

PS 67
THE
PARKER
PEN
COMPANY

26 September 1980

Ms. Sara Wimsatt
Office of Standards Information,
Analysis and Development
U. S. Department of Commerce
National Bureau of Standards
Washington, D. C. 20234

Re: Reliance on the 10% minus tolerance
of paragraph 3.3 of PS 67-76 for items
marked "1/20 12K fold filled"

Dear Ms. Wimsatt:

In follow-up to your letter to me of 18 July 1980 on this subject, I am enclosing a copy of an Advisory Opinion letter to me dated 22 September 1980 from the FTC Bureau of Consumer Protection. Please note that the subject reliance is misplaced in the opinion of the Bureau. The advisory opinion is sound and well reasoned and would undoubtedly be followed by the Commission in a matter presenting this issue. I have sent a copy of the advisory opinion to Mr. Windman of Jewelers Vigilance Committee.

Very truly yours,



Howard M. Herriot
Legal Counsel

kp
Enclosure

cc: Mr. Joel A. Windman, JVC

FEDERAL TRADE COMMISSION
WASHINGTON, D. C. 20580

BUREAU OF
CONSUMER PROTECTION

SEP 22 1980

The Parker Pen Company
219 East Court Street
Janesville, Wisconsin 53545

Attention: Howard M. Herriot, Esq.
Legal Counsel

Dear Mr. Herriot:

This is in response to your written request for an advisory opinion concerning the proposed marking of a pen product as "1/20 12 kt. gold-filled," when the product would actually contain 10 percent less gold than 25 parts per thousand of gold to base metal, relying on a 10 percent minus tolerance provided for in paragraph 3.3 of Voluntary Product Standard PS 67-76 promulgated by the Commerce Department's National Bureau of Standards.

The Commission's Guides for the Jewelry Industry, as your letter notes, explicitly state that the requirements relating to the marking of industry products are subject to the tolerances applicable thereto under the National Stamping Act (15 U.S.C. §294, et seq.), and to the exemptions under Commercial Standards CS 67-38 and CS 47-34 (later revalidated by the Commerce Department as Voluntary Product Standards PS 70-76 and PS 67-76, respectively). The exemptions provided for in the commercial standards relate to jewelry components such as springs, posts, nuts, rivets, etc., that are recognized in the jewelry trade as not appropriate for consideration in any assay of gold content. The guides, however, do not refer to tolerances provided for in the commercial standards. The guides, therefore, are explicitly made subject to the specific statutory tolerances allowed under the National Stamping Act, while also recognizing the exemptions prescribed in the commercial standards.

Because of the rather clear language of the guides in this respect, we interpret them as being subject only to those tolerances established by the National Stamping Act. We also consider that the proposed form of marking, that is, applying a 10 percent minus tolerance in the situation presented, would have the capacity and tendency of deceiving purchasers as to the quantity of gold in the article.

The particular commercial standards in question were revalidated by the Commerce Department on April 12, 1976. Subsequently, on October 1, 1976, Congress enacted an amendment of the National Stamping Act that provides for greatly-reduced tolerances for gold products. The amendment, referred to as the "Gold Labeling Act of 1976," is to become effective on October 1, 1981. The imminent tightening of the statutory tolerances for gold products would appear to be an additional argument against a more expansive interpretation of the guides at this time.

The opinions expressed herein are rendered at staff level and have not been reviewed or passed on by the Commission.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ralph J. Carrigan", with a long horizontal flourish extending to the right.

Ralph J. Carrigan
Attorney
Division of Marketing Abuses

RECONSTITUTED STANDING COMMITTEE
for
PS 67-76, Marking of Gold Filled and Rolled Gold
Plate Articles Other Than Watchcases

Producers

Mr. George R. Knight (Chairman)
President
I. Stern & Company
320 Washington Street
Mount Vernon, New York 10553
(914) 668-4300

Mr. Fred Kilguss
President
Manufacturing Jewelers and Silversmiths
of America, Inc.
45 Richmond Street
Providence, Rhode Island 02903
(401) 421-5957

Mr. Richard Krementz, Jr.
President
Krementz & Company
49 Chestnut Street
Newark, New Jersey 07101
(201) 621-8300

Distributors

Mr. William S. Preston, Jr.
President
F. J. Preston & Son, Inc.
17 Church Street
Burlington, Vermont 05401
(802) 864-4591

Mr. John M. Stinson
President
Stinson Jewelers
111 Washington Street, SW.
Camden, Arkansas 71701
(501) 836-5063

Mr. Marvin Rubin
Group Vice President
Zale Corporation
P.O. Box 2219
Dallas, Texas 75221
(214) 634-4100

