

Complaint.

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IN THE MATTER OF

W. H. MAY, AND B. V. MAY, DOING BUSINESS UNDER
THE NAME AND STYLE OF MAY HOSIERY MILLS.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.*Docket 1202—November 3, 1924.*

SYLLABUS.

Where a firm engaged in the manufacture and sale at wholesale of hosiery, in competition with concerns which either correctly branded, labeled, and advertised their products in respect of composition, or failed to brand and label the same at all in that respect; sold hosiery composed of cotton and of an animal or vegetable fiber, but containing no genuine silk, branded and labeled "Made of cotton and art silk in the U. S. A."; with the effect of misleading the trade and consuming public into believing said hosiery to be composed in part of silk, and with the capacity and tendency to induce the purchase thereof in said belief:

Held, That the sale of goods branded and labeled as above set forth constituted an unfair method of competition.

Mr. G. Ed. Rowland for the Commission.

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 W. H. May and B. V. May, partners, doing business under the trade name and style May Hosiery Mills, 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. Respondents are partners doing business under the trade name and style May Hosiery Mills, with their principal place of business in the city of Burlington, State of North Carolina. They are engaged in the manufacture of hosiery and the sale thereof to wholesale dealers located at points in various States of the United States. They cause said hosiery when so sold to be transported from their said place of business in the city of Burlington, N. C., into and through other States of the United States to said purchasers at their respective points of location. In the course and conduct of their said business respondents are in competition with other individuals, partnerships and corporations also engaged in the manufacture and/or sale and transportation of hosiery between

and among various States of the United States, and with the trade generally.

PAR. 2. For more than a year last past respondents in the course of their aforesaid business have caused and still cause certain hosiery manufactured and sold by them to be marked and branded with the words "Made of cotton and art silk in the U. S. A.," and said hosiery thus marked and branded has been and still is ultimately offered for sale and sold to the consuming public.

PAR. 3. The word "silk" is generally understood by the trade and consuming public to mean a product made from the cocoon of the silkworm, and when the said word "silk" is applied to hosiery or any other articles it is understood by the trade and consuming public to mean that the hosiery and other articles so labeled and branded contain pure silk derived from the cocoon of the silkworm. The aforesaid branding and marking of said hosiery by respondents has the capacity and tendency to and does mislead and deceive the trade and consuming public into the belief that respondents' said hosiery is composed in part of silk derived from the cocoon of the silkworm and to cause the trade and public to purchase said hosiery in that belief. In truth and fact said hosiery contains no silk whatsoever, derived from the cocoon of the silkworm.

PAR. 4. There are among the competitors of respondent referred to in paragraph 1 hereof, many who manufacture and/or sell hosiery composed in whole or in part of silk and who properly represent, label and brand said hosiery as being composed in whole or in part of silk, as the case may be. There are others of respondents' said competitors who manufacture and/or sell hosiery containing no silk, and who in nowise represent, label or brand said hosiery as being composed in whole or in part of silk, and above alleged marking and branding by respondents of their said hosiery has the capacity and tendency to unfairly divert business from and otherwise injure aforesaid competitors.

PAR. 5. Above alleged acts and things done by respondents are all to the prejudice of the public and respondents' 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, FINDING 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, W. H. May and B. V. May, doing

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business under the name and style of May Hosiery Mills, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act.

Respondents having entered their appearance and having made, executed and filed an agreed statement of facts in which it is stipulated and agreed by respondents 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 as to the facts and conclusion 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 or in opposition thereto, and the Federal Trade Commission being now fully advised in the premises, makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondents, W. H. May and B. V. May, constitute a partnership doing business under the trade name and style, May Hosiery Mills, with their principal place of business in the city of Burlington, State of North Carolina.

PAR. 2. Respondents are engaged in the manufacture of hosiery and the sale thereof to wholesale dealers located at points in various States of the United States. They cause said hosiery, when so sold, to be transported from their said place of business in the city of Burlington, N. C., into and through other States of the United States, to said purchasers at their respective points of locations. In the course and conduct of their business respondents are engaged in competition with other individuals, partnerships and corporations also engaged in the manufacture and/or sale and transportation of hosiery between and among the various States of the United States and with the trade generally.

