

**FEDERAL TRADE COMMISSION v. CLARENCE N.
YAGLE, LEROY H. MACAULEY, AND MURDOCK
H. SMITH, TRADING AS CIRCLE CILK CO.**

**COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF
SECTION 5 OF THE ACT OF CONGRESS, APPROVED SEPTEMBER
26, 1914.**

Docket No. 3.—August 19, 1916.

SYLLABUS.

Where a partnership engaged in the manufacture and sale of a floss or thread containing no genuine silk, used in labeling, advertising, and sale thereof the word "Cilk," with the result that purchasers were misled into the belief that such goods were made entirely of silk, and that competitors making genuine silk goods were injured, although no intention on the part of the manufacturer to cause deception was shown:

Held, That such labeling, advertising, and sales, under the circumstances set forth, constituted unfair methods of competition in violation of section 5 of the act of September 26, 1914.

COMPLAINT.

The Federal Trade Commission, having reason to believe that The Circle Cilk Co. has been and is using unfair methods of competition in commerce, in violation of the provisions of section 5 of the act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and it appearing that a proceeding by it in respect thereof would be to the interest of the public, issues this complaint, stating its charges in that respect as follows:

1. That the said Circle Cilk Co., hereinafter called the respondent, is a corporation organized and existing under the laws of the State of Pennsylvania, with its office and principal place of business located at 2734 North Fifth Street, Philadelphia, in the State of Pennsylvania, and is engaged in commerce among the several States.

2. That the said respondent has from time to time manufactured, sold, and delivered, and is still manufacturing,

selling, and disposing of, in interstate commerce, large quantities of cotton thread under a trade name, stamp, or trademark as follows:

Circle Cilk	
Phila.	Phila.
Pa. No. 5.	Pa.
Embroidery Floss	

27.3 yards

3. That the word silk, when applied to thread or textile goods, both in the technical and popular usage, has a precise and exact meaning, and is only accurately and properly used in identifying and describing materials derived from the cocoon of the silkworm, and that the said thread which has been and is being sold and disposed of by respondent is neither composed of genuine silk nor contains any portion of genuine silk.

4. That said thread is sold and disposed of by respondent in commerce as aforesaid to many customers in various States in direct competition with the goods of manufacturers and dealers in such commerce of genuine silk thread.

5. That the said trade stamp "Circle Cilk Embroidery Floss" has been and is being used on said cotton thread with the intent and purpose of confusing, deceiving, and misleading the public into the belief that said thread is composed wholly of genuine silk or contains some portion of genuine silk, and the natural result of the use of said trade stamp or brand is to confuse, mislead, and deceive purchasers thereof and the public into the belief that said cotton thread is genuine silk thread or contains some portion of genuine silk or into buying said thread as genuine silk thread or containing some portion of silk, and the use of said trade stamp or brand does deceive purchasers thereof and the public into the belief that said cotton thread is genuine silk thread or contains some portion of silk.

6. That because of the aforesaid method of competition, to wit, the use of the aforesaid false trade stamp or brand, and the resulting deception of purchasers and consumers, manufacturers, or others engaged in the manufacture and sale, or the sale, of genuine silk thread in interstate commerce have been and are injured in their trade and business.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

At a meeting of the Commission on this date, it appearing that there is on file in the above cause a stipulation, duly signed by counsel for the Commission and counsel for respondents including proposed findings and consent order for the final disposition of this case, the following proceedings were had:

On motion of Commissioner Davies the Commission approved and made the following findings and order, and directed that the same be entered of record in said cause:

FINDINGS AS TO THE FACTS.

Upon the complaint and answer, as amended by stipulation, the Commission finds in this case as follows:

1. That the respondents manufacture and sell in interstate commerce a floss or thread made of mercerized sea island cotton under the label "Circle Cilk Embroidery Floss," which floss or thread contains no portion of silk made from the cocoon of the silkworm.

2. The word "silk," when applied to thread or textile goods, both in technical and popular usage, has precise and exact meaning and is only accurately and properly used in identifying and describing materials derived from the cocoon of the silkworm.

3. Respondents have extensively used the word "cilk" in labeling, advertising, and disposing of their product in interstate commerce as complained of, with the result that such misbranding is likely to deceive some persons in the trade, and has deceived some of the consuming public into believing they are buying and receiving a product made of silk when in fact they are not.

4. That whenever such confusion and deception occurs there also results a damage to the trade and manufacturers who deal in silk products.

5. The Commission also finds that such resulting confusion, deception, and injury has resulted without any malicious intent on the part of the respondents. Wherefore,

ORDER TO CEASE AND DESIST.

It is ordered, That the respondents Clarence N. Yagle, Leroy H. Macaulay, and Murdock H. Smith, trading as the Circle Cilk Co., shall forthwith cease and desist, either personally or through their agents and employees, from using the word "cilk" in reference to any of their products other than silk, either in the sale thereof or on or in connection with any of their trade-marks, trade names, labels, or advertising matter.

FEDERAL TRADE COMMISSION

v.

A. THEO. ABBOTT & CO.