FEDERAL TRADE COMMISSION

v.

PINENE MANUFACTURING COMPANY, INC.

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

Docket 774—September 27, 1922.

SYLLABUS.

Where a corporation engaged in the manufacture and sale of chemicals, oils, thinners, etc.,

(*a*) Called a petroleum distillate with a small portion of turpentine added. "Pinene," a name accepted in chemical nomenclature as designating the chief constituent of spirits of turpentine;

(*b*) Falsely represented, by means of advertisements in papers of nation wide circulation, and by means of circular letters, letterheads, etc., that its aforesaid product was "equal to turpentine," was "a chemically correct substitue for turpentine," and was "a synthetic turpentine embodying all the physical measurements of spirits of turpentine and meeting all technical requirements of turpentine";

With the tendency and capacity thereby to mislead and deceive the purchasing public into believing that in the purchase of said product it was obtaining the chemical known as "Pinene" and a commodity conforming to the foregoing statements:

Held, That such misleading designation of product, and such false and misleading advertising, 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 the Pinene Manufacturing Company, Inc., 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 is a corporation organized under the laws of the State of Pennsylvania, with principal place of business at Philadelphia, in said State.

PAR. 2. That respondent is engaged in the business of manufacturing and selling drugs, chemicals, oils, thinners, etc., and causes products sold by it to be transported to the purchasers thereof, from the State of Pennsylvania through and into other States of the United

States, and carries on such 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, makes use of advertisements which it causes to be published in trade papers of nation-wide circulation, and letterheads, circulars, circular letters, and other advertising matter, which are given general circulation by respondent, which advertisements and advertising matter contain false and deceptive statements of and concerning a product labeled "Pinene," which respondent manufactures and sells; that among such false and deceptive statements are statements to the effect that said product, "Pinene," is equal to turpentine, is made of pine-tree spirits, and is a chemically correct substitute for turpentine; that it is a synthetic turpentine embodying all the physical measurements of spirits of turpentine and meeting all technical requirements, whereas said product is essentially a petroleum distillate, with a small proportion of turpentine added, and is not equal to turpentine; that such false and deceptive statements are calculated to and do mislead and deceive the purchasing public and persons are thereby induced to purchase said product upon the mistaken belief that it is equal to turpentine; the purchasing public are further misled and deceived by the use by respondent of the name "Pinene" for said product, for the reason that pinene is accepted in chemical nomenclature to designate the chief constituent of spirits of turpentine, and respondent's said product contains little if any of the compound pinene.

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, 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 its complaint upon the respondent, Pinene Manufacturing Company, Inc., charging it with the use of unfair methods of competition in commerce, in violation of the provisions of said Act. The respondent having entered its appearance by its attorneys and filed its answer herein, a statement of facts was agreed upon by counsel for the Commission and counsel for the respondent, to be taken in lieu of evidence, and thereupon this proceeding came on for final hearing, and the Commission, hav-

ing duly considered the record and being now fully advised in the premises, makes this its findings as to the facts and conclusion.

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondent is a corporation organized under the laws of the State of Pennsylvania, with its principal office and place of business in the city of Philadelphia in said State, where it is engaged in the manufacture and sale of chemicals, oils, thinners, etc., and in the transportation thereof in commerce from the city of Philadelphia through and into the various States of the United States and the District of Columbia, in competition with various other firms, corporations and partnerships similarly engaged.

PAR. 2. Among the various products sold and offered for sale by respondent in the manner set out above, is one certain product which it calls "Pinene," and which it advertises and sells as a paint thinner and describes in the manner next set out below.

PAR. 3. Respondent, in connection with the sale of the said product, Pinene, represents by means of advertisements which it places, or causes to be placed, in papers of nation-wide circulation, and by means of circulars and circular letters, letterheads and other advertising matter which it gives general circulation, that its product, Pinene, is—

Equal to turpentine and is a chemically correct substitute for turpentine; that it is a synthetic turpentine embodying all the physical measurements of spirits of turpentine and meeting all technical requirements of turpentine.

Such statements, as applied to respondent's product, Pinene, are false and misleading. The aforesaid Pinene, as manufactured, advertised and sold by respondent, is a petroleum distillate with a small portion of turpentine added. It is not a synthetic turpentine embodying all the physical measurements of spirits of turpentine and meeting all technical requirements of turpentine. It is not equal to turpentine and is not a chemically correct substitute for turpentine, and such statements as set out above, with reference to the said Pinene, have both the tendency and capacity to deceive and mislead the purchasing public into the belief that by purchasing respondent's product it is obtaining—

A synthetic turpentine embodying all the physical measurements of spirits of turpentine and meeting all the requirements of turpentine;

that it is obtaining a commodity that is—

Equal to turpentine and is a chemically correct substitute for turpentine,

when in truth and in fact it is obtaining a petroleum distillate in no way justifying the above representations.

PAR. 4. The name "Pinene" is accepted in chemical nomenclature to designate the chief constituent of spirits of turpentine, and the use of the word "Pinene" as a name for respondent's product and in its advertisements as herein before set out, is false and misleading and has both the tendency and capacity to mislead and deceive the general purchasing public into the belief that by purchasing respondent's product it is obtaining the chemical known as Pinene, when in truth and in fact it is obtaining a petroleum distillate.

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 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 respondent, the statement of facts agreed upon between counsel for the Commission and counsel for the respondent, and the Commission having made its findings as to the facts, with its conclusion that respondent 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, Pinene Manufacturing Company, Inc., its officers, agents, representatives, servants, and employees, do cease and desist—

(1) From using the word "Pinene" standing alone or in connection with any other word or words as a brand, label, trade-mark or trade name or in any advertisement or in any manner whatsoever in connection with the sale in interstate commerce of petroleum distillate.

(2) From publishing in trade papers, letterheads, circulars, circular letters and other advertising matter statements relative to the aforementioned petroleum distillate, designated by respondent as "Pinene," the statements that—

It is a pine tree spirit. It is a chemically correct substitute for turpentine. It is a synthetic turpentine embodying all the physical measurements of spirits of turpentine and meeting all the requirements of turpentine,

or statements of similar import.

It is further ordered, That respondent, within sixty (60) days from notice hereof, file with the Commission a report in writing stating in detail the manner in which this order has been complied with.