

FEDERAL TRADE COMMISSION

v.

HENRY J. BRIEDE AND W. P. ROGOVSKY, PARTNERS,
DOING BUSINESS UNDER THE NAME AND STYLE OF
BRIEDE AND ROGOVSKY, AND THE NATIONAL TAIL-
ORING COMPANY.

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

Docket 839—February 15, 1922.

SYLLABUS.

Where a firm engaged in the manufacture and sale of clothing direct to the consumer, used the trade name "The Old Woolen Mills Company," notwithstanding the fact that they neither owned, operated nor were interested in any woolen mills; with the effect of misleading many of the purchasing public into purchasing of them in the mistaken belief that in so doing they were dealing with both cloth and clothing manufacturers and thereby saving the middle man's profits, and of thereby injuring competitors:

Held, That such misleading use of trade name, under the circumstances set forth, constituted an unfair method of competition.

COMPLAINT.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it that Henry J. Briede and W. P. Rogovsky, partners, doing business under the name and style of Briede and Rogovsky, and the National Tailoring Company, hereinafter referred to as respondents, have been and are using unfair methods of competition in interstate commerce in violation 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 respondents, Henry J. Briede and W. P. Rogovsky, constitute a partnership and carry on business under the names of Briede and Rogovsky, Schwabe Brothers, The Old Woolen Mills Company and National Tailoring Company, with their principal place of business in the City of Chicago, State of Illinois, and for many years have been and are now engaged in manufacturing and selling, upon mail orders and through agents located in various States of the United States, clothing, and in causing the clothing

so sold to be transported from the State of Illinois through and into other States of the United States and the District of Columbia to the purchasers thereof, and in the conduct of such business are in direct and active competition with other copartnerships, corporations and individuals similarly engaged.

PAR. 2. That in the year 1917 respondents, Henry J. Briede and W. P. Rogovsky, moved their business into a building fronting on Jackson Boulevard in the City of Chicago, State of Illinois and in the same block as the building occupied by the International Tailoring Company, a corporation organized under the laws of the State of Illinois in the year 1896, with a capital stock of \$100,000 and engaged in the same business as respondents. That the International Tailoring Company is one of the largest concerns engaged in said business and has become well and widely known to the trade and public, and for many years has used and still uses upon its catalogues, circulars, and advertising matter the slogan "Tailors to the Trade" and "Personal Service." That in the year 1918, respondents, Henry J. Briede and W. P. Rogovsky, caused the National Tailoring Company to be organized under the laws of the State of Illinois with a capital stock of one thousand dollars, practically all of which is owned by respondents, Henry J. Briede and W. P. Rogovsky, and since that time have conducted a large part of their business as described in Paragraph One hereof under the name of National Tailoring Company. That the advertisements, circulars, and catalogues of the respondent, National Tailoring Company, contain the slogans "Tailors to the Nation" and "National Service" and very closely resemble those of the International Tailoring Company. That the International Tailoring Company, as a part of its window dressing, painted a black stripe across its windows, and respondents, Henry J. Briede and W. P. Rogovsky, have caused to be painted across the windows of the building occupied by the National Tailoring Company a similar black stripe. That this similarity in name, address, slogans, advertisements, and circulars is calculated to, and actually does, cause much confusion in the trade and among the purchasing public and is calculated to, and actually does, mislead and deceive many in the trade and among the purchasing public and induce them to purchase the goods of the respondents in the belief that they are purchasing the goods of the International Tailoring Company.

PAR. 3. That respondents, Henry J. Briede and W. P. Rogovsky, in the course of their business, as described in Paragraph One hereof, sell clothing directly to the consumer under the trade name "The Old Woolen Mills Company." That the respondents, Henry J.

