

Complaint.

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FEDERAL TRADE COMMISSION
v.
EASTMAN KODAK COMPANY ET AL.

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

Docket 977—April 18, 1924.

SYLLABUS.

Where a corporation engaged in the manufacture and sale of positive raw film stock and making over 80 per cent of such stock manufactured in the United States, with the cooperation and assistance of an individual long intimately associated with it in maintaining in various ways its monopoly, in the manufacture, and their monopoly, in the sale, thereof, on the one hand; and manufacturers of positive prints from motion picture negatives and, as such, users of raw film stock as their raw material, and acting through their association and in response to the threat directed against them in the publicly announced acquisition by said corporation of three laboratories equipped to compete with them and with a combined capacity equal to the market demand, on the other hand; in pursuance of a plan to substantially lessen competition in the sale of positive film stock and to maintain and extend said monopoly, entered into, and carried out, an agreement whereby said manufacturers bound themselves thereafter to confine their purchases of positive raw film stock to the American made product in consideration of said corporation's refraining from operating its aforesaid laboratories, and to secure as members of their association and similarly bound, as many other manufacturers as possible; with the result that sales of imported films, theretofore amounting to many millions of feet a year, were entirely eliminated, competition in the manufacture and sale of positive film stock was practically eliminated, and the monopoly of said corporation was maintained and extended:

Held, That such practices, substantially as described, constituted unfair methods of competition.

Mr. W. A. Sweet for the Commission.

Hubbell, Taylor, Goodwin & Moser of Rochester, N. Y., for Eastman Kodak Co. and George Eastman.

Konta, Kirchwey & Michael of New York City, for Jules Brulatour.

San Ittelson & Van Voorhis of New York City, for Allied Laboratories Association and respondent members.

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 Eastman Kodak Company, Allied Laboratories Association, Inc., The Burton Holmes Lectures, Inc., The Craftsmen Film Laboratory, Inc., Kinetograph Company of America, Inc., Erbograpgh Company, Cromlow Film Laboratories, Inc., Palisades Film Laboratories, Inc., Claremont Film Laboratory, Inc., Film Developing Corporation, Evans Film Manufacturing Company, Inc., Republic Laboratories, Inc., Lyman H. Howe Film Company, Rex Laboratory, Inc., Tremont Film Laboratories, Inc., Mark Dintenfass, George Eastman and Jules E. Brulatour, hereinafter referred to as respondents, have been and are using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondent, Eastman Kodak Company, (hereinafter referred to as Eastman Company), is a corporation organized in 1892, under and by virtue of the laws of the State of New York, and having its principal office and factories located in the City of Rochester, State of New York. It is now and at all times hereinafter mentioned has been engaged in the manufacture of cinematograph film, and in the sale thereof to various corporations, firms and individuals; in the course and conduct of such business, it ships and transports such cinematograph film, by means of common carriers, from its factories in said City of Rochester, New York, to the purchasers thereof, through and into the different states of the United States and to foreign countries, in direct competition with other corporations, firms and individuals similarly engaged. Respondent, George Eastman, is now and ever since the Eastman Co.'s organization, has been the president of said corporation, and the dominant and controlling influence therein.

PAR. 2. Respondent, Jules E. Brulatour, is a resident of the City of New York, State of New York, where he is now and has been during the times hereinafter mentioned, engaged in the business of purchasing cinematograph film from the Eastman Co., and selling the same to various corporations, firms and individuals. In the sale of such cinematograph film, he ships and transports large quantities to the purchasers thereof from his warehouse in Long Island City, State of New York, and causes the Eastman Co. to ship and transport from its factories in the City of Rochester, State of New York, large quantities of such film to his said customers, through and into the different states of the United States, in competition with other corporations, firms and individuals similarly engaged.

PAR. 3. The cinematograph film, manufactured by the Eastman Co., and sold by it and respondent, Jules E. Brulatour, is of two kinds, known in the trade as "negative stock" and "positive

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stock." The negative stock is that used by producers of motion pictures, in the making or photographing of a picture, to effect an original negative or master stencil; the positive stock is that used to make prints from a negative, which prints, when run through a cinematograph machine, project on a screen what is commonly known as a motion picture. The one characteristic difference as between a negative and a positive print is that in the former the blacks and whites are transposed, whereas in the latter they appear in the natural state. Any number of prints can be made from a single negative, the same as any number of ordinary photographs can be printed by a photographer from a single photographic negative.

These prints, made from the original negative of a motion picture, are known in the trade as "prints," or "motion picture films," and are the films distributed to exhibitors for their use in showing a motion picture to the public.

PAR. 4. Respondent, Allied Laboratories Association, Inc., (hereinafter referred to as the Association), is a nontrading corporation, duly organized under and by virtue of the membership corporation laws of the State of New York in August, 1921, and having as its announced object the advancement of the interest of its members. Executive offices are maintained in the City of New York, State of New York. Membership in said Association is limited to persons, firms, or corporations engaged in the business of manufacturing and selling prints of motion pictures (as described above in paragraph 3). Since its organization the Association has embraced in its membership the following:

The Burton Holmes Lectures, Inc., an Illinois corporation, with its principal office and place of business in the City of Chicago, State of Illinois;

The Craftsmen Film Laboratory, Inc., a New York corporation, with its principal office and place of business in the City of New York, State of New York;

Kineto Company of America, Inc., a New York corporation, with its principal office and place of business in the City of New York, State of New York;

Cromlow Film Laboratories, Inc., a New York corporation, with its principal office and place of business in the City of New York, State of New York;

Palisades Film Laboratories, Inc., a New Jersey corporation, with its principal office and place of business in Palisades, State of New Jersey;

Claremont Film Laboratory, Inc., a New York corporation, with its principal office and place of business in the City of New York, State of New York;

Film Developing Corporation, a New York corporation, with its principal office and place of business in the City of New York, State of New York;

Evans Film Manufacturing Company, Inc., a New York Corporation, with its principal office and place of business in the City of New York, State of New York;

Republic Laboratories, Inc., a New York corporation, with its principal office and place of business in the City of New York, State of New York;

Lyman H. Howe Film Company, a Pennsylvania corporation, with its principal office and place of business in the City of Wilkes-Barre, State of Pennsylvania;

Rex Laboratory, Inc., a New Jersey corporation, with its principal office and place of business in Cliffside, State of New Jersey;

Tremont Film Laboratories, Inc., a New York corporation, with its principal office and place of business in the City of New York, State of New York;

Mark Dintenfass, an individual, doing business under the name and style of National Film Laboratories, with his principal office and place of business at Hudson Heights, State of New Jersey.

These concerns were charter members of said organization. On or about November 1921, the Erbograph Company, a New York corporation, with its principal office and place of business in the City of New York, State of New York, joined such Association and has since that date been and is now a member. (For the sake of brevity all of the members of the Association are hereinafter referred to as members).

