

THEMSELVES THOMPSON BROTHERS.

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

Docket 683—September 27, 1922.

SYLLABUS.

Where a firm engaged in the manufacture and sale of hosiery in competition with concerns who either correctly branded, labeled and advertised their products with reference to composition or failed to brand, label and advertise the same at all in that respect; branded, labeled, advertised and sold hosiery composed of cotton and of an animal or vegetable fiber, but containing no genuine silk as "Ladies Silk Boot Hose" and "Ladies Art Silk Hose"; thereby misleading a substantial part of the purchasing public with reference to the composition of said goods:

Held, That such branding, labeling, advertising and sales, 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 J. Reed Thompson, Andrew N. Thompson, George L. Thompson and A. Walter Thompson, partners styling themselves Thompson Brothers, hereinafter referred to as respondents, have been and are using unfair methods of competition 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 this respect on information and belief as follows:

PARAGRAPH 1. That the respondents constitute a partnership and carry on business at Milroy, Pa., under the firm name and style of Thompson Brothers and are engaged in the business of manufacturing and selling hosiery at wholesale, causing hosiery sold by them to be transported to the purchasers thereof from the State of Pennsylvania, through and into other states of the United States, and carry on such business in direct, active competition with other persons, partnerships and corporations similarly engaged.

PAR. 2. That respondents, in the course of their business as described in paragraph 1 hereof, place on hosiery sold by them, made

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of cotton and artificial silk, but which contain no genuine silk, and upon the boxes in which such hosiery is eventually offered for sale by the retail dealers to the purchasing public, certain false and deceptive labels among which are the following:

“Ladies’ Silk Boot Hose”

“Ladies’ Art Silk Hose”;

which labels are false and misleading and are calculated to and do mislead and deceive the purchasing public.

PAR. 3. That by reason of the facts recited, the respondents are 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 respondents, J. Reed Thompson, Andrew N. Thompson, George L. Thompson, and A. Walter Thompson, styling themselves Thompson Brothers, charging them with the use of unfair methods of competition in commerce, in violation of the provisions of said Act.

The respondents having entered their appearance in their own proper person and filed their answer herein, admitting all the allegations of the complaint and each count and paragraph thereof, and having made, executed and filed an agreed statements of facts, in which it is stipulated and agreed by the respondents that the Federal Trade Commission shall take such agreed statement of facts as the facts in this case and in lieu of testimony, and proceed forthwith with such agreed statement of facts to make its findings as to the facts and such order as it may deem proper to enter therein without the introduction of testimony or the presentation of argument in support of same, and the Federal Trade Commission, having duly considered the record and being now 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 respondents, J. Reed Thompson, Andrew N. Thompson, George L. Thompson, and A. Walter Thompson, constitute a partnership and carry on business at Milroy, Pennsylvania, under the firm name and style of Thompson Brothers.

PAR. 2. That the respondents are engaged in the business of manufacturing and selling at wholesale, in the state of Pennsylvania and in other states of the United States, hosiery, and in causing same to be transported from the state of Pennsylvania through and into other states of the United States pursuant to such sales, in competition with other copartnerships, corporations and individuals engaged in similar commerce between and among the states of the United States, and that there has been and is continuously a current of trade to and from said respondents, in said hosiery, among and between the states of the United States.

PAR. 3. That the respondents in the course of their business as described in paragraph 2 above, sell and ship hosiery made of an animal or vegetable fibre, but containing no true silk, and cotton, which they label, advertise and brand, and in packages or containers which they label, advertise and brand "Ladies' Silk Boot Hose." That dealers purchasing this hosiery from respondents or from respondents' customers labeled, advertised and branded, or in packages or containers labeled, advertised and branded as aforesaid, offer and sell it so labeled, advertised and branded to the general purchasing public. That neither the said hosiery nor the packages containing it are labeled, advertised or branded with any other word or words descriptive of the character, kind or grade of material or materials entering into the manufacture of said hosiery.

