FEDERAL TRADE COMMISSION

v.

THE ELECTRIC APPLIANCE CO., OF BURLINGTON, KANSAS.

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

Docket 340.—March 19, 1920.

SYLLABUS.

Where an Illinois corporation, located at Chicago, had engaged for some years in the manufacture and sale of electric appliances, and had widely advertised its products throughout the country, with the result that its corporate name had become well known to the general public, and a Kansas corporation of identical name, located at Burlington, Kan., and engaged in the manufacture of such electric appliances as belts, insoles, and other similar devices—

(*a*) failed, in using its name in advertisements, pamphlets, booklets, etc., and on certain of its appliances, to indicate also the place of manufacture, with the result that in some instances the general public was misled into believing said corporation to be the Illinois concern; and

(*b*) circulated certain false and misleading advertisements in booklets, and circulars and through agents to the effect that its electric belts were prescribed and recommended by the leading doctors of the United States; that such belts would preserve the health; that its electric insoles would keep the feet at a moderate temperature, both summer and winter; that they would revitalize the blood; and that its electric battery was "Nature's vitalizer", and that it would save doctor's bills:

Held, That such conduct and such false and misleading advertising constituted, under the circumstances set forth, 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 from a preliminary investigation made by it that The Electric Appliance Co., hereinafter referred to as respondent, has been and is 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 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, The Electric Appliance Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Kansas, having its principal office and place of business in the city of Burlington, in said State, and is now and for several years last past has been engaged in the manufacture and sale in commerce among the several States of the United States of electrical appliances, such as electric belts, electric insoles, and other such devices, and that at all times hereinafter mentioned the respondent has carried on and conducted such business in competition with other persons, firms, corporations, and partnerships similarly engaged.

PAR. 2. That the Electric Appliance Co. is an Illinois corporation, with its principal place of business in Chicago, in said State, and has for several years last past a large and established business in the manufacture and sale in interstate commerce of electrical appliances, and for a number of years has widely advertised its products in the various States and Territories of the United States, with the result that its name has become well known to the general public.

PAR. 3. That the respondent, The Electric Appliance Co., for several years last past, with the intent, purpose, and effect of deceiving and misleading the general public, has marked and designated, and now marks and designates, its products with its corporate name and the letters "U. S. A.," but omits and wholly fails to indicate to the general public the name of the place of manufacture, with the result that the public is led to believe the respondent is one and the same as the aforesaid Electric Appliance Co.

PAR. 4. That the respondent for several years last past, with the intent, purpose, and effect of deceiving and misleading the general public, has circulated and caused to be circulated in newspapers, periodicals, booklets, circulars, and

other publications advertisements containing false and misleading statements to the effect that respondent's electric belts are prescribed and recommended by leading doctors of the United States, and will preserve the health; that respondent's electric insoles keep the feet at a moderate temperature both summer and winter and revitalize the blood; that respondent's battery is "Nature's vitalizer," and will save doctors' bills.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

The Federal Trade Commission having reason to believe that the above-named respondent, The Electric Appliance Co., of Burlington, Kan., 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 having fully stated its charges in that respect, the respondent having entered its appearance by its attorney, L. H. Hannen, duly authorized and empowered to act in the premises, and having filed its 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 cause and in lieu of testimony, and shall forthwith thereupon make its report stating its findings as to the facts, its conclusions, and 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 conclusions.

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, The Electric Appliance Co., of Burlington, Kan., is a Kansas corporation, with its principal place of business in the city of Burlington, in said State, and is now and for several years last past has been engaged in the manufacture and sale in commerce among the several States of the United States of electrical appliances, such as electric belts, electric insoles, and other such devices, in competition with other persons, firms, and corporations similarly engaged.

PAR. 2. That among the concerns selling electrical appliances is the Electric Appliance Co., of Illinois, a corporation of that State and located in the city of Chicago, which has for several years last past engaged in the manufacture and sale in interstate commerce of electrical appliances; that this company has been in existence for a number of years and has widely advertised its products in the various States and Territories of the United States, with the result that its corporate name has become well known to the general public.

PAR. 3. That the respondent, The Electric Appliance Co., of Burlington, Kan., in the conduct of its business as aforesaid, did in 1915, but not since this date, mark and designate certain of its electrical appliances, viz, electric belts, electric insoles, etc., with its corporate name (Electric Appliance Co.) and the letters "U. S. A.," but omitted and wholly failed to indicate the name of the place of manufacture; that the respondent circulated advertisements, circulars, pamphlets, and booklets signed with its corporate name (Electric Appliance Co.) and the letters "U. S. A.," but omitted and wholly failed to indicate the name of the place of manufacture. That as a result of the respondent in failing to indicate upon articles manufactured by it and in its advertising matter, the name of the place of manufacture, in some instances the general public was led to believe the respondent to be one and the same as that of the aforesaid Electric Appliance Co., of Illinois.

PAR. 4. That the respondent for several years last past in the conduct of its business as aforesaid, circulated certain

advertisements in booklets, circulars, and by agents wherein statements were made to the effect that respondent's electrical belts are prescribed and recommended by the leading doctors of the United States; that such belts will preserve the health; that respondent's electrical insoles keep the feet at a moderate temperature, both summer and winter; that they revitalize the blood; that respondent's electric battery is "Nature's vitalizer; that it will save doctor bills"; that the effect of these statements as they appeared in respondent's advertising matter has been to mislead the general public into the belief that respondent's aforesaid articles possess wonderful curative values; that the aforesaid advertising matter has been discontinued by the respondent and has been so discontinued for some time last past.

CONCLUSIONS.

From the foregoing findings, the Commission concludes that the methods of competition set forth are, under the circumstances, 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, The Electric Appliance Co., of Burlington, Kan., having entered its appearance by its 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 Com-

mission having made and entered its report stating its findings as to the facts and its conclusions 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, (1) That the respondent, The Electric Appliance Co., of Burlintgon, Kan., its officers, agents, representatives, servants, and employees cease and desist from directly or indirectly marking or designating its products in such manner and in such way as to lead the general public to believe that its products are manufactured by concerns other than itself.

(2) Marking, wording, or designating its advertising matter in such manner and form as to lead the general public to believe that the products therein advertised are manufactured by concerns other than itself.

(3) Advertising and representing that its products possess such curative qualities as set forth in the foregoing findings.

(4) Respondent is further ordered to file a report in writing with the Commission three months from notice hereof, stating in detail the manner in which this order has been complied with and conformed to.

FEDERAL TRADE COMMISSION

v.

THE ROB ROY HOSIERY CO.

COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SEC-