All of said members maintain and operate manufacturing laboratories at or adjacent to their various places of business, as above set forth, in which they manufacture positive prints from motion picture negatives for various corporations, firms and individuals, and in the regular course and conduct of their respective businesses, have been during the times hereinafter specified, and now are engaged in manufacturing and selling, and in the shipping of such prints to the purchasers thereof, located in various States of the United States, causing such prints to be transported from the states in which such members' factories and offices are situated, through and into other States of the United States.

PAR. 5. The Eastman Co. is the largest manufacturer of cinematograph film in the world, and up to and until on or about March,

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1920, manufactured and sold approximately 94% of all the cinematograph film used in the United States, and manufactured and sold approximately 96% of all the cinematograph film produced in the United States. Between on or about March, 1920 and September 12, 1921, due to competition by American importers of cinematograph film manufactured in foreign countries, the sales of cinematograph film by the Eastman Co. decreased to approximately 81% of the total sales of such film in the United States. Respondent, Jules E. Brulatour, up to in or about March 1920, purchased and resold in the United States approximately 81% of all the cinematograph film sold by the Eastman Co. in the United States, and between in or about March, 1920, and September 12, 1921, said Jules E. Brulatour purchased and resold approximately 70% of all the cinematograph film sold by the Eastman Co. in the United States.

PAR. 6. Respondents, Eastman Co. and George Eastman conspired and confederated together and with respondent Jules E. Brulatour, to unduly hinder and restrain competition in the manufacture of cinematograph film and in the sale thereof in interstate and foreign commerce and to control, dominate, monopolize or attempt to monopolize the manufacture and sale of such film throughout the United States. Thereafter the Association, together with each and all of its constituent members, joined such conspiracy and aided, abetted and assisted the Eastman Co., respondent George Eastman, and respondent Jules E. Brulatour in consummating their purpose. All of said respondents further conspired and confederated together, and with one another, to unduly hinder, restrain and eliminate competition in the manufacture and sale of prints of motion picture films in interstate commerce, to fix and regulate prices to be charged for the same, and to control, dominate and monopolize, or attempt to monopolize, the business of manufacturing and selling prints of motion picture films throughout the United States.

PAR. 7. In pursuance of the conspiracy charged in paragraph 6 hereof, and as a part thereof, respondents, Eastman Co. and George Eastman caused respondent, Jules E. Brulatour, during the latter part of the year 1919, to construct or have constructed at Long Island City, State of New York, a manufacturing laboratory, known as the G. M. Laboratories, equipped for manufacturing positive prints from motion picture negatives and at about the same time or shortly thereafter, caused respondent, Jules E. Brulatour to construct or have constructed a second manufacturing laboratory equipped for the manufacture of prints from motion pictures at Fort Lee, State of New Jersey, known as the Sen-Jacq Laboratories. Respondent, Jules E. Brulatour, was then, and had been for some-

time prior thereto, the principal stockholder in Paragon, Inc., a manufacturer of prints of motion pictures located at Fort Lee, State of New Jersey, which concern was controlled by the respondents, Eastman Co., George Eastman and said Brulatour. Said respondents caused the three manufacturing laboratories just above named, to be operated by respondent, Jules E. Brulatour as separate and distinct business enterprises, without disclosing the true ownership thereof, or the fact that they were owned and/or controlled by respondent, Eastman Co. and respondent, George Eastman. And said respondent, pursuant to the conspiracy above charged, and as a part thereof, caused said Brulatour in the conduct of the business of these three manufacturing laboratories to offer to supply and said Brulatour did supply to various producers of motion pictures, positive prints at prices far below those at which competitive manufacturing laboratories could supply such prints.

In further pursuance of the conspiracy, as charged in paragraph 6 hereof, and as a part thereof, respondents, Eastman Co. and George Eastman caused respondent Jules E. Brulatour, in supplying competing manufacturing laboratories with cinematograph film, to delay deliveries of same and in some instances to temporarily shut off their source of supply. They further caused said Brulatour to discriminate as between those manufacturing laboratories, who confined their purchases of cinematograph film to that manufactured by the Eastman Co., and those manufacturing laboratories, who purchased and used some film of other manufacture, by extending to the former unusual and long terms of credit, which were denied to the latter—all this for the purpose of coercing the various manufacturing laboratories not controlled and/or operated by respondents, Eastman Co., George Eastman and Jules E. Brulatour into confining their purchases of cinematograph film to that manufactured by the Eastman Co.

PAR. 8. In further pursuance of said conspiracy, charged in paragraph 6 hereof, and as a part thereof, on or about August 24, 1921, the Eastman Co. and George Eastman caused to be transferred and assigned to respondent, Eastman Co., the legal title and ownership of the G. M. Laboratories, Sen-Jacq Laboratories and Paragon Laboratories, above described in paragraph 7, and the Eastman Co. immediately thereafter publicly announced to the trade that it had purchased said manufacturing laboratories and that it intended to operate the same,—this for the further purpose of coercing and intimidating competing manufacturing laboratories and inducing them to refrain from making further purchases of cinematograph film manufactured by others than the Eastman Co.

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PAR. 9. To further carry out and consummate the object of the conspiracy charged in paragraph 6 hereof, and as a part thereof, respondents, Eastman Co., George Eastman and Jules E. Brulattour, through the threat of operation by the Eastman Co. of the three manufacturing laboratories, named above in paragraphs 7 and 8, induced and coerced the respondent Association, together with each and all of its members, to join said conspiracy, and on or about September 12, 1921, an agreement was consummated by and between respondents, Eastman Co. and George Eastman and the respondent Association, and its members, whereby the Eastman Co. agreed to close its three manufacturing laboratories and to refrain from further operation of same in competition with the members of the Association, in consideration of which the Association members agreed to thereafter confine their purchases of cinematograph film to film manufactured in the United States, and to refuse to purchase any cinematograph film from American importers of foreign manufactured film; it being understood that the Eastman Co. would keep its said manufacturing laboratories in working order and that the Eastman Co. would reopen and operate the same in competition with the Association members, should they or any of them again purchase or use in their plants cinematograph film imported from foreign countries.

PAR. 10. In the carrying out of the agreement set forth above in paragraph 9 and in order to accomplish the purposes therein contemplated, respondent Association and the various members thereof, have since on or about September 12, 1921, confined all their purchases of cinematograph film to film manufactured by the Eastman Co., and have exploited the fact that no other film is used in their said manufacturing laboratories; various members of said Association have falsely announced to other manufacturing laboratories, and to the trade from time to time, that cinematograph film produced by manufacturers other than the Eastman Co. cannot be used to good advantage; and said Association and its members have consistently sought to induce and coerce outside manufacturing laboratories to become members thereof, and have attempted to induce and coerce such other manufacturing laboratories to agree to purchase cinematograph film from the Eastman Co., and to refuse to purchase cinematograph film manufactured by others.

