts or practices in commerce, under the Federal Trade Commission Act.

The acts and practices of respondent as alleged in Findings Seven through Eighteen were, and are, 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 commerce in violation of Section 5(a) (1) of the Federal Trade Commission Act.

Based on the allegations of the complaint and the substituted answer filed by the respondent admitting such allegations of the complaint to be true, the above conclusions are the only ones that can logically and reasonably be reached. See the official transcript of the proceedings dated October 4, 1966, in Los Angeles, California; also see the hearing examiner's memorandum taking official notice of the Eleventh and Thirteenth Findings.

The proceeding is in the public interest and an order to cease and desist from the above found unlawful practices should issue against the respondent.

VII. ORDER

It is ordered, That respondent Delco Carpets, Inc., a corporation, trading as Delco Carpet Mills, Inc., or under any other name, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or in the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Failing to set forth that the required disclosure as

to the fiber content of floor coverings relates only to the face, pile, or outer surface of such products and not to exempted backing, filling or padding, when such is the case.

2. Failing to affix labels to such textile fiber products showing each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

B. Falsely and deceptively advertising textile fiber products by:

1. Making any representations by disclosure or by implication, as to the fiber content of any textile fiber product in any written advertisement which is used to aid, promote, or assist, directly or indirectly, in the sale or offering for sale of such textile fiber product, unless the same information required to be shown on the stamp, tag, label or other means of identification under Section 4(b)(1) and (2) of the Textile Fiber Products Identification Act is contained in the said advertisement, except that the percentages of the fibers present in the textile fiber product need not be stated.

2. Failing to set forth in disclosing the required fiber content information as to floor coverings containing exempted backings, fillings, or paddings, that such disclosure relates only to the face, pile or outer surface of such textile fiber products and not to the exempted backings, fillings, or paddings.

3. Using a fiber trademark in advertising textile fiber products without a full disclosure of the required fiber content information in at least one instance in said advertisement.

4. Using a fiber trademark in advertising textile fiber products containing only one fiber without such fiber trademark appearing at least once in the advertisement in immediate proximity and conjunction with the generic name of the fiber, in plainly legible and conspicuous type.

It is further ordered, That respondent Delco Carpets, Inc., a corporation, trading as Delco Carpet Mills, Inc., or under any other name, and its officers, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale

or distribution of merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Directly or indirectly using the word "Mills," or any other word or term of similar import or meaning in or as part of respondent's corporate or trade name, or representing in any other manner that respondent performs the functions of a mill or otherwise manufactures or processes the carpeting or textile products sold by it unless and until respondent owns and operates or directly and absolutely controls the mill wherein said carpeting or other textile products are manufactured.

2. Representing in any manner that respondent has mills or factories where its products are manufactured or misrepresenting in any manner the location of the respondent's place of business.

3. Representing that any of respondent's products are guaranteed, unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

FINAL ORDER

No appeal from the initial decision of the hearing examiner having been filed, and the Commission having determined that the case should not be placed on its own docket for review and that pursuant to Section 3.21 of the Commission's Rules of Practice (effective August 1, 1963), the initial decision should be adopted and issued as the decision of the Commission:

It is ordered, That the initial decision of the hearing examiner shall, on the 21st day of December, 1966, become the decision of the Commission.

It is further ordered, That Delco Carpets, Inc., a corporation, trading as Delco Carpet Mills, Inc., or under any other name, shall, within sixty (60) days after service of this order upon it, file with the Commission a report in writing, signed by its appropriate corporate officer, setting forth in detail the manner and form of its compliance with the order to cease and desist.