

Complaint.

FEDERAL TRADE COMMISSION

v.

LOUIS K. LIGGETT COMPANY.

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

Docket 844—May 8, 1922.

SYLLABUS.

Where a corporation dealing in drugs and toilet articles, advertised as "Pyralin Ivory", combs composed of nitrated cellulose or "pyralin", and displayed the same in their windows with placards bearing the legend "Special. Good Ivory Combs, 49¢", or "Excellent Pyralin Ivory Combs for 49¢"; with a capacity and tendency thereby to mislead and deceive the purchasing public as to the value or quality thereof, and to induce the purchase thereof in the mistaken belief that they were made of ivory:

Held, That such false and misleading advertising, and such misrepresentations, under the circumstances set forth, constituted unfair methods of competition.

COMPLAINT.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it, that Louis K. Liggett Company, hereinafter referred to as respondent, has been and is using unfair methods of competition in commerce 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 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 is a corporation organized under the laws of the State of Massachusetts, with principal place of business at New York, N. Y.

PAR. 2. That respondent is engaged in the business of operating retail stores in the District of Columbia and in cities located in various states of the United States, in which stores respondent sells at retail to the purchasing and consuming public, drugs, medicines, drug sundries, toilet articles and other commodities; that respondent carries on its said business in direct, active competition with other persons, partnerships and corporations similarly engaged.

PAR. 3. That respondent in the course of its business as described in Paragraph Two hereof, operated eight stores located in the District of Columbia, in which stores it has had on sale within the year prior to the issuance of this complaint, and prior thereto, combs

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and other articles made of nitrated cellulose, a compound known commercially as pyralin, which combs were displayed in windows of one of said stores with placards which contained false and misleading descriptive matter relating to and concerning said combs, in that said placards contained the statement, "Special. Good Ivory combs, 49¢"; that in other stores operated by respondent in the District of Columbia, said combs were displayed in trays inside the stores, with placards containing the statement "Excellent Pyralin Ivory Combs, for 49 cents"; that respondent further in the course of its said business has caused advertisements to be published in newspapers of general circulation, published in the District of Columbia, which advertisements contained further false and misleading statements relating to and concerning combs and other articles made of said compound known commercially as pyralin, sold by respondent in its said stores in the District of Columbia, in which advertisements such articles were referred to and described as "pyralin ivory"; that the combs and other articles so offered for sale and sold by respondent are of a color resembling that of ivory, so that respondent by use of the placards and advertisements as aforesaid, was able to mislead and has misled and deceived the purchasing public, and the public has been induced thereby to purchase such articles upon the mistaken belief that they were made of ivory.

PAR. 4. That by reason of the facts recited, the respondent is using an unfair method of competition in commerce, within the intent and meaning of Section 5 of an Act of Congress entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

Pursuant to the provisions of an Act of Congress approved September 26, 1914, the Federal Trade Commission issued and served a complaint upon the respondent, Louis K. Liggett Company, charging it with the use of unfair methods of competition in commerce, in violation of the provisions of said Act.

Respondent having entered its appearance and filed its answer herein, admitting that certain of the matters and things alleged in said complaint were true in the manner and form therein set forth, and having filed herein a stipulation as to facts, in which it is stipulated and agreed by the respondent, that the Federal Trade Commission may take such stipulation as to facts, as the facts of this proceeding and in lieu of testimony, and proceed forthwith to make its report stating its findings as to the facts and such order as it

may deem proper to enter herein, without the introduction of testimony or the presentation of argument, and the Federal Trade Commission being fully advised in the premises, makes this its report, stating its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, Louis K. Liggett Company, is a corporation organized under the laws of the State of Massachusetts and is engaged in the business of operating retail stores in the District of Columbia and in cities in the various States of the United States, in which stores respondent sells and offers for sale to the public, in due course of retail trade, various commodities, among which are drugs and toilet articles; that respondent carries on its said business in direct, active competition with other dealers in like commodities in the District of Columbia.

PAR. 2. That respondent in the course of its business as described in Paragraph One hereof, sold and offered for sale in stores operated by it in the District of Columbia, combs and other articles made of nitrated cellulose, a compound sometimes known commercially as "pyralin," and in one of its said stores, on June 30, 1921, and prior thereto, such combs were displayed in windows with placards which contained the following printed matter:

"Special. Good Ivory Combs, 49¢."

And in other stores so operated by respondent, such articles, on August 10, 1921, and prior thereto, were displayed in trays inside the stores, with placards containing the words and figures as follows:

"Excellent Pyralin Ivory Combs for 49¢;"

that on December 14, 1920, and on other dates prior to the issuance of the complaint herein, as a means of bringing to the attention of the purchasing public the articles so offered for sale and sold by it, respondent caused certain advertisements to be published in newspapers of general circulation in the District of Columbia, and in such advertisements said articles were described as "pyralin ivory;" that the description of such articles in such placards and advertisements as "ivory" or "pyralin ivory" had the capacity and tendency to mislead and deceive the purchasing public by creating in the minds of the public false or erroneous beliefs concerning the value or quality of said articles, and in some instances to induce persons to purchase said articles upon the mistaken belief that such articles were made of ivory.

PAR. 3. That respondent at the time the preliminary investigation was made, which resulted in the issuance of the complaint herein,

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had the attention of its store managers called to the misleading and deceptive character of its advertisements and advertising matter, and immediately thereafter respondent discontinued the use of such descriptive matter or like descriptive matter in the advertisements and advertising matter thereafter published or displayed by it.

PAR. 4. That on May 17, 1920; at a conference of representatives of the manufacturers of, and dealers in, various basic materials sometimes known commercially as "celluloid," "pyralin," etc., and manufacturers of and dealers in various articles made from such basic materials, which conference was called by the Federal Trade Commission to meet at its offices in Washington, D. C., a resolution was passed which condemned the use, as applied to articles made from said basic materials, of the following and similar terms: "French ivory," "pyroxylin ivory," "tortoise shell," "ivory combs," "Florentine shell ivory," "pyralin ivory," "jade necklaces," "coral necklaces," "American ivory," etc.

CONCLUSION.

That the practices of the respondent, under the conditions and circumstances set out in the foregoing findings as to the facts, constituted an unfair method of competition in commerce in the District of Columbia, and were in violation 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."

ORDER TO CEASE AND DESIST.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer thereto and a stipulation as to the facts filed herein, and the Commission having made its report in which it stated its findings as to the facts and its conclusion that the respondent has violated 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,"

It is now ordered, That the respondent, the Louis K. Liggett Company, its agents, representatives, servants and employees, do cease and desist from directly or indirectly:

Causing advertisements to be published in newspapers or making use of placards, display cards or other forms of advertising matter, as a means of bringing to the attention of the purchasing public, commodities offered for sale or sold by it, in stores operated by it in the District of Columbia, which advertisement or advertising

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matter describe as "pyralin ivory" or "ivory," articles so offered for sale or sold by it, which articles are not in fact made or composed of ivory.

It is further ordered, That the said respondent, Louis K. Liggett Company, shall within sixty (60) days from the date of service of this order, file with the Commission a report setting forth in detail the manner and form in which it has complied with the order of the Commission herein set forth.

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FEDERAL TRADE COMMISSION DECISIONS.

Syllabus.

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FEDERAL TRADE COMMISSION

v.

SOUTHERN HARDWARE JOBBERS' ASSOCIATION ET AL.