PAR. 11. As a result of the carrying out of the said conspiracy, combination and agreement by and between respondents herein, the Eastman Co. has acquired and now enjoys a virtual monopoly in the manufacture and sale of cinematograph film in the United States, to the injury of other American manufacturers of such film, and to

the injury of American importers of foreign made film. As a further result thereof, competition in the manufacture and sale of prints of motion picture film, has been hindered and in some instances, eliminated, and through the combination of the members of the Association by and with the Eastman Co. and respondents, George Eastman and Jules E. Brulatour, the prices at which positive prints are sold to producers of motion pictures throughout the United States, have been fixed and standardized.

PAR. 12. The aforesaid acts and practices of said respondents considered together have a dangerous tendency unduly to hinder free competition in commerce in cinematograph films and prints of motion picture films, and to fix, regulate and control the price thereof, and are otherwise to the prejudice of the public and the respective competitors of said respondents, and constitute unfair methods of competition 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 above named, 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 several appearances and filed their several answers herein, and having made, executed and filed an agreed statement of facts in this proceeding (the Republic Laboratories, Inc., filed no answer but signed an agreed statement of facts) in which it is stipulated and agreed by and between respondents and counsel for the Commission that the Federal Trade Commission may take such agreed statement of facts as the facts in this proceeding before the Commission and in lieu of testimony before the Commission in support of the charges stated in the complaint or in opposition thereto, and that said Commission may proceed further upon said complaint to make its report in said proceedings, stating its findings as to the facts and conclusions and entering its order thereon, and the Federal Trade Commission being now fully advised in the premises, makes this its report, stating its findings as to the facts and conclusions:

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FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondent, Eastman Kodak Company, is a corporation organized in 1892, under and by virtue of the laws of the State of New York, having its principal office and factories located in the City of Rochester, State of New York. It is now, and at all times hereinafter mentioned has been, engaged in the manufacture of photographic supplies, including cinematograph film, and in the sale thereof to various corporations, firms and individuals; in the course and conduct of such business it ships and transports such cinematograph film by means of common carriers from its factories in said City of Rochester, State of New York, to the purchasers thereof through and into the different States of the United States and to foreign countries, in direct competition with other corporations, firms and individuals engaged in a similar business. Respondent George Eastman was treasurer of the Eastman Kodak Company from the date of its organization to the year 1920, and has been since 1920 and is now the president of said company. At all times since the organization of the company said George Eastman has been the dominant and controlling influence thereof.

PAR. 2. Respondent Jules E. Brulatour is a resident of the City of New York, State of New York, where he is now, and has been during the times hereinafter mentioned, engaged in the business of purchasing cinematograph film from the Eastman Kodak Company selling the same to various corporations, firms and individuals. In the sale of such cinematograph film, he ships and transports large quantities to the purchasers thereof from his warehouse in Long Island City, State of New York, and causes the Eastman Kodak Company to ship and transport from its factories in the City of Rochester, State of New York, large quantities of such film to his said customers through and into the different States of the United States, in competition with other corporations, firms and individuals engaged in a similar business.

PAR. 3. The cinematograph film manufactured by the Eastman Kodak Company, and sold by it and by respondent Jules E. Brulatour is of two kinds, known in the trade as "negative" stock and "positive" stock. The negative stock is that used by producers of motion pictures in the making or photographing of a picture to effect an original negative or master stencil; the positive stock is that used to make prints from a negative, which prints, when run through a cinematograph machine, project on a screen what is commonly

known as a motion picture. The one characteristic difference as between a negative and a positive print is, that in the former the blacks and whites are transposed, whereas, in the latter, they appear in the natural state. Any number of positive prints can be made from a single negative, the same as any number of ordinary photographs can be printed by a photographer from a single photographic negative. These prints made from the original negative of a motion picture are known in the trade as "Prints," or "Motion picture films," and are the films distributed to exhibitors for their use in showing a motion picture to the public. The positive film is used in very much larger quantities than the negative film.

PAR. 4. Respondent Allied Film Laboratories Association, Inc., (hereinafter referred to as the Association) is a nontrading corporation, duly organized under and by virtue of the membership corporation laws of the State of New York, in August, 1921, and having as its announced object the advancement of the interests of its members. Executive offices are maintained in the City of New York, State of New York. Membership in said Association is limited to persons, firms or corporations engaged in any business which is in any way allied to or associated with the manufacture, preparation, sale or distribution of motion pictures or supplies used in connection therewith (as described above in paragraph 3). Since its organization the Association has embraced in its membership the following:

The Burton Holmes Lectures, Inc., an Illinois corporation, with its principal office and place of business in the City of Chicago, State of Illinois;

The Craftsmen Film Laboratory, Inc., a New York corporation, with its principal office and place of business in the City of New York, State of New York;

Kineto Company of America, Inc., a New York corporation, with its principal office and place of business in the City of New York, State of New York;

Cromlow Film Laboratories, Inc., a New York corporation, with its principal office and place of business in the City of New York, State of New York;

Palisades Film Laboratories, Inc., a New Jersey corporation, with its principal office and place of business in Palisades, State of New Jersey;

Claremont Film Laboratory, Inc., a New York corporation, with its principal office and place of business in the City of New York, State of New York;

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Film Developing Corporation, a New York corporation, with its principal office and place of business in the City of New York, State of New York;

Evans Film Manufacturing Company, Inc., a New York corporation, with its principal office and place of business in the City of New York, State of New York;

Republic Laboratories, Inc., a New York corporation, with its principal office and place of business in the City of New York, State of New York;

Lyman H. Howe Film Company, a Pennsylvania corporation, with its principal office and place of business in the City of Wilkes-Barre, State of Pennsylvania;

Rex Laboratory, Inc., a New Jersey corporation, with its principal office and place of business in Cliffside, State of New Jersey;

Tremont Film Laboratories, Inc., a New York corporation, with its principal office and place of business in the City of New York, State of New York;

Mark Dintenfass, an individual, doing business under the name and style of National Film Laboratories, with his principal office and place of business at Hudson Heights, State of New Jersey;

On or about November, 1921, the Erbograph Company, a New York corporation, with its principal office and place of business in the city of New York, State of New York, joined such Association, and has since that date been, and is now, a member.

(For the sake of brevity all of the members of said Association are hereinafter referred to as members.)

PAR. 5. All of said members maintain and operate manufacturing laboratories at or adjacent to their various places of business as above set forth, in which they manufacture positive prints from motion picture negatives for various corporations, firms and individuals, and in the regular course and conduct of their respective businesses, have been during the time hereinafter specified, and are now, engaged in manufacturing and selling and in the shipping of such prints to the purchasers thereof located in various States of the United States, causing such prints to be transported from the States in which such members' factories and offices are situated, through and into other States of the United States.