Users

Mr. Joseph Tarantola
President
Local No. 1
International Jewelry Workers Union
133 West 44th Street
New York, New York 10036
(212) 246-2335

Mr. Edwin Palumbo
Executive Director
Rhode Island Consumers' Council
365 Broadway
Providence, Rhode Island 02909
(401) 277-2764

Mr. Terrance J. Hamilton
Counsel
The Commonwealth of Massachusetts
Consumer Council
100 Cambridge Street
Boston, Massachusetts 02202
(617) 727-2605

July 1, 1975

RECONSTITUTED STANDING COMMITTEE
for
PS 67-76, Marking of Gold Filled and Rolled Gold
Plate Articles Other Than Watchcases

Producers

Mr. George R. Knight (Chairman)
President
I. Stern & Company
320 Washington Street
Mount Vernon, New York 10553
(914) 668-4300

Mr. Fred Kilguss
President
Manufacturing Jewelers and Silversmiths
of America, Inc.
45 Richmond Street
Providence, Rhode Island 02903
(401) 421-5957

Mr. Richard Kremenz, Jr.
President
Kremenz & Company
49 Chestnut Street
Newark, New Jersey 07101
(201) 621-8300

Distributors

Mr. William S. Preston, Jr.
President
F. J. Preston & Son, Inc.
17 Church Street
Burlington, Vermont 05401
(802) 864-4591

Mr. John M. Stinson
President
Stinson Jewelers
111 Washington Street, SW.
Camden, Arkansas 71701
(501) 836-5063

Mr. Marvin Rubin
Group Vice President
Zale Corporation
P.O. Box 2219
Dallas, Texas 75221
(214) 634-4100

Users

Mr. Joseph Tarantola
President
Local No. 1
International Jewelry Workers Union
133 West 44th Street
New York, New York 10036
(212) 246-2335

Mr. Edwin Palumbo
Executive Director
Rhode Island Consumers' Council
365 Broadway
Providence, Rhode Island 02909
(401) 277-2764

Mr. Terrance J. Hamilton
Counsel
The Commonwealth of Massachusetts
Consumer Council
100 Cambridge Street
Boston, Massachusetts 02202
(617) 727-2605

July 1, 1975



JEWELERS VIGILANCE COMMITTEE, INC.

A non-profit association to advance ethical practices founded in 1912

OFFICERS

president
BERNARD CHALSON
first vice president
M. W. TOWNSEND
second vice president
HENRY B. PLATT
secretary-treasurer
LEO L. KAPLAN

executive vice president
general counsel
JOEL A. WINDMAN

DIRECTORS

THEODORE E. ANDRAE III
Andrae's Jewelers, Orangeburg, S.C.
WILLIAM A. ARGO
Jewelry Industry Council
*F. REMINGTON BALLOU
Mfg. Jrs. & Silversmiths of America, Inc.
WILLIAM H. BAUMGARDT
C. A. Kiger Co., Kansas City, Mo.
R. MARK BOURQUIN
Bulova Watch Co., Inc., Jackson Heights, N. Y.
ALBERT BRATT
Associate Jewelers Inc.
FRANK H. BROMBERG, JR.
Bromberg & Co., Inc., Birmingham, Ala.
*BERNARD CHALSON
Wm. Chalson & Co., Inc., N. Y., N. Y.
*STANLEY E. CHURCH
Church & Co., Bloomfield, N. J.
MELVIN S. COHEN
A. Cohen & Sons Corp., N. Y., N. Y.
PHILIP F. CRONAN
Dolan & Bullock Co., Providence, R.I.
*WILLIS COWLISHAW
Zale Corporation, Dallas, Tx.
WILLIAM H. DYKSTRA
Sterling Silversmiths Guild of America
FRANK EVERTS
Everts Jewelers, Dallas, Tx.
HERBERT E. FAITHFULL
Citizen Watch Co. of America, Inc., L. A., Ca.
*ALVIN B. FINK
Fink's Jewelers, Roanoke, Va.
ARTHUR F. GLEIM
Gleim, the Jeweler, Palo Alto, Ca.
ADAM C. HEYMAN
Oscar Heyman & Bros. Inc., N. Y., N. Y.
EDGAR JADWIN
Krementz & Co., Newark, N. J.
*LEO L. KAPLAN
Lazare Kaplan & Sons, N. Y., N. Y.
*GEORGE R. KNIGHT, JR.
Gold Filled Mfrs. Assn.
LOUIS F. KRUSSMAN
Trifari, Krussman & Fishel, N. Y., N. Y.
*HOWARD I. MICHAELS
Michaels Jrs., New Haven, Ct.
*NORMAN M. MORRIS
Norman M. Morris Corp., N. Y., N. Y.
SALLIE MORTON
American Gem Society
*ROBERT G. PACKER
Dieges & Clust, Providence, R. I.
*HENRY PETERSON
Jewelry Manufacturers Assn., Inc.
*HENRY B. PLATT
Tiffany & Co., N. Y., N. Y.
WILLIAMS. PRESTON, JR.
F. J. Preston & Son, Inc., Burlington, Vt.
*BARNETT ROBINSON
Barnett Robinson, Inc., N. Y., N. Y.
*MICHAEL D. ROMAN
Retail Jewelers of America, Inc.
VIRGINIA B. RUDDER
Claude S. Bennett, Inc., Atlanta, Ga.
MAURICE SHIRE
American Stone Importers Assn., Inc.
LESLIE SMITH
Oneida, Ltd., Oneida, N. Y.
JOHN M. STINSON
Stinson's Jewelers, Camden, Ar.
*M. W. TOWNSEND
Handy & Harman, N. Y., N. Y.
HERBERT F. UNDERWOOD
Underwood Jrs., Inc., Jacksonville, Fl.
A. C. WILSON
Chicago Jewelers' Assn.
R. LYMAN WOOD
Lenox Inc., N. Y., N. Y.