PAR. 4. That the respondents, in the conduct of their business as described in paragraph 2 above, sell and ship hosiery made of an animal or vegetable fibre, but containing no true silk, and cotton, which they label, advertise and brand, and in packages or containers which they label, advertise and brand "Ladies' Art Silk Hose." That dealers purchasing this hosiery from respondents or from respondents' customers, labeled, advertised and branded, or in packages or containers labeled, advertised and branded as aforesaid, offer and sell it so labeled, advertised and branded to the general purchasing public. That neither the said hosiery nor the packages containing it are labeled, advertised or branded with any other word or words descriptive of the character, kind or grade of material or materials entering into the manufacture of said hosiery.

PAR. 5. That the term "Silk Boot Hose," when applied to hosiery without any other word or words descriptive of the kind or grade of materials, signifies and is understood by a substantial part of the purchasing public to mean hosiery which is made entirely of material derived from the cocoon of the silkworm. That the term "Art Silk Hose," when applied to hosiery without any other word or words descriptive of the kind or grade of materials, signifies and is

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understood by a substantial part of the purchasing public to mean hosiery which is made entirely of material derived from the cocoon of the silkworm.

PAR. 6. That many of respondents' competitors in the selling of hosiery are engaged in interstate commerce, selling and shipping their goods from one state into another. That many such competitors sold and shipped and now sell and ship in said commerce between the States, hosiery which is made entirely of silk, which hosiery and the packages or containers of which are labeled, advertised and branded "Ladies' Silk Boot Hose." That many such competitors sold and shipped, and now sell and ship in commerce between the states, hosiery, which hosiery is made entirely of material derived from the cocoon of the silkworm, which hosiery and the packages or containers of which are labeled, advertised and branded "Silk Hose."

PAR. 7. That many of respondents' competitors, engaged in interstate commerce as aforesaid, have sold and shipped and now sell and ship, hosiery which is made of an animal or vegetable fibre, and containing no true silk, and cotton, which hosiery and the packages or containers of which are labeled, advertised and branded with no word or words descriptive of the material or materials entering into the manufacture of said hosiery. That many of respondents' competitors, engaged in interstate commerce as aforesaid, have sold and shipped, and now sell and ship, hosiery, which is made of an animal or vegetable fibre, and containing no true silk, and cotton, which hosiery and the packages or containers of which are labeled, advertised and branded with the words "Artificial Silk and Cotton" or "Fibre Silk and Cotton."

PAR. 8. The labels or brands under which the respondents' sell, advertise and ship hosiery as set forth in the foregoing findings, tend to and do mislead and deceive a substantial part of the purchasing public as to the composition and materials of said hosiery; said labels or brands, as so used by respondents, cause said hosiery to compete unfairly with the goods of its competitors in interstate commerce, who, as set forth in paragraphs 6 and 7 above, sell hosiery made entirely of silk; or hosiery made wholly or in part of other materials than those named, and labeled or branded so as to indicate the true composition thereof, or not labeled, or branded by any words descriptive of the composition thereof.

CONCLUSION.

The practices of the said respondents, under the conditions and circumstances described in the foregoing findings, are unfair methods

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of competition in interstate commerce and constitute a 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 answers of the respondents, and the statement of facts agreed upon by the respondents and counsel for the Commission, and the Commission having made its findings as to the facts with its conclusion, that the respondents have violated the provisions 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 ordered, That the respondents, J. Reed Thompson, Andrew N. Thompson, George L. Thompson and A. Walter Thompson, styling themselves Thompson Brothers, and their officers, agents, representatives, servants and employees, cease and desist from directly or indirectly using as labels or brands on hosiery sold by them, or on the containers thereof, or in advertisements thereof, the word "silk," or any modification thereof, (1) unless the hosiery on which it is used is made entirely of the silk of the silkworm, or (2) unless, where the hosiery is made partly of silk, it is accompanied by a word or words aptly and truthfully describing the other material or materials of which such hosiery is in part composed.