Briede and W. P. Rogovsky, neither own, operate, nor are interested in any woolen mills, but on the other hand buy from the manufacturers all cloth used by them. That the use by respondents of the name, "The Old Woolen Mills Company," is calculated to, and actually does, mislead and deceive many among the purchasing public and induce them to purchase the goods of the respondents, Henry J. Briede and W. P. Rogovsky, in the belief that said respondents own, control, or operate a woolen mill in which they manufacture the cloth used by them, and that persons buying from respondents are buying directly from the manufacturers of the cloth and the clothing and thus saving the profits of the middlemen; that the use of such name by the respondents is thus calculated to, and actually does, injure competitors of respondents.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

Pursuant to the provisions 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," the Federal Trade Commission issued and served complaint upon the respondents, Henry J. Briede and W. P. Rogovsky, partners, doing business under the name and style of Briede & Rogovsky and National Tailoring Company, charging them with violation of Section 5 of said Act.

The respondents having entered their appearance and filed their answer herein, together with a stipulation as to the facts in support of the allegations of said complaint, and this proceeding having come regularly on for hearing before the Commission and the matter having been duly considered upon the record, and the Commission being fully advised in the premises, makes this its findings as to the facts and conclusion.

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. The respondents, Henry J. Briede and W. P. Rogovsky, constitute a partnership and carry on business under the names of Briede and Rogovsky, Schwabe Brothers, The Old Woolen Mills Company and National Tailoring Company, with their principal place of business in the City of Chicago, State of Illinois, and for many years have been and are now engaged in manufacturing and selling, upon mail orders and through agents located in various States of the United States, clothing, and in causing the clothing so sold to be transported from the State of Illinois through and into other States of the United States and the District of Columbia to the

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purchasers thereof, and in the conduct of such business are in direct and active competition with other copartnerships, corporations and individuals similarly engaged.

PAR. 2. The respondents, Henry J. Briede and W. P. Rogovsky, in the course of their business, as described in Paragraph One hereof, sell clothing directly to the consumer under the trade name "The Old Woolen Mills Company." The respondents, Henry J. Briede and W. P. Rogovsky, neither own, operate nor are interested in any woolen mills, but on the other hand buy from the manufacturers all cloth used by them. The use by respondents of the name, "The Old Woolen Mills Company," is calculated to, and actually does, mislead and deceive many among the purchasing public and induce them to purchase the goods of the respondents, Henry J. Briede and W. P. Rogovsky, in the belief that said respondents own, control or operate a woolen mill in which they manufacture the cloth used by them, and that persons buying from respondents are buying directly from the manufacturers of the cloth and the clothing and thus saving the profits of the middlemen; the use of such name by the respondents is thus calculated to, and actually does, iniure competitors of respondents.

CONCLUSION.

The use by respondents of the name "The Old Woolen Mills Company," under the circumstances, is an unfair method of competition within the meaning of Section 5 of the Act 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.

This proceeding having come regularly on to be heard by the Federal Trade Commission upon the complaint of the Commission, and the answer and stipulation as to the facts by the respondents, and the Commission having made its findings as to the facts with its conclusion that respondents violated 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."

It is now, therefore, ordered, That the respondents, Henry J. Briede and W. P. Rogovsky, partners, doing business under the name and style of Briede and Rogovsky, and National Tailoring Company be and they are hereby ordered to cease and desist from using the word "Mills" as part of their firm name or style of business or in any other manner indicating that they own or operate a mill

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unless and until, as a matter of fact, respondents own or operate a mill.

It is further ordered, That respondents be and they are hereby allowed to use "Successors to The Old Woolen Mills Company" for a period of one year from the date hereof beneath any name they may adopt in place and instead of the name "The Old Woolen Mills Company."

It is further ordered, That respondents shall within four months after the date of the service upon them of this order file with the Commission a report in writing, setting forth in detail the manner and form in which this order has been conformed to and complied with.

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FEDERAL TRADE COMMISSION DECISIONS.

Complaint.

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FEDERAL TRADE COMMISSION

v.

UNITED CHEMICAL PRODUCTS CORPORATION.