PAR. 6. The Eastman Kodak Company originated the manufacture commercially of cinematograph film, in the year 1895. Prior to that time no cinematograph film was manufactured commercially in the United States, or anywhere else. The Eastman Kodak Company is, and always has been, the largest manufacturer of cinematograph film in the world. From 1915 to 1919 it manufactured and

sold about 99 per cent of the positive cinematograph film consumed in the United States. From 1919 until about March, 1920, it manufactured and sold approximately 94 per cent of all the positive cinematograph film used in the United States, and manufactured and sold approximately 96 per cent of all the positive cinematograph film produced in the United States. Between about March, 1920, and September, 1921, due to competition by importers of cinematograph film manufactured in foreign countries and by small manufacturers in the United States, the sales of positive cinematograph film by the Eastman Kodak Company decreased to approximately 81 per cent of the total of such film consumed in the United States, although it sold approximately 96 per cent of the total sales of American manufactured film. In 1920 the average monthly sales in the United States of positive cinematograph film by the Eastman Kodak Company was 58,000,000 feet.

PAR. 7. In or about the year 1909, the manufacture of cinematograph film was begun by competitors of the Eastman Kodak Company in Europe, and since that time small quantities of positive film have been manufactured by competitors of the Eastman Kodak Company in the United States. From about 1909 to 1911 the Lumiere Company of Lyons, France, sold substantial quantities of positive cinematograph film in the United States.

PAR. 8. Between 1917 and 1921 there were only four other American concerns manufacturing positive cinematograph film. The Eagle Rock Company commenced manufacturing in 1917 and ceased doing business in 1920. The Bay State Film Company commenced doing business in 1919 and is still engaged therein. Powers Film Products, Inc., commenced selling in 1919 and discontinued in the early part of 1921, and has recently resumed manufacture and sale. The Ansco Company commenced selling in 1921 and is still engaged in that line of business. Of the foreign competitors, the Pathe-Cinema Company of France has been selling its film to the Pathe Company of America for a number of years. In January, 1921, it appointed a sales representative in this country, who has been selling Pathe film to producers and film laboratories. The Gevaert Company of America began selling Belgian-made film in the United States in April, 1920, and the Agfa Company began selling German-made film in the United States in January, 1921.

PAR. 9. On or about February 15, 1911, and for some time prior thereto, the respondent, Jules E. Brulatour, was the agent in the United States of the Lumiere Company of Lyons, France, above referred to, which was a manufacturer of positive cinematograph film and then the only competitor of the Eastman Kodak Company in

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the sale of such film in the United States. Immediately prior to February 15, 1911, he took assignments of contracts between the Lumiere Company and certain users of positive film to whom he had been supplying Lumiere film, which contracts provide for the exclusive sale to them of positive film capable of use in manufacturing prints of motion pictures without specifying film made by any particular manufacturer, aggregating approximately 770,000 running feet of positive film per week or about 40,000,000 feet per year. The dates of these contracts range from December 28, 1910, to February 15, 1911. He represented the facts concerning these contracts and the assignments thereof to the Eastman Kodak Company and on February 15, 1911, the Eastman Kodak Company entered into a contract with him whereby it agreed "to fill all orders for positive and negative . . . film of its manufacture . . . received by it from" said Brulatour. After the signing of this contract the sales of film by the Eastman Kodak Company increased 40,000,000 feet per year. This contract has been continued up to the present time, with a few unimportant variations, and under its terms Mr. Brulatour has sold approximately 81 per cent of all the film sold by the Eastman Kodak Company in the United States.

From February 15, 1911, the date of Brulatour's contract with the Eastman Kodak Company, the relationship between Mr. Brulatour and the Eastman Kodak Company has been very intimate. The Eastman Kodak Company fixed the prices at which its film should be sold by Mr. Brulatour and Mr. Brulatour observed said prices in selling such film. Mr. Brulatour advised the Eastman Kodak Company of almost every transaction contemplated by him and of practically every act in relation to the various enterprises conducted by him which related to the sale or use of cinematograph film.

Mr. Brulatour informed the Eastman Kodak Company of his appearance before a legislative committee and of the answers to the questions put to him concerning his relations with the Eastman Kodak Company and of his refusal to answer certain questions. He consulted the Eastman Kodak Company in the matter of securing a suitable building in which to carry on the business of selling film manufactured by the Eastman Kodak Company in New York City and also concerning the selection of a permanent manager to be placed in charge of the business at Universal City, California. On December 29, 1919, the Eastman Kodak Company summoned Mr. Brulatour to Rochester to attend a conference of the Eastman Kodak Company's executives to consider the cinematograph film business, both domestic and foreign. In January, 1920, upon instructions of the Eastman Kodak Company Mr. Brulatour made a trip to Europe

for the purpose of gathering all the facts regarding cinematograph film and "particularly regarding German competition."

With full knowledge and consent of the Eastman Kodak Company Mr. Brulatour became financially interested in enterprises engaged in the business of manufacturing positive prints of motion picture films. He was a large stockholder in the Paragon Films, Inc., which owned the Paragon Laboratory, for the manufacture of positive prints of motion picture films and the Paragon Studio at Fort Lee, N. J. As early as December, 1914, Mr. Brulatour informed the Eastman Kodak Company concerning this enterprise and his interest therein. On July 26, 1918, Mr. Brulatour informed the Eastman Kodak Company that he was a large stockholder in Paragon Films; that the "Famous Players" operated the said studio under a lease and that said laboratory did most of their work as well as the "World Films" printing. Complaints were made direct to the Eastman Kodak Company concerning Mr. Brulatour's methods of operating this laboratory. On July 24, 1918, the Kalem Company complained that its largest and most unfair competitor in motion picture laboratory work was the Eastman Kodak Company's representative Mr. Brulatour. On October 18, 1918, Mr. Brulatour informed the Eastman Kodak Company that in order to avoid any further complications and to carry out its wishes he had made arrangements with Mr. William A. Brady, who was also interested in the Paragon company, to have Brady take over Brulatour's stockholdings in that company and that he was no longer a stockholder in any concern doing printing for the motion picture trade. On June 4, 1921, Mr. Brulatour was the owner of record of 1,912 $\frac{1}{2}$ shares of the capital stock of the Film Holding Company, which owned the Paragon Laboratory and Studio. The statement that he was not a stockholder in any concern doing printing for the motion picture trade was intended to mislead those who had complained to Eastman Kodak Company concerning the relation of Brulatour to the production of positive cinematograph prints. Mr. Brulatour became and now is a director of "Famous Players Lasky Corporation" and other like enterprises. He became and now is financially interested in the business of some of his customers who were and are users of positive film manufactured by the Eastman Kodak Company in order to have something to say about their affairs.