Respondents are further ordered, To file a report in writing with the Commission sixty (60) days from notice hereof, stating in detail the manner in which this order has been complied with and conformed to.

Complaint.

5 F. T. C.

FEDERAL TRADE COMMISSION

v.

OSCAR SCHMIED.

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

Docket 600—September 27, 1922.

SYLLABUS.

Where an individual engaged in the sale at wholesale of hosiery in competition with concerns who either correctly branded, labeled, and advertised their products with reference to composition or failed to brand, label and advertise the same at all in that respect, sold hosiery composed of cotton and genuine silk branded, labeled, and advertised as "Ladies' Silk Hose," "Men's Silk Half Hose," "Silk Hose" and "Silk Half Hose"; thereby misleading a substantial part of the purchasing public with reference to the composition of said goods:

Held, That the sale of goods branded, labeled, and advertised as above 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 Oscar Schmied, hereinafter referred to as the respondent, has been, and now is, using unfair methods of competition in interstate commerce, in violation of 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," 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:

PARAGRAPH 1. That the respondent, Oscar Schmied, is a wholesaler of hosiery, having his office and place of business in the city of New York, State of New York, and in the course of his business as such wholesaler of hosiery, purchases quantities of hosiery from manufacturers thereof, and enters into contracts with manufacturers of hosiery for the purchase of quantities thereof and resells the same to dealers in States other than the State of New York and in States other than the State in which such hosiery is manufactured and causes the same to be transported to such dealers in the several States of the United States and the District of Columbia; and in the conduct of such business is in direct competition with persons, co-partnerships, and corporations similarly engaged.

PAR. 2. That the respondent in the course of his business as described in paragraph 1 hereof, causes to be placed upon certain lines of hosiery so sold and caused to be transported by him, and upon the boxes in which such hosiery is eventually exhibited for sale to the purchasing public, certain false and misleading brands and labels, viz, "Ladies' Silk Hose," "Men's Silk Half Hose," "Silk Hose," and "Silk Half Hose," whereas in truth and in fact the material of which such hosiery, so labeled and branded, is made is not silk, but is composed of cotton and silk in varying proportions; that such labels and brands are misleading and are calculated to and do deceive the purchasing public into the belief that such hosiery is manufactured wholly of silk.

PAR. 3. That by reason of the facts recited the respondent is using unfair methods of competition in interstate commerce within the intent and meaning 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."

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, Oscar Schmied, charging him with the use of unfair methods of competition in commerce in violation of the provisions of said Act.

The respondent having entered his appearance in his own proper person and filed his answer herein, admitting all the allegations of the complaint and each count and paragraph thereof, and having made, executed, and filed an agreed statement of facts, in which it is stipulated and agreed by the respondent that the Federal Trade Commission shall take such agreed statement of facts as the facts in this case and in lieu of testimony and proceed forthwith with such agreed statement of facts, to make its findings as to the facts, and such order as it may deem proper to enter therein without the introduction of testimony or the presentation of argument in support of same, and the Federal Trade Commission, having duly considered the record and being now 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, Oscar Schmied, is engaged in business in his own name, and has his principal place of business in the city of New York, State of New York.

Findings.

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PAR. 2. That the respondent is engaged in the business of selling at wholesale in the State of New York and in other States of the United States hosiery, and in causing the same to be shipped and transported from the State of New York through and into other States of the United States pursuant to such sales, in competition with other individuals, copartnerships, and corporations engaged in similar commerce between and among the States of the United States, and that there has been and is continuously a current of trade to and from said respondent in said hosiery among and between the States of the United States.

