

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
THE STANLEY WORKS,)
)
a corporation.)
)
Defendant.)
)

CIVIL ACTION NO.

**COMPLAINT FOR CIVIL PENALTIES,
INJUNCTIVE AND OTHER RELIEF**

Plaintiff, United States of America, acting upon the notification and authorization to the Attorney General by the Federal Trade Commission (“Commission”), for its Complaint alleges that:

1. Plaintiff brings this action under Sections 5(l), 13(b) and 16(a) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(l), 53(b) and 56(a), to obtain monetary civil penalties, a permanent injunction, rescission of contracts, restitution, disgorgement of ill-gotten gains and other equitable relief for Defendant’s violations of the Federal Trade Commission Act and a final cease and desist order issued by the Commission.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345 and, 1355 and under 15 U.S.C. §§ 45(l), 53(b) and 56(a).
3. Venue in the United States District Court for the District of Connecticut is proper under 15 U.S.C. § 53(b) and under 28 U.S.C. §§ 1391(b-c) and 1395(a).

THE DEFENDANT

4. Defendant The Stanley Works (“Stanley”) is a Connecticut corporation with its principal office or place of business at 1000 Stanley Drive, New Britain, Connecticut 06053. Stanley transacts or has transacted business in the District of Connecticut.

5. Defendant maintains, and at all times mentioned herein has maintained, a course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

PRIOR COMMISSION PROCEEDING

6. In a Commission proceeding bearing Docket No. C-3876, *In the Matter of The Stanley Works*, 120 F.T.C. 206, the Commission complaint charged that Stanley violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), by making false or misleading claims that all, or virtually all, of certain of its mechanics tools are made in the United States. On June 2, 1999, the Commission issued a final decision and order against Stanley to cease and desist certain advertising practices (“Commission’s order”). The Commission’s order was served upon Stanley on June 14, 1999, and by operation of law became final and enforceable thereafter. The Commission’s order has remained in full force and effect ever since. (A copy of the Commission’s order is attached to this Complaint as Exhibit A.)

7. The Commission’s order includes the following provisions:

ORDER

I.

IT IS ORDERED that respondent, The Stanley Works, 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, marking, labeling, packaging, advertising, promotion, offering for sale, sale, or distribution of any mechanics tool in or affecting commerce, as "commerce" is defined in section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, shall not misrepresent, in any manner, directly or by implication, the extent to which any such mechanics tool is made in the United States. For purposes of this order, mechanics tools means professional grade hand tools (other than carpentry tools) used by consumers or professionals in the assembly, repair, or maintenance of machinery or vehicles, or for other purposes. Such tools include, but are not limited to, wrenches, ratchets, sockets, and chisels.

PROVIDED, however, that a representation that any mechanics tool is made in the United States will not be in violation of this order so long as all, or virtually all, of the component parts of the mechanics tool are made in the United States and all, or virtually all, of the labor in manufacturing the mechanics tool is performed in the United States.

PROVIDED, further, that this order shall not apply to the marking of mechanics tools or components of mechanics tools forged, machined, or cast before the date that the complaint and order became final.

DEFENDANT'S COURSE OF CONDUCT

8. From approximately January 2003 through November 2004, Defendant has manufactured, advertised, packaged, labeled, promoted, offered for sale, sold, or distributed Zero Degree Gearless Ratchet Wrenches marked or labeled with claims including, but not limited to:
- a. "Ratchet made in USA; Grip made in the U.K." (Exhibit B - Photo of rubber grip)
 - b. "USA" (Exhibit C - Photo of metal handle)

DEFENDANT'S VIOLATIONS OF THE COMMISSION'S ORDER

9. Through the means described in Paragraph 8, Defendant has represented, expressly or by implication, that the ratchet component of its Zero Degree Gearless Ratchet wrenches is made in the United States, *i.e.*, that all, or virtually all, of the parts of the component are made in the United States, and that all, or virtually all, of the labor in manufacturing the parts of the component is performed in the United States.
10. In truth and in fact, all parts of the tang/cam component of Defendant's Zero Degree Gearless Ratchets are, or have been, of foreign origin. Therefore, Defendant misrepresented the extent to which the ratchet component of the Zero Degree Gearless Ratchet was made in the United States and thereby violated Part I of the Commission's order.

CONSUMER INJURY

11. Consumers throughout the United States have suffered substantial monetary loss as a result of Defendant's unlawful acts and practices. In addition, the Defendant has been unjustly enriched as a result of its unlawful practices.