*Executive Committee

PAST PRESIDENTS

HARRY C. LARTER 1917-1932
GUSTAV H. NIEMEYER 1933-1967
H. JAMES STERN 1968-1969
ROBERT M. KREMENTZ 1970-1972
WILLIAMS. PRESTON, JR. 1973-1975

June 7, 1978

Please refer to our File No. 2571J

Mr. C. W. Devereux
Technical Standards Coordinator
Standards Development Services
United States Department of Commerce
National Bureau of Standards
Washington, D. C. 20234

Dear Mr. Devereux:

I have your letter of May 31 (received this date) enclosing a copy of the new ISO project on jewelry.

ANSI does list us for mailing purposes; however, our address is incorrect, and we did respond to Ms. Rand and a copy of our reply is enclosed with this letter.

Our letter indicates that there are various laws which would restrain an industry from standardizing matters which may be subject to the antitrust laws, and, as you know, we always seek to stay within the confines of the laws of our country regardless of what other countries may do.

Let's continue to keep in close contact.

Sincerely,


JOEL A. WINDMAN
General Counsel

JAW:mf
Enc.

2571J

April 27, 1978

Your File No: Jewelry (ISO/TS/P-143)
Please refer to our File Nos. 2571J and 2872J.

Ms. Barbara C. Rand
Administrative Assistant
International Operations
American National Standards Institute, Inc.
1430 Broadway
New York, N. Y. 10018

Dear Ms. Rand:

This will acknowledge your Memorandum dated May 15, 1978, received this date, concerning comments requested by the International Organization for Standardization.

The Jewelry Industry in the United States has specific standards which are governed by the Federal Trade Commission, and, as I am certain ANSI is aware, the antitrust laws of the United States are a vital factor in requiring industry to conform with governmental standards rather than industry standards.

Various regulations of the United States Government are now being revised, and when this revision is completed, perhaps we may be able to bring IOS up to date with the requirements of the United States Government.

In any event, the Manufacturing Jewelers and Silversmiths of America shown on your "Canvass List" is a member of CIBJO, and this organization is keeping the jewelry industry apprized.

federal register



National Bureau of Standards
FIVE COMMERCIAL STANDARDS FOR
JEWELRY MARKING
Voluntary Product Standards

This is notice that the following five Commercial Standards are being republished in the current Voluntary Product Standard format, under the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10, as revised; 35 FR 8349 dated May 28, 1970):

CS 47-34, "Marking of Gold Filled and Rolled Gold Plate Articles Other Than Watchcases" (PS 67-76).

CS 51-35, "Marking Articles Made of Silver in Combination with Gold" (PS 68-76).

CS 66-38, "Marking of Articles Made Wholly or in Part of Platinum" (PS 69-76).

CS 67-38, "Marking Articles Made of Karat Gold" (PS 70-76).

CS 118-44, "Marking of Jewelry and Novelties of Silver" (PS 71-76).

The new Voluntary Product Standard designations are given in parentheses. Titles remain unchanged.

Dated: April 6, 1976.

ERNEST AMBLER,
Acting Director.

[FR Doc.76-10414 Filed 4-9-76;8:45 am]

Reprinted from:

FEDERAL REGISTER, VOL. 41, NO. 71—MONDAY, APRIL 12, 1976

n. 15356