Mr. Brulatour in the interest of the Eastman Kodak Company attempted to prevent the financing of the Bay State Film Company, a potential competitor of the Eastman Kodak Company in the manufacture of positive film, by Sutton, Porter & Company, bankers. He attempted to influence Ladenberg Thalman & Company,

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bankers, not to finance the erection of a plant for the manufacture of motion picture film contemplated by one Mr. Barzykowski. Mr. Brulatour in the interest of the Eastman Kodak Company obtained control of the use of special machines for developing and manufacturing prints of motion picture films built by one George Maurice, and in the year 1920 with the knowledge and consent of the Eastman Kodak Company caused the G. M. Laboratory to be constructed and installed therein the machines built by said Maurice. Mr. Brulatour also obtained control of the use of special machines for developing and manufacturing prints of motion picture films built by one Sentou, and in the year 1920 with the knowledge and consent of the Eastman Kodak Company began the construction of the Sen Jacq Laboratory and the installation therein of the machines built by said Sentou. Both of these laboratories were situated at Long Island City, New York, and were built for the purpose of manufacturing prints of motion picture films.

PAR. 10. In 1920 and 1921 the importation of foreign-made film greatly increased and was the cause of considerable worry and concern on the part of Mr. Brulatour and the Eastman Kodak Company. A very large part of this foreign-manufactured film was used and consumed by the respondents herein who afterwards became members of the respondent association. The total importation of cinematograph film, sensitized but unexposed, into the United States in 1919 was 13,348,828 feet; in 1920, 99,828,522 feet; and in 1921, 182,929,398 feet.

PAR. 11. In May, 1921, the Eastman Kodak Company and Mr. Brulatour formulated a plan to have the Eastman Kodak Company openly acquire legal title to the Paragon Laboratory, the G. M. Laboratory, and the Sen Jacq Laboratory, and publicly announce to the trade that the Eastman Kodak Company had so acquired such laboratories and intended to operate the same, for the purpose of restraining competition in the use of positive raw film not manufactured by Eastman Kodak Company. On or about August 24, 1921, in carrying out the aforesaid plan, the Eastman Kodak Company with the cooperation of Mr. Brulatour, acquired at cost the legal title as of the date of June 4, 1921, to the Paragon Laboratory situated at Fort Lee, New Jersey, and the G. M. Laboratory, and the Sen Jacq Laboratory, both situated at Long Island City, New York, and on August 25, 1921, published in *Wid's Daily*, a trade paper, the following announcement:

The entire motion picture trade will be interested in the statement which follows, because it means a real service to the producer and through the producer to the public. The Eastman Kodak Company has not merely purchased well equipped laboratories. These laboratories will be backed by a

photographic experience of more than forty years and a technical staff that is unequalled in the photographic world. It means economy in operation—but it means even more than that. Obviously the future development of the motion picture industry depends upon good pictures not merely from the producer's standpoint but likewise from the technical standpoint. Every resource of the Eastman Kodak Company will be employed, therefore, in the production of perfect prints—prints that are worthy of the superior raw stock upon which they are made. The linking up of the manufacturer of the film itself and the actual reproduction of the prints, cannot fail to result in higher technical standards that are bound to benefit the entire industry.

Over a year ago the Eastman Kodak Company in answer to certain inquiries, sent out the following letter:

ROCHESTER, N. Y., *July 9, 1920.*

Referring to a recently published statement in one of the motion picture trade papers to the effect that the Eastman Kodak Company will within six months have sufficient laboratory facilities to print practically the entire amount of raw film turned out by this company, we desire to state we have no direct or indirect outside laboratory interests and no such action is at present under consideration. Any departure from our existing policy could arise only from a contingency, at present unseen, which would make such a step necessary to protect our raw film interests.

Yours very truly,

EASTMAN KODAK COMPANY.

In pursuance of the policy above foreshadowed, the Eastman Kodak Company has decided that the time has now arrived when in order to protect its own interests it is necessary that it should go into the printing and developing of motion picture films for the trade generally. The result of its decision will be for the general good of the motion picture industry because of the following facts.

The Kodak Company proposes to give this new undertaking the advantages of its great technical facilities, including its research laboratory, to the end that this part of the business will be brought up to the same high standard of uniformity and excellence as its manufacture of raw film. It is the purpose of the Kodak Company to give the trade all the important savings which will be effected by the close connection of the manufacture of the raw film with its finishing. The rapidly increasing importation of foreign film and the necessity of doing everything possible to protect the American industry by instituting every economy possible, render this action at this time imperative.

In view of the foregoing the Eastman Kodak Company has purchased the G. M., Sen Jacq and Paragon Laboratories, and will continue the operation of the G. M. and Paragon Laboratories and will put the Sen Jacq Laboratory into operation as quickly as possible.

By this action, the Eastman Kodak Company proposed to give to the motion picture industry the benefit of its superior facilities and technical skill and all the economies to be obtained by uniting two heretofore separate businesses, one the manufacturing, the other, the printing, developing and finishing of motion picture film.

In carrying out this business it should be distinctly understood that the Kodak Company does not intend to confine the use of its raw film to its own laboratories, but will continue, as heretofore, to fill all demands from whatever source.

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These three laboratories have a combined capacity for manufacturing prints of motion picture films greater than the combined capacity of all the other laboratories engaged in a similar business east of Chicago. Supplying these laboratories with its own positive raw film at prices which it could make advantageous, the Eastman Kodak Company was in a position to dominate the production of positive prints from cinematograph negatives.

PAR. 12. For some time prior to 1921, the respondents who afterward became members of the Association had been disturbed by Jules E. Brulatour's connection with the Paragon Laboratory, G. M. Laboratory and the Sen Jacq Laboratory in view of his aforesaid contracts and close and intimate relationship with the Eastman Kodak Company and repeatedly complained to the Eastman Kodak Company concerning the acts of said Brulatour in connection with the operation of the said laboratories, the discrimination in the matter of deliveries of positive cinematograph film manufactured by the Eastman Company in favor of said laboratories and the delay in deliveries of such film to the said respondents who afterward became members of said Association. In May, 1921, a committee representing the said members called upon respondent George Eastman in Rochester, New York, and asked him if he or the Eastman Kodak Company were engaged in the business of making prints of motion picture films, or intended to engage therein, either directly or indirectly and received the reply that the Eastman Kodak Company had no interest in any laboratory, and had no intention of becoming interested unless it should become necessary to protect their raw film industry. The Eastman Kodak Company was at this time indirectly interested through Jules E. Brulatour in the Paragon, G. M. and Sen Jacq Laboratories and this statement was intended to coerce members of the Association and other consumers of positive raw film into the use of Eastman Kodak Company's film exclusively. The members of the Association conducted a vigorous campaign of publicity in the trade journals and by personal solicitation in an effort to retain the business enjoyed by them in the manufacture of prints of motion picture films, anticipating the commercial operation of these three laboratories by Eastman Kodak Company.

