

Complaint.

IN THE MATTER OF
PURITAN SILK CORPORATION.

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

Docket 1204—January 28, 1925.

SYLLABUS.

Where a corporation engaged in the wholesale distribution of fabrics in competition with concerns which either correctly branded and labeled their products with reference to composition, or failed to brand and label the same at all in that respect; designated and described a fabric composed of cotton and an animal or vegetable fiber and so finished that it had a silklike appearance, but containing no true silk, as "Novelty Silk" and "Puritan Silk" in its circulars, catalogues and advertisements; with the effect of misleading and deceiving the purchasing public with reference to the composition of said fabric and of thereby inducing the purchase thereof:

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

Mr. Robert O. Brownell for the Commission.

Mr. Arthur M. Kracke of Davis, Ramsay, Kelly & Kracke of Chicago, Ill., for respondent.

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 Puritan Silk Corporation, a corporation, hereinafter referred to as respondent, has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act, issues this complaint and states its charges in that respect as follows:

PARAGRAPH 1. That respondent, Puritan Silk Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal or executive offices located in the city of Chicago, in said State. It is now and has been for more than one year last past, engaged in the wholesale distribution of fabrics in interstate commerce. In

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receipt of orders direct or through its salesmen, solicitors or representatives said respondent causes its said products to be shipped or transported in interstate commerce from its principal office or stock rooms in the State of Illinois to the purchasers thereof located in other States of the United States. In the course and conduct of its said business, respondent was at all times hereinafter mentioned and still is, in competition with other individuals, firms, partnerships and corporations likewise selling fabric in interstate commerce.

PAR. 2. That in the course and conduct of its business as described in paragraph 1 hereof, respondent for more than one year last past, as a means of soliciting and inducing customers and prospective customers to purchase its products, published in circulars, catalogues and other advertising matter distributed and circulated throughout the several States of the United States, in which said circulars, catalogues, and other advertising matter it falsely represented or described its products as "Novelty Silks" and "Puritan Silks," when in truth and in fact its said products so represented or described are not made from silk, the product of the cocoon of the silk worm; that the use by respondent of the terms, "Novelty Silks" and "Puritan Silks" in its said circulars, catalogues, and other advertising matter in describing and denominating its products not made from silk, the product of the cocoon of the silk worm, has the capacity and tendency to and does mislead and deceive purchasers and prospective purchasers of its said products into the belief that the said products of respondent so denominated are made from silk and tends to and does cause said customers to purchase said products in that belief and thereby diverts trade from truthfully marked and advertised goods.

PAR. 3. That the word "Silk," when used to define a fabric, has been well-known and understood by the purchasing public for a long period of years, to include only such products as are composed of or fabricated from silk the product of the cocoon of the silk worm; that the use by the respondent of the word "Silk," either alone or in combination with the words "Novelty" or "Puritan," in denominating its said product, especially when said product of the said respondent is so finished as to resemble in appearance silk as produced from the cocoon of the silk worm, was and is intended by respondent and is calculated and has the capacity and tendency to mislead and deceive the purchasers and/or does mislead and deceive the purchaser into the belief that such products were and are fabricated from silk as produced from the cocoon of the silk worm.

PAR. 4. There are a considerable number of competitors of respondent who are engaged in the manufacture, sale or distribution of fabrics composed entirely of silk produced from the cocoon of the silk worm, which said products are sold in competition with the products of the respondent.

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 interstate 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.

REPORTS, 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 its complaint upon the respondent, Puritan Silk Corporation, charging it with the use of unfair methods of competition in violation of the provisions of said act. The respondent having entered its appearance by its attorneys, a statement of facts was agreed upon and executed by the chief counsel of the Federal Trade Commission and Roy O. Nereim, president of respondent, to be taken in lieu of evidence. Thereupon this proceeding came on for final hearing, and the Commission having duly considered the record and being now fully advised in the premises, makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondent, Puritan Silk Corporation, is a corporation organized under the laws of the State of Illinois, and has its principal executive office in the city of Chicago in said State. It is now and for more than a year last past has been engaged in the wholesale distribution of fabrics in interstate commerce. It buys the said fabrics from the various manufacturers thereof and resells same to customers located in various States of the United States. It causes the goods, when so sold, to be transported from its said place of business in the city of Chicago, State of Illinois, into and through other States of the United States to the said customers at their several locations. Respondent was at all times hereinafter mentioned and still is in competition with other individuals, partnerships, and corporations likewise engaged in selling fabrics in interstate commerce.

