

## Complaint.

## FEDERAL TRADE COMMISSION

v.

## THE HOLSMAN COMPANY.

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

Docket 981—June 21, 1923.

## SYLLABUS.

Where a corporation engaged in the sale of toilet articles composed in whole or in part of nitrated cellulose or celluloid resembling ivory in color and general appearance; as a means of bringing the same to the attention of the purchasing public and promoting the sale thereof, in its catalogues and other advertising matter described such articles as "French Ivory"; with a capacity and tendency to mislead and deceive the purchasing public and to induce the purchase thereof as and for ivory:

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

## COMPLAINT.

Acting in the public interest 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 charges that the Holsman Company, hereinafter referred to as respondent, has been and is using unfair methods of competition in commerce, in violation of the provisions of Section 5 of said Act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondent is a corporation organized under the laws of the State of Illinois with principal office and place of business in the city of Chicago, in said State. It is now and at all times hereinafter mentioned has been engaged in the business of selling, in wholesale quantities to retail dealers, various lines of merchandise including jewelry, novelties, and toilet articles, and in the conduct of its business causes articles so sold by it to be transported to the purchasers thereof, from the State of Illinois, through and into other States of the United States. In the course of said business respondent continuously has been and is now in competition with other persons, partnerships, and corporations similarly engaged in commerce among the States of the United States.

PAR. 2. Respondent in the course of its business as described in paragraph 1 hereof sells toilet articles composed, in whole or in part, of nitrated cellulose or pyroxylin plastic, known commercially as "celluloid," "pyralin," "fibrelloid," "viscoloid," and by other names; that some of the articles so sold by respondent resemble ivory

## Findings.

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in color and general appearance, and respondent as a means of bringing such products to the attention of the purchasing public and enhancing the sale thereof, distributes and has distributed catalogs and other advertising matter to its customers and to prospective customers and the trade generally, in which advertising matter such articles are described as "French Ivory," and the use of such advertising matter by respondent was intended and calculated by respondent to mislead and deceive the purchasers of such articles from respondent, as to the quality and value of such articles, and such advertising matter had the capacity and tendency to mislead and deceive the public and to induce a substantial portion of the public to purchase said articles upon the erroneous belief that such articles are made of ivory in whole or in part.

PAR. 3. There is a considerable number of competitors of respondent who sell toilet articles composed of the basic materials known commercially as "celluloid," "pyralin," "fibrelloid," "viscoloid," etc., which materials resemble ivory in color and general appearance, and which competitors advertise and brand the articles sold by them in competition with those sold by respondent, as "Ivory Colored," "Imitation Ivory," or with words of like import, coupled with the name of the material of which the articles were composed.

PAR. 4. That on May 17, 1920, a conference was held by representatives of the manufacturers of the basic material known as pyroxylin plastic, 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.; that at such conference a resolution was passed which condemned the use, as applied to articles made of pyroxylin plastic, of the word "Ivory" in any other than an adjective sense and then only when coupled with the name of the material, or some other proper qualifying term.

PAR. 5. The above alleged acts and things done by respondent are all to the prejudice of the public, and of respondent's competitors, and constitute unfair methods 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 Holsman Company, a corporation, 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 and filed its answer herein, and thereafter 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 upon such agreed statement of facts to make its findings 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 now fully advised in the premises, makes this its report, stating its findings as to the facts:

#### FINDINGS AS TO THE FACTS.

PARAGRAPH 1. The respondent Holsman Company is now and has been since March, 1921, a corporation organized and existing under and by virtue of the laws of the State of Illinois, with its principal place of business in the city of Chicago, in said State, and has been during said period, and is now, engaged in the business of selling in wholesale quantities to retail dealers various lines of merchandise, including jewelry, novelties, and toilet articles, and in the conduct of its business has caused, and does now cause, articles so sold by it to be transported to the purchasers thereof from the State of Illinois through and into other States of the United States, and in the course of its said business respondent has been and now is in competition with other persons, partnerships, and corporations similarly engaged in commerce among the States of the United States.

PAR. 2. That respondent, in the course of its business described in paragraph 1 hereof, sells toilet articles composed in whole or in part of nitrated cellulose or pyroxylin plastic, known commercially as "celluloid," "pyralin," "fibrelloid," "viscoloid," and by other names; that some of the articles so sold by respondent resemble ivory in color and general appearance, and respondent, as a means of bringing such products to the attention of the purchasing public and enhancing the sale thereof, distributes and has distributed catalogues and other advertising matter to its customers and to prospective customers and the trade generally, in which advertising matter such articles are described as "French Ivory." That said advertising by respondent has had, and now has, the tendency to mislead and deceive purchasers of said articles as to the quality and value of such articles, and such advertising matter has had, and now has, the tendency and capacity to mislead and deceive the purchasing public, and to induce a sub-

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stantial portion of the purchasing public to purchase said articles in the erroneous belief that such articles are made of ivory in whole or in part.

PAR. 3. That a considerable number of competitors of respondent sell toilet articles composed of the basic material known commercially as "celluloid," "pyralin," "fibrelloid," "viscoloid," etc., which materials resemble ivory in color and appearance, and which competitors advertise and brand articles sold by them in competition with those sold by respondent as "Ivory Colored," "Imitation Ivory," or with words of like import coupled with the names of the material of which the articles are composed.

PAR. 4. That on May 17, 1920, a conference was held by representatives of the manufacturers of the basic material known as pyroxylin plastic 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. That at such conference a resolution was passed which condemned the use, as applied to articles made of pyroxylin plastic, of the word "Ivory" in any other than an adjective sense, and then only when coupled with the name of the material or some other proper qualifying term.

## CONCLUSION.

That the acts and conduct of respondent, as described and set forth in the above findings as to the facts, are unfair methods of competition in interstate commerce, in violation 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."

## 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 agreed statement of facts filed herein, and the Commission having made 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 Holsman Company, a corporation, its officers, agents, and employees, do cease and desist from directly or indirectly advertising, representing, labeling, or branding as "Ivory," articles offered for sale or sold by it, its agents or employees, unless such articles are, in fact, made or composed of ivory.

KRAUS & CO., INC., ET AL.

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