

Complaint.

G F. T. C.

FEDERAL TRADE COMMISSION

v.

PILLING AND MADELEY.

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

Docket 698—April 5, 1923.

SYLLABUS.

Where a corporation 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 silk and cotton in varying proportions as "womens two tone silk hose," "ladies two tone silk hose," and "pure thread 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 an unfair method of competition.

COMPLAINT.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it that Pilling and Madeley, 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 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.

PARAGRAPH 1. That the respondent, Pilling and Madeley, is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Pennsylvania, having its principal office and place of business in the city of Philadelphia, in the said State.

PAR. 2. That the respondent is engaged in the business of manufacturing and selling hosiery, and in the course of its business causes its products, so manufactured and 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 the District of Columbia; and in the conduct of such business is in direct, active, competition with other persons, copartnerships, and corporations similarly engaged.

PAR. 3. That the respondent in the course of its business as described in paragraph 2 hereof, places upon certain lines of hosiery so manufactured, sold, and by it caused to be transported as aforesaid, 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: "Gordon Silk Hose," "Women's Two Tone Silk Hose," "Ladies' Two Tone Silk Hose," "Pure Thread Silk Hose," whereas in truth and in fact the material of which such hosiery so labeled and branded is made, is not silk, but is a composition of animal and vegetable fiber in varying proportions; that such labels and brands are false and misleading and are calculated to, and do, deceive the purchasing public into the belief that such hosiery is manufactured wholly of silk.

PAR. 4. 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, Pilling and Madeley, 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 in its own proper person and filed its 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, Pilling and Madeley, is a corporation duly incorporated and doing business under and by virtue of

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the laws of the State of Pennsylvania, with its principal place of business in the city of Philadelphia, State of Pennsylvania.

PAR. 2. That the respondent is 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 shipped and transported from the State of Pennsylvania 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, 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 the respondent, prior to about July 1, 1920, at about which time the Commission commenced its investigation, in the conduct of its business as described in paragraph 2 above, sold and shipped hosiery which was made of material derived from the cocoon of the silkworm and cotton in varying proportions, which it labeled, advertised, and branded, and in packages or containers which it labeled, advertised, and branded "Women's Two Tone Silk Hose," and "Ladies' Two Tone Silk Hose," and "Pure Thread Silk Hose." That dealers purchasing this hosiery from respondent or from respondent's customers 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 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 said hosiery.

PAR. 4. That the term, "Two Tone Silk Hose," is understood by the general purchasing public to mean hosiery which is made entirely of material derived from the cocoon of the silkworm which, through dyeing, is given a two-tone color or effect. That the term, "Pure Thread Silk Hose," is understood by the general purchasing public to mean hosiery which is made entirely of material derived from the cocoon of the silkworm.

PAR. 5. That many of respondent's competitors are engaged in the sale of hosiery in States other than those in which their principal factories or places of business are located, and in causing hosiery so sold to be transported from the States in which their principal factories or places of business are 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 and are now selling and shipping in said commerce between the States, hosiery which is made entirely of material derived from the cocoon of the silkworm, which through dyeing is given a two-tone color or effect,

which hosiery and the packages or containers for which are labeled, advertised, and branded "Two Tone Silk Hose." That many such competitors, prior to July 1, 1920, sold and shipped, and are now selling and shipping in said commerce between the States of the United States, hosiery which is 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 "Pure Thread Silk Hose."

PAR. 6. That many of respondent's competitors, in the course of commerce between States as described in paragraph 5 above, prior to July 1, 1920, sold and shipped and are now selling and shipping, hosiery which is made of material derived from the cocoon of the silkworm and of 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 respondent's competitors, in the course of commerce between the States as described in paragraph 5 above, prior to July 1, 1920, sold and shipped and are now selling and shipping hosiery which is made of material derived from the cocoon of the silkworm and of 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. That many of respondent's competitors, in the course of commerce between the States, as described in paragraph 5 above, prior to July 1, 1920, sold and shipped and are now selling and shipping hosiery which is made of material derived from the cocoon of the silkworm and of cotton in varying proportions, which, through dyeing, is given a two-tone color or effect, 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 respondent's competitors, in the course of commerce between the States, as described in paragraph 5 above, prior to July 1, 1920, sold and shipped, and are now selling and shipping, hosiery which is made of material derived from the cocoon of the silkworm and of cotton in varying proportions, which, through dyeing, is given a two-tone color or effect, 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. 8. 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 pur-

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chasing 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 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, labeled, and 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, Pilling and Madeley, and its officers, agents, representatives, servants, and employees, cease and desist from:

1. Representing by any label, brand, or advertisement that the hosiery sold by it is silk unless such hosiery is entirely composed throughout of silk produced from the cocoon of the silkworm, or
2. Employing the word silk as a part of any label, brand, or advertisement of hosiery which is not entirely composed throughout of silk produced from the cocoon of the silkworm, unless the other material or materials used are aptly and truthfully named and given equal prominence with the word silk; except that the words "silk boot hose" may properly be used to designate hosiery the top, toe, heel and sole of which is made of cotton and the remainder of silk produced from the cocoon of the silkworm.

BROWN DURRELL CO.

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