

Complaint.

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FEDERAL TRADE COMMISSION

v.

EVERETT F. BOYDEN, TRADING UNDER THE NAME
AND STYLE OF GEORGE E. BOYDEN & SON.COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SECTION 5
OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 689—March 9, 1923.

SYLLABUS.

Where an individual engaged in the manufacture and sale of hosiery in competition with concerns who either correctly branded and labeled their products with reference to composition or failed to brand and label the same at all in that respect; branded and labeled hosiery composed of cotton and wool in varying proportions as "Cashmere," thereby misleading a substantial part of the purchasing public into believing said goods to be composed of wool:

Held, That such branding and labeling, 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 Everett F. Boyden, trading under the name and style of George E. Boyden & Son, herein-after referred to as respondent, has been and is 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 respondent carries on business at Providence, R. I., under the name and style of George E. Boyden & Son, and is engaged in the business of manufacturing and selling hosiery, and causes hosiery sold by him to be transported to the purchasers thereof, from the State of Rhode Island, through and into other States of the United States, and in carrying on such business is in direct, active competition with other persons, partnerships, and corporations similarly engaged.

PAR. 2. That respondent, in the course of his business as described in paragraph 1 hereof, places on hosiery sold by him, made of cotton and wool in approximately equal parts, and upon the boxes in which such hosiery is eventually offered for sale by retail dealers to the

purchasing public, the label "Cashmere," which label is false and misleading and is calculated to and does mislead and deceive the purchasing public.

PAR. 3. 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, Everett F. Boyden, trading under the name and style of George E. Boyden & Son, 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 by his attorneys 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, Everett F. Boyden, is now and was at all the times mentioned in the complaint engaged at Providence, R. I., under the name and style of George E. Boyden & Son, in the business of manufacturing and selling hosiery and in causing same to be shipped and transported to the purchasers thereof from the State of Rhode Island through and into other States of the United States pursuant to such sales, in competition with other corporations, copartnerships, and individuals engaged in similar commerce between and among the States of the United States.

PAR. 2. That the respondent until he learned of this investigation by the Commission about July 1, 1920, in the conduct of his business

Findings.

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as described in paragraph 1 herein, sold and shipped hosiery which was made of cotton and wool in varying proportions, which he labeled and branded, and in packages or containers which he labeled and branded "Cashmere." That dealers purchasing this hosiery from respondent, or from respondent's customers, labeled and branded, or in packages or containers labeled and branded as aforesaid, offered and sold it so labeled and branded to the general purchasing public. That neither the said hosiery nor the boxes containing it were labeled, advertised, or branded with any other word or words to indicate the character, kind, or grade of material or materials entering into the manufacture of such hosiery.

PAR. 3. That the word "Cashmere," when applied to hosiery without any other word or words descriptive of the character, kind, or grade of material or materials, is understood by the general purchasing public to mean hosiery made entirely of a high-grade pure wool.

PAR. 4. That many of respondent's competitors are now and were at and during the times mentioned engaged in the sale of hosiery to persons in States other than those in which their principal factories or places of business are and were located, and in causing hosiery so sold to be transported from the States in which their principal factories or places of business are and were located through and into other States of the United States pursuant to such sales. That many such competitors, prior to July 1, 1920, sold and shipped in said commerce between the States of the United States hosiery made entirely of wool, which hosiery and the packages or containers for which are labeled, advertised, and branded "Cashmere" without any other word or words descriptive of the character, kind, or grade of material of which such hosiery is made.

PAR. 5. That many of respondent's competitors in the course of commerce between the States as described in paragraph 4 herein, prior to July 1, 1920, sold and shipped and are now selling and shipping hosiery made of wool and cotton in varying proportions, which hosiery and the packages or containers for which are labeled, advertised, and branded in some instances with no word or words descriptive of the material or materials entering into the manufacture of such hosiery, and in other instances labeled, advertised, and branded so as to indicate that the hosiery is made of cashmere and cotton, or wool and cotton.

PAR. 6. The labels or brands under which the respondent sells 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 un-

fairly with goods of his competitors in interstate commerce, who, as set forth in paragraphs 4 and 5 above, sell hosiery made entirely of wool; 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 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, Everett F. Boyden, trading under the name and style of George E. Boyden & Son, 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 word "Cashmere," unless the hosiery so labeled, branded, or advertised be composed entirely of wool of a high grade.

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.

Complaint.

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FEDERAL TRADE COMMISSION

v.

SIMON ADELSON, TRADING UNDER THE NAME AND
STYLE OF UNITED STATES REFINING COMPANY.