CIVIL PENALTIES, REDRESS, INJUNCTIVE AND OTHER EQUITABLE RELIEF

12. Each dissemination of an advertisement or promotional material, including but not limited to markings on the products themselves and packaging, containing any representation in violation of the Commission's order in the way described above constitutes a separate violation for which plaintiff seeks monetary civil penalties.
13. Section 5(l) of the FTC Act, 15 U.S.C. § 45(l), as modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended, and Section 1.98(c) of the Commission's Rules of Practice, 16 C.F.R. § 1.98(c), authorizes the Court to award monetary civil penalties of not more than \$11,000 for each violation of the Commission's order.

14. Under Sections 5(l) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(l) and 53(b), this Court is authorized to issue a mandatory injunction and such other and further equitable and ancillary relief as it may deem appropriate in the enforcement of the Commission's order and the FTC Act, including disgorgement and restitution to prevent and remedy any violations of any provision of law enforced by the Commission.

15. This Court, in the exercise of its equitable jurisdiction, may award other ancillary relief to remedy the injury caused by Defendant's violations of the law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests this Court, pursuant to 15 U.S.C. §§ 45(l) and 53(b), and pursuant to the Court's own equitable powers, to:

- (1) Enter judgment against Defendant The Stanley Works and in favor of Plaintiff for each violation alleged in this Complaint;
- (2) Award Plaintiff monetary civil penalties from Defendant The Stanley Works for each violation of the Commission's order alleged in this Complaint;
- (3) Enjoin Defendant The Stanley Works from violating the Commission's order issued in FTC Docket No. C-3617;
- (4) Award such equitable relief as the Court finds necessary to redress injury to consumers resulting from Defendant The Stanley Works' violations of the FTC Order and the FTC Act; including, but not limited to, rescission of contracts, restitution, and disgorgement of ill-gotten gains;
- (5) Order Defendant The Stanley Works to pay the costs of this action; and
- (6) Award Plaintiff such additional equitable relief as the Court may deem just and proper.

Dated: _____, 2006

FOR THE UNITED STATES OF AMERICA:

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**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

COMMISSIONERS:

Robert Pitofsky, Chairman
Sheila F. Anthony
Mozelle W. Thompson
Orson Swindle

In the Matter of

THE STANLEY WORKS, a corporation.

DOCKET NO. C-3876

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 complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violations of the Federal Trade Commission Act; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, and admission by the respondent of all the jurisdictional facts set forth in the draft 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, 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 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, and having duly considered the comments received from interested persons pursuant to Section 2.34 of its Rules, 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 The Stanley Works is a Connecticut corporation with its principal office or place of business at 1000 Stanley Drive, New Britain, Connecticut 06053.
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.

Exhibit A

ORDER

I.

IT IS ORDERED that respondent, The Stanley Works, 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, marking, labeling, packaging, advertising, promotion, offering for sale, sale, or distribution of any mechanics tool in or affecting commerce, as "commerce" is defined in section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, shall not misrepresent, in any manner, directly or by implication, the extent to which any such mechanics tool is made in the United States. For purposes of this order, mechanics tools means professional grade hand tools (other than carpentry tools) used by consumers or professionals in the assembly, repair, or maintenance of machinery or vehicles, or for other purposes. Such tools include, but are not limited to, wrenches, ratchets, sockets, and chisels.

PROVIDED, however, that a representation that any mechanics tool is made in the United States will not be in violation of this order so long as all, or virtually all, of the component parts of the mechanics tool are made in the United States and all, or virtually all, of the labor in manufacturing the mechanics tool is performed in the United States.

PROVIDED, further, that this order shall not apply to the marking of mechanics tools or components of mechanics tools forged, machined, or cast before the date that the complaint and order became final.

II.

IT IS FURTHER ORDERED that respondent The Stanley Works 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 labeling, packaging, 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.

III.

IT IS FURTHER ORDERED that respondent The Stanley Works, 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.

IV.

IT IS FURTHER ORDERED that respondent The Stanley Works, 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. 20580.

V.

IT IS FURTHER ORDERED that respondent The Stanley Works, 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.

VI.

This order will terminate on June 2, 2019, 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 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.

By the Commission.

Donald S. Clark
Secretary

SEAL:

ISSUED: June 2, 1999



Exhibit B

Exhibit C