PAR. 13. After the publication on August 25 by the Eastman Kodak Company of the announcement of its acquisition and intention to operate the G. M., the Sen Jacq and the Paragon Laboratories, numerous conferences were held between representatives of the Eastman Kodak Company and a committee representing the respondent members of the Allied Film Laboratories Association in

the endeavor to preserve the competitive status of the members of the Association.

PAR. 14. On September 9, 1921, as the result of a proposition made to them by one of the large manufacturers of American raw film, which term referred to the Eastman Kodak Company, the respondent members of the Association entered into an agreement among themselves to use in their laboratories "American made raw film stock exclusively," and further agreed to an inspection of their books and laboratories in the interest of such manufacturer for the purpose of ascertaining if there had been any violation of such agreement. This agreement was as follows:

At a special meeting of the Allied Association held on September 9, 1921, Attorney Arthur S. Friend read the proposed agreement to be signed by the members of the Association to use American made raw film stock in the laboratories of the members exclusively. On motion of Mr. Dintenfass, seconded by Mr. Hedwick, the President and Secretary were authorized to sign this agreement for the Association and the Secretary was instructed to attach to the minutes a copy of said agreement after all the members had attached the signature of that corporation.

Essential portions of agreement above referred to are as follows:

WHEREAS, it has been proposed to the members of said Allied Film Laboratories Association by one of the large manufacturers of American raw film that said manufacturer would in the future, as in the past, furnish a continuous and uninterrupted supply of raw film stock to all members of the Allied Film Laboratories Association at prices as low as it supplies same to any branch of the industry in the United States, provided the undersigned agree that they will use exclusively American made raw stock.

Now, therefore, in consideration of the premises and of the mutual covenants hereinafter contained, and of the sum of One Dollar by each of the parties hereto to the other in hand paid, the receipt whereof is hereby acknowledged, the parties hereto agree as follows:

First: They jointly and severally pledge themselves to a policy of using American made raw film stock exclusively in their various laboratories, and that except for the use of so much foreign-made raw film stock as is actually on hand or under contract of purchase, they will continue hereafter so to use the said American made raw film stock exclusively so long as said manufacturer continues to furnish a continuous and uninterrupted supply of raw film stock to the undersigned, at prices as low as it supplies the same to any branch of the industry in the United States.

Second: For the purpose only of determining whether any party hereto has violated or is violating the first paragraph of this agreement, the plants, records and books of all parties to this agreement shall be open at all reasonable times to inspection and audit by Messrs. Price, Waterhouse & Company, or any other firm of certified public accountants designated by the Board of Directors of Allied Film Laboratories Association, which inspection and audit may be made at any reasonable time on the order of the President of the Allied Film Laboratories. If there has been no violation, no facts, figures or information of any kind shall be divulged to the Association or any of its members or any

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other person by the said accountants except their own certificate that no violation has been or is being made by the laboratory so investigated and audited.

This agreement was signed by the following respondents: The Craftsmen Film Laboratory, Inc.; Kineto Company of America, Inc.; Cromlow Film Laboratories, Inc.; Claremont Film Laboratory, Inc.; Film Developing Corporation; Evans Film Manufacturing Company, Inc.; Republic Laboratories, Inc.; Lyman H. Howe Film Company, Rex Laboratory, Inc.; Tremont Film Laboratories, Inc., and Mark Dintenfass.

The terms, "one of the large manufacturers" and "said manufacturer," used in the foregoing agreement, refer to the respondent Eastman Kodak Company.

PAR. 15. This agreement was communicated to Eastman Kodak Company and on September 14, 1921, the Eastman Kodak Company wrote to the respondent members of the Association that it would not operate the Paragon, G. M., and Sen Jacq laboratories, commercially, so long as the said members adhered to their agreement of September 9, 1921, and that it would cooperate with said members "to protect them against any invasion of foreign raw film stock." This communication is as follows:

To the Members of the Allied Film Laboratories Association, Inc.

GENTLEMEN: In announcing to you on August 23, the purchase by this company of the G. M., Sen Jacq and Paragon Laboratories, we made it plain that the reason for this step was primarily the rapidly increasing importation of foreign film and the necessity of doing everything possible to protect the American industry. We felt that the time had come when that step was rendered imperative.

At the same time, we were very reluctant to take that action, both because we were entering upon a new business and because we realized the effect upon that business, in which you were already established. We are very glad, therefore, to hear from you today that it is your intention to use entirely American made film and that in processing American made film there will be no discrimination in price or otherwise against film manufactured by this company.

In view of this it is proper that this company state its position and policy frankly, which it purposes not to depart from unless it should become necessary to do so to protect its raw film industry. Your policy as above stated will as long as you adhere to it furnish, we believe, adequate protection to that portion of our business.

This company will complete the Sen Jacq Laboratory, equip it, and maintain it in a condition for immediate use, but will not operate any of these laboratories for commercial purposes, except that we will operate the G. M. Laboratory commercially up to November 1st, 1921, and the Sen Jacq Laboratory for not more than two months after its completion and in any event we shall not process more than 500,000 feet per week whether in one or the other or both of these laboratories.

It is the intention, however, to carry on experiments in all of these laboratories from time to time, but not to distribute any product to the trade except as above stated, and not, either directly or indirectly, to be interested in any film laboratory in competition with the members of the Allied Film Laboratories Association. This company will in the future, as in the past, furnish a continuous and uninterrupted supply of raw film stock to all members of the Allied Film Laboratories Association at prices as low as it supplies the same to any branch of the industry in the United States.

This company will cooperate with the members of the Allied Film Laboratories Association to protect them against any invasion of foreign raw film stock.

We understand that it is your purpose to extend your Association as rapidly as possible and to make its membership include substantially all of the commercial laboratories in the United States, and to arrange among your members for an understanding and agreement that they will use exclusively American made raw stock.

As long as your Association adheres to its intention above expressed, the company will not sell any of the above laboratories without giving to your Association notice of such intention and the privilege to select a purchaser from among the members of your Association at the same price and upon the same terms as those of any bona fide offer which we may have for the property.

We feel that we should call your attention to the importance of keeping the price for processing film in your laboratories at all times at a reasonable figure. Any attempt to establish or maintain an unreasonable price will result only to the disadvantage of yourselves and all American manufacturers of raw film, and any reduction in price of raw film made by any American manufacturer such as this company has recently made should be fully reflected in the price of processed film, as such reductions are made for the purpose of benefiting the ultimate consumers of the film, and not the laboratories.

We trust this letter will be of assistance to you in perfecting your organization and we give it to you at this time as an evidence of our earnest desire to cooperate with you in the protection and advancement of the laboratory branch of the motion picture industry.

Yours very truly,

(Signed)

EASTMAN KODAK COMPANY,
GEO. EASTMAN, *President*.

