

FEDERAL TRADE COMMISSION

v.

EMIL WEST, DOING BUSINESS UNDER THE NAME
AND STYLE OF THE SWEATER STORE.

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

Docket 281.—September 12, 1919.

SYLLABUS.

Where a corporation dealt in men's and women's wearing apparel and knitted goods, as "The Sweater Shop, Inc.," after acquiring the trade name, good will, and business of an enterprise which as "The Sweater Shop" had established a successful business; and thereafter a competitor engaged in business as "The Sweater Store," and displayed such name on signs affixed to the outside of its store, in newspapers, and in other mediums, with the result that such simulation deceived and misled the public into believing that the more recent concern was one and the same business as the older:

Held, That such simulation of name, under the circumstances set forth, constituted an unfair method of competition in violation of section 5 of the act of September 26, 1914.

COMPLAINT.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it that Emil West, doing business under the name and style of "The Sweater Store," hereinafter referred to as the respondent, has been and is using unfair methods of competition in commerce in violation of the provisions of section 5 of an 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 on information and belief as follows:

PARAGRAPH 1. The respondent is now and at all times herein mentioned has been engaged in conducting a mercantile store at the city of Washington, in the District of Co-

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lumbia, and in selling men's and women's wearing apparel thereat in direct competition with other persons, firms, and corporations similarly engaged.

PAR. 2. For many years prior to and during part of the year 1916 one Julius A. West, respondent's brother, was engaged in conducting a mercantile store at the city of Washington, in the District of Columbia, and in selling men's and women's wearing apparel and knitted goods thereat, under the trade name and style of "The Sweater Shop"; that such trade name became and is well known, and said Julius A. West established a successful business, especially in the sale of sweaters and other knitted goods, thereunder; that during the year 1916 said Julius A. West assigned and transferred to the corporation known as "The Sweater Shop, Inc., all of his right, title, and interest in and to such trade name and good will, together with the store fixtures and merchandise then being used in conducting the business so established by him thereunder; and that said corporation has ever since been and is now engaged in conducting said mercantile store and selling men's and women's wearing apparel and knitted goods thereat under the name of "The Sweater Shop, Inc., in direct competition with respondent.

PAR. 3. The respondent within the past two years has adopted and is now conducting his store under the name and style of "The Sweater Store," and advertising and displaying such name in signs affixed to the outside and inside of his store, in newspaper and various other forms of advertisements, and in divers other ways; that such simulation stifles and suppresses competition in the sale of men's and women's wearing apparel and knitted goods in the District of Columbia and deceives and misleads the public and causes purchasers and prospective purchasers of such wearing apparel and knitted goods to believe that respondent's store, firm, and business are one and the same as that of "The Sweater Shop, Inc.," and that they are dealing with and purchasing goods from respondent's competitor, "The Sweater Shop, Inc."

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

The Federal Trade Commission, having issued and served its complaint herein, wherein it is alleged that it had reason to believe that the above-named respondent, Emil West, has been and now is using unfair methods of competition in the District of Columbia, in violation of the provisions of section 5 of an 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 that a proceeding by it in respect thereof would be to the interest of the public, and fully stating its charges in that respect, and the respondent having filed his answer, admitting that the matters and things alleged in the said complaint are true in the manner and form therein set forth, and agreeing and consenting that the Commission shall forthwith proceed to make and enter its report, stating its findings as to the facts and its order disposing of this proceeding without the introduction of testimony in support of the same, and waiving any and all right to the introduction of such testimony, the Commission now makes this its report and findings as to the facts and conclusion.

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent is now and at all times herein mentioned has been engaged in conducting a mercantile store at the city of Washington, in the District of Columbia, and in selling men's and women's wearing apparel thereat in direct competition with other persons, firms, and corporations similarly engaged.

PAR. 2. For many years prior to and during part of the year 1916 one Julius A. West, respondent's brother, was engaged in conducting a mercantile store at the city of Washington, in the District of Columbia, and in selling men's and women's wearing apparel and knitted goods thereat under the trade name and style of "The Sweater Shop"; that such trade name became and is well known, and said Julius A. West established a successful business, especially in the sale of sweaters and other knitted goods, thereunder;

Order.

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that during the year 1916 said Julius A. West assigned and transferred to the corporation known as "The Sweater Shop, Inc.," all of his right, title, and interest in and to such trade name and good will, together with the store fixtures and merchandise then being used in conducting the business so established by him thereunder; and that said corporation has ever since been and is now engaged in conducting said mercantile store and selling men's and women's wearing apparel and knitted goods thereat under the name of "The Sweater Shop, Inc.," in direct competition with respondent.

PAR. 3. The respondent within the past two years has adopted and is now conducting his store under the name and style of "The Sweater Store" and advertising and displaying such name in signs affixed to the outside and inside of his store, in newspapers and various other forms of advertisements, and in divers other ways; that such simulation stifles and suppresses competition in the sale of men's and women's wearing apparel and knitted goods in the District of Columbia and deceives and misleads the public and causes purchasers and prospective purchasers of such wearing apparel and knitted goods to believe that respondent's store, firm, and business are one and the same as that of "The Sweater Shop (Inc.)," and that they are dealing with and purchasing goods from respondent's competitor, "The Sweater Shop (Inc.)."

CONCLUSION.

That the method of competition set forth in the foregoing findings as to the facts in paragraphs 1, 2, 3, and each and all of them, are, under the circumstances therein set forth, unfair methods of competition in interstate commerce, in violation of the provisions of section 5 of an 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."

ORDER TO CEASE AND DESIST.

The Federal Trade Commission, having issued and served its complaint herein, and the respondent having entered his

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appearance and having filed his answer admitting that the matters and things alleged and contained in said complaint are true in the manner and form therein set forth, and agreeing and consenting that the Commission shall forthwith proceed to make and enter its report, stating its findings as to the facts and its order disposing of this proceeding, without the introduction of testimony in support of the same, and waiving any and all right to the introduction of such testimony, and the Commission having made and filed its report containing its findings as to the facts and its conclusion as to the respondent having violated section 5 of an 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," which said report is hereby referred to and made part hereof: Now, therefore,

Be it ordered, That the respondent, Emil West, his agents, servants, and employees, cease and desist from directly or indirectly using the following trade name or combination of words, "The Sweater Shop," on signs, wrappers, stationery, newspaper or other advertisements, or in any manner whatsoever in connection with the sale, distribution, or exposition of men's and women's wearing apparel, or the use for said purpose or purposes of any other trade name or combination of words similar thereto, which tend to deceive and mislead purchasers, prospective purchasers, or the general public.

FEDERAL TRADE COMMISSION

v.

FEDERAL COLOR & CHEMICAL CO.