PAR. 3. For more than a year last past, respondents, in the course of their business as described in paragraph 2 above, have sold and shipped hosiery made of cotton and an animal or vegetable fiber, and containing no true silk, which hosiery they have marked and branded with labels bearing the words, "Made of Cotton and Art Silk in the U. S. A." Dealers purchasing this hosiery from respondents or from respondents' customers, labeled and branded as aforesaid, offer to sell and do sell it so labeled and branded to the general purchasing public. The said hosiery is not labeled or branded with any other word or words to indicate character, kind or grade of material entering into the manufacture of it.

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PAR. 4. The word "silk" is generally understood by the trade and consuming public to mean a product made from the cocoon of the silkworm, and when the term "art silk" is applied to hosiery, without any other word or words descriptive of the kind or grade of materials of which said hosiery is made, it is understood by the trade and the consuming public to mean that the hosiery so labeled and branded contains pure silk derived from the cocoon of the silkworm.

PAR. 5. There are, among competitors of respondents referred to in paragraph 1 hereof, many who manufacture and/or sell and ship in interstate commerce hosiery which is made of an animal or vegetable fiber containing no true silk and cotton, which hosiery is labeled and branded with no word or words descriptive of the material or materials entering into the manufacture of said hosiery. There are, among the competitors of respondents, others who manufacture and/or sell and ship in interstate commerce hosiery which is made of an animal or vegetable fiber containing no true silk and cotton, which hosiery and the packages or containers of which are labeled, advertised and branded with words which accurately and truthfully set forth the materials of which said hosiery is made.

PAR. 6. The label or brand under which respondents sell and ship hosiery, as set forth in the foregoing findings, has the capacity and tendency to, and does, mislead and deceive the trade and consuming public into the belief that respondents' said hosiery is composed in part of silk derived from the cocoon of the silkworm, and to cause the trade and public to purchase said hosiery in that belief; whereas, in fact, said hosiery contains no silk whatsoever derived from the cocoon of the silkworm.

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 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 and the statement of facts agreed upon by the respondents and counsel for the Commission, filed herein, and the Commission having made its finding as to the facts and its conclusion that the respondents have violated

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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 respondents, W. H. May and B. V. May, doing business under the name and style of May Hosiery Mills, and their officers, agents, representatives, servants and employes, cease and desist from directly or indirectly using as labels or brands on hosiery sold by them, or on the containers thereof, or in advertisements thereof, the work "silk" or any modification thereof, unless, (1) the hosiery on which it is used is made entirely of the silk of the silkworm: or (2) where the hosiery is made partly of silk it is accompanied by a word or words aptly and truthfully describing the other material or materials of which such hosiery is in part composed.

It is further ordered, That respondents shall, within thirty days after the service upon them of a copy of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist hereinbefore set forth.

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IN THE MATTER OF
THE DON-O-LAC COMPANY, INCORPORATED.

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

Docket 924—November 4, 1924.

SYLLABUS.

Where a corporation engaged in the manufacture and sale of paints, varnishes, and substitutes for shellac varnish, sold a product which as first made contained none, and later only a very small proportion of genuine shellac gum, branded and labeled "American Shellac," in competition with concerns which sold their products labeled and branded in accordance with the spirit and purpose of a resolution adopted by the National Varnish Manufacturer's Association and other trade organizations, and designed to prevent the debasement of the term "Shellac" and to protect the purchasing public through providing for the use on labels and in advertising of products not composed exclusively of shellac gum dissolved in alcohol, of the word "compound" together with the word "shellac," where the latter content equaled or exceeded one-half of the total solid content, and for the use of the word "substitute" or "imitation" together with the word "shellac" in other cases; with the effect of misleading and deceiving a substantial part of the purchasing public into believing such products to be composed solely of genuine shellac gum dissolved in alcohol, and of inducing the purchase thereof in such belief:

Held, That the sale of such product, labeled as above set forth, constituted an unfair method of competition.

Mr. William A. Sweet for the Commission.

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 Don-O-Lac Company, Inc., 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 and by virtue of the laws of the State of New York, with its principal office and place of business in the city of Rochester, in said State. It is, and at all times hereinafter mentioned has been, engaged in the business of manufacturing, selling and distributing paints,