PAR. 16. The Eastman Kodak Company and the Association each then publicly announced their aforesaid respective actions. In pursuance of such action the Eastman Kodak Company thereafter ceased to operate the Paragon and G. M. Laboratories, completed but never operated the Sen Jacq Laboratory, but continued to maintain all of the said laboratories in a condition for immediate use and respondent members of the Association, after September 14, 1921, confined approximately all their purchases of cinematograph film to that manufactured by the Eastman Kodak Company and have refused, and continued to refuse, to purchase any cinematograph film from American importers of foreign manufactured film, and have consistently sought to induce other laboratories manufacturing prints of motion pictures to become members of said Association,

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to agree to purchase cinematograph film of American make and to refuse to purchase any foreign-manufactured cinematograph film. The Eastman Kodak Company on September 16, 1921, and again on November 2, 1921, made an inspection of the laboratories operated by the members of the Association for the purpose of ascertaining whether or not such members were using any foreign-manufactured cinematograph film. The foregoing acts and conduct of the respondents, together with the agreement referred to in paragraph 14 hereof, and the document dated September 14, 1921, above referred to, constitute an agreement, understanding and obligation by and between the respondents herein.

PAR. 17. On February 28, 1923, after the investigation of the matter involved in this cause was commenced by the Federal Trade Commission but before the issuance of the complaint herein, the respondent Eastman Kodak Company wrote to the respondent members of the Allied Film Laboratories Association as follows:

ROCHESTER, N. Y., February 28, 1923.

To the Members of the Allied Film Laboratories Association, Inc.

GENTLEMEN: Referring to our letter to you of September 14, 1921, we wish at this time to advise you of a change in our policy as outlined in that letter.

From and after this date we do not wish you to feel obligated in any way to use in your laboratories only American made films, and whether we open for operation the laboratories which we control, or not, will not depend in any way upon the action of the members of your Association with respect to the kind of film used in their laboratories.

We trust you will understand that this action is taken by us in the interests of yourselves as well as in our own.

Very truly yours,

(Signed) EASTMAN KODAK COMPANY,
GEORGE EASTMAN, *President*.

The foregoing document constitutes an affirmation of the fact that there had been an agreement, understanding and obligation entered into by and between the Eastman Kodak Company and the respondent members of the Allied Film Laboratories Association.

PAR. 18. During the first eight months of 1921 the Gevaert Company sold Belgian-made film to members of the Association to the amount of 8,650,440 feet; the Pathe-Cinema Company sold them French-made film to the amount of 2,616,531 feet; the Agfa Company sold them a substantial part of the importation of German-made film which in 1921 amounted to 56,291,000 feet. Since about September 14, 1921, neither the Gevaert Company, the Pathe-Cinema Company, nor the Agfa Company has sold any film to members of the Association.

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PAR. 19. In 1921, and for a long time prior thereto, the Eastman Kodak Company had a substantially complete monopoly of the manufacture of positive cinematograph film and an absolute monopoly of the manufacture of negative cinematograph film in the United States. In 1921 and since February 15, 1911, Jules E. Brulatour had a substantially complete monopoly of the sale of positive cinematograph film manufactured by the Eastman Kodak Company. In 1921 and for a long time prior thereto the Eastman Kodak Company and Mr. Brulatour together had a substantially complete monopoly of the sale of positive and negative cinematograph film in the United States.

PAR. 20. It was the purpose and intent of Eastman Kodak Company from February 15, 1911, when it entered into the relation with Jules E. Brulatour set out in paragraph 9 whereby it procured the substitution of its own positive film for that of the Lumiere Company to the extent of 40,000,000 feet per year, to maintain its monopoly in the manufacture of positive film and the monopoly in the sale of such film which it possessed in conjunction with Jules E. Brulatour and this purpose was manifested through the actions of Brulatour as the undisclosed representative of Eastman Kodak Company. In this capacity and in the interest of Eastman Kodak Company as well as indirectly for his own benefit, Brulatour first sought to obtain an influential and later a dominant position in the business of making positive prints in which the raw material is positive film stock. Brulatour obtained the control of the Paragon laboratory but when his ownership of this control became embarrassing to Eastman Kodak Company, Brulatour transferred his stock interest in such a manner that while he was able to announce that he had no further interest in the business of making positive prints, he was able at the time when the Eastman Kodak Company later concluded to enter the field of the manufacture of positive prints, to regain control of the Paragon laboratory and pass this ownership over to Eastman Kodak Company. In furtherance of the monopolistic purpose Brulatour acquired the rights to the processes and devices for making positive prints which originated with George Maurice and as well the processes and devices which originated with one Sentou and thereafter built the G. M. laboratory which was equipped with the Maurice process and the Sen Jacq laboratory which was equipped with the Sentou process. These three laboratories nominally owned by Brulatour were the expression of the purpose of Eastman Kodak Company and Brulatour to dominate the business

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of making positive prints from cinematograph negatives as the most effective means of maintaining and extending the monopoly of the Eastman Kodak Company in the manufacture and sale of positive film stock. Competitors were alarmed by the activities of Brulatour and the Eastman Kodak Company revealed the purpose which animated Brulatour and its own intimate connection therewith by the announcement that it would not go into the business of making prints unless it became necessary to do so to protect its business of manufacturing and selling positive film stock which was equivalent to the affirmative statement that it would go into that business if competition in the sale and use of other positive film stock continued. Such competition did continue and Eastman Kodak Company in order to maintain its monopoly in the manufacture and sale of positive film stock, attempted and intended to extend its monopoly into and over the use of positive film stock in the making of positive prints from cinematograph negatives. By arrangement with Brulatour, the three laboratories, Paragon, G. M., and Sen Jacq were conveyed to Eastman Kodak Company at cost and that company announced its entrance upon the manufacture of positive prints. This announcement, coupled with the openly declared ownership of these three laboratories, constituted an effective threat of overpowering competitive force before which the respondent Association's members promptly capitulated. They agreed among themselves to use only American-made positive film which was a disguised recognition of and acquiescence in the Eastman Kodak Company's positive film monopoly and by the execution of this agreement and the communication of its terms to Eastman Kodak Company the persons, firms and corporations signatory and those who subsequently ratified it by their conduct, unwillingly became parties to the conspiracy to maintain and extend the monopoly of Eastman Kodak Company in the manufacture and sale of positive film and to restrain trade therein, previously conceived and operated by Eastman Kodak Company and Jules E. Brulatour. With the surrender of the members of respondent Association of competitive selection in the positive film which they used, the object of the conspiracy was obtained, competition in the manufacture and sale of positive film stock was practically eliminated and the monopoly of Eastman Kodak Company in the manufacture and sale of positive film stock was effectively maintained.

