

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS: Robert Pitofsky, Chairman
Sheila F. Anthony
Mozelle W. Thompson
Orson Swindle
Thomas B. Leary

In the Matter of

THE BLACK & DECKER CORPORATION,
and
KWIKSET CORPORATION,
corporations.

DOCKET NO. C-4000
DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents 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 respondents with violations of the Federal Trade Commission Act; and

The respondents, their attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, and admission by the respondents 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 respondents 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 respondents 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 thirty (30) 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 The Black & Decker Corporation is a Maryland corporation with its principal office or place of business at 701 East Joppa Road, Towson, Maryland 21286.

2. Respondent Kwikset Corporation is a California corporation with its principal office or place of business at 1 Park Place, Suite No. 1000, Irvine, California 92714. Kwikset Corporation is a wholly owned subsidiary of The Black & Decker Corporation.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

I.

IT IS ORDERED that respondents The Black & Decker Corporation and Kwikset Corporation, their successors and assigns, and their 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 Kwikset "lockset" product 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 product is made in the United States. For purposes of this order, Kwikset lockset product means any product that is manufactured or sold by Kwikset Corporation that is used to secure doors, including, but not limited to locksets, deadbolts, knobs and handles.

PROVIDED, however, that a representation that any such product 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 such product are made in the United States and all, or virtually all, of the labor in manufacturing such product is performed in the United States.

PROVIDED FURTHER, that nothing in the order shall prohibit Kwikset Corporation from depleting the inventory of Kwikset lockset products bearing a marking or labeling otherwise prohibited by this order and existing on the date this order is signed, in the normal course of business, provided that no such existing inventory is shipped later than November 1, 2000.

II.

IT IS FURTHER ORDERED that respondents The Black & Decker Corporation and Kwikset Corporation shall not in any labeling, packaging, advertisement, or promotional material for any Kwikset lockset product use the legend "All American Made," "All American Made and Proud of it" or otherwise

represent that a product is entirely made in the United States unless such product is in fact 100% made in the United States.

III.

IT IS FURTHER ORDERED that respondents The Black & Decker Corporation and Kwikset Corporation and their 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.

IV.

IT IS FURTHER ORDERED that respondent Kwikset Corporation, and its successors and assigns, shall deliver a copy of this order to all current and future officers and directors, 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 Kwikset Corporation 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.

V.

IT IS FURTHER ORDERED that respondents The Black & Decker Corporation and Kwikset Corporation, and their 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 respondents learn less than thirty (30) days prior to the date such action is to take place, respondents 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.

VI.

IT IS FURTHER ORDERED that respondents The Black & Decker Corporation and Kwikset Corporation, and their 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 they have complied with this order.

VII.

This order will terminate on February 8, 2021, 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 respondents 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

ISSUED: February 8, 2001