Findings.

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PAR. 2. In the regular course and conduct of its business as aforesaid, for more than a year last past, respondent, Puritan Silk Corporation, has advertised and sold, among other things, a fabric composed of a mixture of cotton and an animal or vegetable fiber, and containing no true silk, which fabric was finished so that it had a silk-like appearance. As a means of inducing purchasers and prospective purchasers to buy this fabric, respondent published and distributed throughout the trade, circulars, catalogs and advertisements in which the said fabric was designated and described by the terms "Novelty Silks" and "Puritan Silks." The said fabric is not labeled, branded or described with any other word or words to indicate the character, kind or grade of material entering into its manufacture.

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 a fabric or any other article it is understood by the trade and the consuming public to mean that the fabric and other article so labeled and branded contain pure silk 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 and ship in interstate commerce fabrics made entirely of silk produced from the cocoon of the silkworm, which fabrics are accurately and truthfully labeled, advertised and branded with the word "Silk."

PAR. 5. There are among the competitors of respondent referred to in paragraph 1 hereof, many who manufacture and/or sell and ship in interstate commerce fabrics made of a mixture of cotton and an animal or vegetable fiber and containing no true silk, which fabrics are labeled and branded with no word or words descriptive of the material or materials entering into the manufacture of said fabrics. There are among competitors of respondent aforesaid, others who manufacture and/or sell and ship in interstate commerce fabrics made of a mixture of cotton and an animal or vegetable fiber and containing no true silk, which fabrics are labeled and branded with words which accurately and truthfully describe the materials used in the manufacture of such fabrics.

PAR. 6. The use by respondent, Puritan Silk Corporation, of the terms "Novelty Silk" and "Puritan Silk" as set out in paragraph 2 herein, has a tendency and capacity to and does mislead and deceive the purchasing public thereof, by causing them to believe that the said fabric so advertised and described was made in whole or in part of silk produced from the cocoon of the silkworm, and to purchase the said fabric in that belief.

Order.

CONCLUSION.

The practices of said respondent, under the conditions and circumstances described in the foregoing finds, are unfair methods of competition in interstate commerce and constitute a violation of the Act of Congress approved September 26, 1914, entitled "An Act To create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the statement of facts agreed upon by the respondent and by counsel for the Commission, and the Commission having made its findings as to the facts, with its conclusion that the respondent has violated the provisions of the act of Congress approved September 26, 1914, entitled "An Act To create a Federal Trade Commission, to define its powers and duties, and for other purposes,"

Now, therefore, it is ordered, That the respondent Puritan Silk Corporation, its officers, agents, representatives, servants and employees, cease and desist from directly or indirectly using in any form, way or manner whatsoever the word "Silk," or any modification thereof, to describe a fabric unless (1) the fabric to describe which it is used is made entirely of silk derived from the cocoon of the silkworm, or (2) where the fabric 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 fabric is in parts composed.

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

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IN THE MATTER OF
ALFRED PEATS COMPANY.

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

Docket 883—February 3, 1925.

SYLLABUS.

Where a corporation engaged in the sale and distribution of a ready-mixed paint, the vehicle of which contained 36 per cent volatile content, and the pigment of which consisted of 55 per cent white lead and zinc oxide and 45 per cent of calcium carbonate and siliceous matter; made such statements in describing the same in its catalogues, pamphlets, and other trade literature as "exceptionally high grade paint * * * has never failed to give * * * the best satisfaction * * * unequaled for use where durability and high class finish are desired * * *," " * * * contains pure lead, pure zinc, and pure linseed oil, together with other raw materials * * * the result is the best paint that can be made— * * *," and guaranteed to " * * * wear longer, look better and cover more surface than any other paint on the market * * *," and used the last stated quoted matter also as a part of the labeling of such paint; with the effect of misleading and deceiving the trade and general public into believing the pigment content of such paint exclusive of necessary coloring matter to be composed principally of white lead and zinc oxide, and such paint to be the best and highest quality, grade and standard of paint for exterior use:

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

Mr. George E. Wallace for the Commission.

Mr. Victor Eltinge of Chicago, Ill., for respondent.

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 Alfred Peats 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 its principal place of business in the city of Chicago, in said State. It was at all times hereinafter mentioned and still is engaged in the business of selling paints and painters' supplies to painters, painting contractors and dealers throughout the United States. Its method of doing business is