PAR. 21. The Commission takes judicial notice of the decision in the case of *United States v. Eastman Kodak Company*, 226 Fed. 62, wherein it was held that the acquisition by the defendant of the capital stock, property, plants, and good-will of approximately

twenty enterprises engaged in the business of manufacturing and selling photographic material in competition with the defendant was for the purpose of monopolizing interstate trade or commerce by unfair methods which tended to and did diminish or destroy the business of its competitors, and, in view of the fact that such plants were dismantled and the businesses concentrated by the defendant at Rochester, it was evident that they were not actually required by the defendant in carrying on its business but were acquired with an idea of monopolizing trade. The Commission finds that the acts of the Eastman Kodak Company and Mr. Brulatour in acquiring the three laboratories before mentioned, and in failing to operate the same but maintaining them in readiness for immediate operation are analogous in their purpose and effect to the acts of the defendants in the case of *United States v. Eastman Kodak Company*, above referred to.

PAR. 22. The agreement or understanding entered into by and between the respondent members of the Association and the agreement or understanding entered into by and between said respondent members of the Association and the Eastman Kodak Company, above referred to, were made in pursuance of a plan conceived by the Eastman Kodak Company, George Eastman, Jules E. Brulatour and the Association, and were for the purpose of and have the effect of substantially lessening competition in the sale of positive cinematograph film in interstate and foreign commerce, and tend materially to sustain the monopoly already existing in the Eastman Kodak Company, and substantially tend to perpetuate said monopoly.

PAR. 23. The ownership by the Eastman Kodak Company of the Paragon, G. M. and San Jacq laboratories, and the maintenance by it of the said laboratories in condition for immediate use for the manufacture of positive prints of motion picture films in competition with the respondent members of the Association, constitute a threat and had, and continue to have, the effect of inducing, compelling and coercing manufacturers of positive prints of motion picture films to purchase and use only positive cinematograph film stock manufactured by the Eastman Kodak Company, and of obstructing, hindering, suppressing and eliminating competition in the manufacture and sale of positive cinematograph film in interstate and foreign commerce, and of maintaining the monopoly already attained by the Eastman Kodak Company.

PAR. 24. The acts of the respondents, as set forth in the foregoing paragraphs, constitute a conspiracy or combination in restraint of trade, in interstate and foreign commerce, and had, and continue to have, the effect of retaining, maintaining and extending the monopoly of the Eastman Kodak Company in the manufacture and sale of

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positive raw cinematograph film, and of substantially lessening competition in the sale of such film, in interstate and foreign commerce; of hindering, restraining and preventing competitors and prospective competitors of the Eastman Kodak Company from establishing enterprises for the manufacture and sale of positive raw and cinematograph film; and of substantially lessening competition in the manufacture and sale of positive prints of cinematograph films, in interstate and foreign commerce.

CONCLUSION.

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

Now, therefore, it is ordered, That the respondents, Eastman Kodak Company, its officers, agent and employees, George Eastman, Jules E. Brulatour, The Allied Film Laboratories Association, Inc., its officers, agents and employees, The Burton Holmes Lectures, Inc., The Craftsman Film Laboratory, Inc., the Kinetograph Company of America, Inc., the Erbograpgh Company, the Cromlow Film Laboratories, Inc., the Palisades Film Laboratories, Inc., the Claremont Film Laboratory, Inc., the Film Developing Corporation, the Evans Film Manufacturing Company, Inc., the Republic Laboratories, Inc., the Lyman H. Howe Film Company, the Rex Laboratory, Inc., the Tremont Film Laboratories, Inc., their respective officers, agents and employees, and Mark Dintenfass, his servants, agents and employees, and each of them, forever—

Cease and desist from conspiring, combining, confederating, agreeing and cooperating between or among themselves to hinder and restrain competition in the manufacture and sale of positive raw cinematograph film stock and to maintain and extend or attempt to

maintain and extend the monopoly of the Eastman Kodak Company in the distribution and sale of positive raw cinematograph film stock, in interstate and foreign commerce, by—

1st. The acquisition and equipment by the Eastman Kodak Company of the Paragon Laboratory, the G. M. Laboratory and the Sen Jacq Laboratory, whose combined capacity equals the market demand for printing and developing positive prints of cinematograph films from exposed and developed cinematograph films, for the purpose of extending its business to include the making and selling of such prints.

2d. The use by the Eastman Kodak Company of the ownership and possession of the said Paragon, G. M. and Sen Jacq laboratories and their equipment and capacity for producing positive prints of cinematograph films from exposed and developed negative cinematograph films to induce, compel and coerce the Allied Film Laboratories Association, Inc., and its members, to use in their laboratories for the manufacture of positive prints of cinematograph films, exclusively, American made positive raw cinematograph film stock of which the said Eastman Kodak Company has a monopoly in the manufacture and sale thereof.

3d. The agreement or understanding by and between members of the Allied Film Laboratories Association, Inc., and the Eastman Kodak Company that the said members will use American made positive raw cinematograph film stock, of which said Eastman Kodak Company has a monopoly in the manufacture and sale thereof, exclusively, and particularly to the exclusion of foreign manufactured positive raw cinematograph film stock, provided the Eastman Kodak Company will not operate commercially the said Paragon, G. M. and Sen Jacq laboratories in competition with the laboratories operated by said members of the Allied Film Laboratories Association, Inc.

4th. The agreement or understanding entered into by and between the Eastman Kodak Company and the members of the Allied Film Laboratories Association, Inc., that the Eastman Kodak Company will not operate commercially the Paragon, G. M. and Sen Jacq laboratories in the manufacture and sale of positive prints of cinematograph films in competition with the laboratories operated by said members, provided that said members use and continue to use American made positive raw cinematograph film stock, of which the Eastman Kodak Company has a monopoly in the manufacture and sale thereof, exclusively in the manufacture of positive prints or cinematograph films from exposed negative cinematograph films and the sale thereof.

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5th. The continued ownership by the Eastman Kodak Company of the Paragon, G. M. and Sen Jacq laboratories and the maintenance of the same in readiness for immediate operation for the production of positive prints of cinematograph films, or any other dominant control of the production, or capacity for production, of positive prints of cinematograph films from exposed negative cinematograph films.

6th. Utilizing any other equivalent means, not hereinbefore stated, to accomplish the object of unfairly forestalling, preventing, hindering or restraining the manufacture and sale of positive raw cinematograph film stock and the making of positive prints of cinematograph films from exposed negative cinematograph films, or the sale thereof, in interstate and foreign commerce.

It is further ordered, That for the purpose of preventing the maintenance and extension of the monopoly of the Eastman Kodak Company in the manufacture and sale of positive raw cinematograph film stock to the use thereof in making positive prints of cinematograph films and of restoring competitive freedom in the distribution and sale of positive raw cinematograph film stock, the Eastman Kodak Company shall, with all due diligence, sell and convey the said Paragon, G. M. and Sen Jacq laboratories to parties not connected directly or indirectly in interest with the Eastman Kodak Company.

It is further ordered, That the respondents, within 120 days from the date of the notice hereof file with the Commission a report in writing setting forth in detail the manner in which this order has been complied with and conformed to.

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Syllabus.

FEDERAL TRADE COMMISSION