PAR. 3. That respondent in the conduct of his business as described in paragraph 2 above, sells and ships hosiery made of material derived from the cocoon of the silkworm and cotton in varying proportions labeled, advertised, and branded, and in packages or containers labeled, advertised, and branded, "Ladies' Silk Hose," "Men's Silk Half Hose," "Silk Hose," and "Silk Half Hose." That dealers purchasing this hosiery from respondent or from respondent's customers labeled, advertised, and branded, or in packages or containers labeled, advertised, and branded, as aforesaid, offer and sell it so labeled, advertised, and branded to the general purchasing public. That neither the said hosiery nor the packages containing it were labeled, advertised, or branded with any other word or words to indicate the character, kind, or grade of material entering into the manufacture of said hosiery.

PAR. 4. That the term "Silk Hose," without any other word or words descriptive of the character, kind, or grade of material or materials, signifies and is understood by a substantial part of the purchasing public to mean hosiery made entirely of material derived from the cocoon of the silkworm. That the term "Silk Half Hose," without any other word or words descriptive of the character, kind, or grade of material or materials, signifies and is understood by a substantial part of the purchasing public to mean hosiery made entirely of material derived from the cocoon of the silkworm.

PAR. 5. That many of respondent's competitors in the selling of hosiery, are engaged in interstate commerce, selling and shipping their goods from one State into another. That many such competitors sell and ship, in said commerce between the States of the United States, hosiery made entirely of material derived from the cocoon of the silkworm, which hosiery and the packages or containers for which are labeled, advertised, and branded "Silk Hose." That many such competitors sell and ship, in said commerce between the States of the United States, hosiery made entirely of material derived from the cocoon of the silkworm, which hosiery and the pack-

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ages or containers for which are labeled, advertised, and branded "Silk Half Hose."

PAR. 6. That many of respondent's competitors, in the course of commerce between the States of the United States as described in paragraph 5 above, sell and ship hosiery made of material derived from the cocoon of the silkworm and cotton in varying proportions, which hosiery and the packages or containers for which are labeled, advertised, and branded with no word or words descriptive of the material or materials entering into the manufacture of such hosiery. That many of the respondent's competitors, in the course of commerce between the States as described in paragraph 5 above, sell and ship hosiery made of material derived from the cocoon of the silkworm and cotton in varying proportions, and the labels, advertisements, and brands on which and on the packages or containers for which contain the words "Silk and Cotton" or the words "Silk and Lisle."

PAR. 7. The labels or brands under which the respondent sells, advertises, and ships hosiery, as set forth in the foregoing findings, tend to and do mislead and deceive a substantial part of the purchasing public as to the composition of materials of said hosiery; said labels or brands as so used by respondent cause said hosiery to compete unfairly with goods of his competitors in interstate commerce who, as set forth in paragraphs 5 and 6 above, sell hosiery made entirely of silk or cotton, or hosiery made wholly or in part of other materials than those named and labeled or branded so as to indicate the true composition thereof, or not labeled or branded by any words descriptive of the composition thereof.

CONCLUSION.

The practices of the said respondent, under the conditions and circumstances described in the foregoing findings, are unfair methods of competition in interstate commerce, and constitute a 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 of the respondent, and the statement of facts agreed upon by the respondent and counsel for the Commission, and the Commission having made its findings as to the facts with its conclusion that the respond-

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ent has violated the provisions 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 ordered, That the respondent, Oscar Schmied, and his officers, agents, representatives, servants and employees, cease and desist from directly or indirectly using as labels or brands on hosiery sold by him, or on the containers thereof, or in advertisements thereof, the words "Silk" or any modification thereof, (1) unless the hosiery on which it is used is made entirely of the silk of the silk-worm, or (2) unless where the hosiery is made partly of silk it is accompanied by a word or words aptly and truthfully describing the other material or materials of which such hosiery is in part composed.

Respondent is further ordered, To file a report in writing with the Commission sixty (60) days from notice hereof, stating in detail the manner in which this order has been complied with and conformed to.

PINENE MANUFACTURING CO., INC.

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