v.

E. I. FIRKS, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF THE SPONGEABLE LINEN COLLAR CO.

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

Docket 354.—January 29, 1920.

SYLLABUS.

Where an individual engaged in the sale of collars composed chiefly of celluloid, but with a center layer of cotton fiber, adopted and used the trade-mark "Spongeable linen" to describe said collars, and advertised, held out, and sold the same as "Spongeable linen":

Held, That such labeling, advertising, and sales, 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 E. I. Firks, doing business under the firm name and style of the Spongeable Linen Collar Co., hereinafter referred to as the respondent, has been and is using unfair methods of competi-

tion 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," 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. That the respondent, E. I. Firks, doing business under the firm name and style of The Spongeable Linen Collar Co., has his principal office and place of business in the city of Cincinnati, State of Ohio, and is now and for more than four years last past has been engaged in the sale of collars in and among the several States of the United States and the District of Columbia, in direct competition with other persons, firms, copartnerships, and corporations similarly engaged.

PAR. 2. That the collars sold by the respondent are composed principally of celluloid, having a center layer of cotton fabric between two outer layers of celluloid, and are manufactured for the respondent in the State of New York, whence the respondent causes them to be transported to his place of business in the city of Cincinnati, in the State of Ohio, where they are sold and shipped to dealers in different States of the United States and the District of Columbia for resale to the public; and that there is continuously and has been at all times hereinafter mentioned a constant current of trade and commerce in said collars between and among the various States of the United States and the District of Columbia.

PAR. 3. That in connection with the sale of such collars as aforesaid respondent for more than four years last past has adopted and used the trade-mark "Spongeable linen" to describe said collars, and has advertised, held out, and sold his product as such for the purpose of securing for his collars an undue preference over the collars manufactured by competitors, and with the effect of deceiving and misleading the public and causing them to believe that respondent's collars are composed of linen.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

The Federal Trade Commission, having reason to believe that the above-named respondent, E. I. Firks, doing business under the firm name and style of The Spongeable Linen Collar Co., has been for more than one year last past using 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," and that a proceeding by it in that respect would be to the interest of the public and fully stating its charges in that respect; and the respondent having entered his appearance by his attorney, duly authorized and empowered to act in the premises, and having filed his answer admitting that certain of the matters and things alleged in the said complaint are true in the manner and form therein set forth and denying others therein contained, and thereafter having made and executed an agreed statement of facts which has been heretofore filed, in which it is stipulated and agreed by the respondent that the Federal Trade Commission shall take such agreed statement of facts as evidence in this case, and in lieu of testimony, and shall forthwith thereupon make its report, stating its findings as to the facts, its conclusions, and its order disposing of this proceeding without the introduction of testimony or the presentation of argument; therefore the Federal Trade Commission now makes and enters this its report stating its findings as to the facts and its conclusion.

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, E. I. Firks, does business under the firm name and style of the Spongeable Linen Collar Co. and has his principal office and place of business in the city of Cincinnati, State of Ohio, and is now and for more than four years has engaged in the sale of collars in and among the several States of the United States in direct competition with other persons, firms, and corporations similarly engaged.

PAR. 2. That the collars sold by the respondent are composed chiefly of celluloid, having a center layer of cotton fabric between two outer layers of celluloid, and are manufactured for the respondent in the State of New York, whence the respondent causes them to be transported to his place of business in Cincinnati, State of Ohio, from where they are sold and shipped to dealers in different States of the United States for resale to the public; and there is continuously and has been at all times herein mentioned a constant current of trade and commerce in said collars between and among the various States of the United States.

PAR. 3. That in the sale of said collars respondent for more than four years last past has adopted and used the trade-mark "Spongeable linen" to describe said collars and has advertised, held out, and sold the said collars as such; that the trade-mark "Spongeable linen" used to describe and advertise the said collars deceives and misleads the purchasing public into believing that respondent's collars are composed of linen.

CONCLUSION.

That the method of competition set forth in the foregoing findings, under the circumstances, is an unfair method 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, E. I. Firks, doing business under the firm name and style of the Spongeable Linen Collar Co., having entered his appearance by Francis B. James, his attorney, duly authorized and empowered to act in the premises, and having filed his answer and thereafter having made, executed, and filed an agreed statement of facts in which he stipulated and agreed that the Federal Trade Commission should take such agreed statement of facts as the evidence in this case and in lieu of testimony, and proceed forthwith upon the same, and to make and enter

its report stating its findings as to the facts, its conclusions, and its order without the introduction of testimony, and waiving therein any and all right to require the introduction of testimony or the presentation of argument in support of the same, and the Federal Trade Commission having made and entered its report stating its findings as to the facts and its conclusion that the respondent has 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 a part hereof: Now, therefore,

It is ordered, That the respondent, his agents, representatives, servants, and employees cease and desist from directly or indirectly applying or using in any manner whatsoever the word "Linen" to collars composed chiefly of celluloid; and further, from advertising or representing in any manner whatsoever to the purchasing public that collars manufactured chiefly from celluloid are composed of "Linen."

It is further ordered, That the respondent make and file with the Commission not later than the 29th day of May, A. D. 1920, a report in detail of the manner and form in which this order has been conformed to.

FEDERAL TRADE COMMISSION

v.

SOPHIE COHN, SAMUEL M. CHAZANOFF, AND B. COUNSELBAUM, COPARTNERS, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF THE GOOD WEAR TIRE & TUBE CO.

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

Docket 403.—January 29, 1920.

SYLLABUS.

Where a partnership engaged in the business of cementing and sewing together used and second-hand tires—

(*a*) advertised the same extensively as "Double tread" tires, and sold them to the public throughout the United States without