

IN THE MATTER OF
MINNEAPOLIS WOOLEN MILLS COMPANY, INC.

COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGART TO THE ALLEGED
VIOLATION OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER
26, 1914

Docket 1336—June 7, 1926

SYLLABUS.

Where a corporation engaged in the sale of blankets, sweaters, underwear, flannel shirts, suits and clothing to retail dealers and direct to consumers through traveling salesmen and advertisements, and neither owning, operating nor controlling any mill or factory, nor then manufacturing any of the merchandise sold by it, used as a corporate name a name which included the words "woolen mills," and featured the same in its newspaper advertising and in its circulars, price lists, letterheads, order blanks and other trade literature; with the effect of misleading and deceiving the trade and a substantial portion of the purchasing public and of inducing the purchase of said merchandise from it by them as from the manufacturer thereof, in the belief they were effecting a saving in cost by the elimination of the middleman's profit, and of thereby unfairly diverting trade from and prejudicing competitors engaged in the manufacture and sale of such merchandise to the consuming public, and competitors neither manufacturing the merchandise dealt in by them, nor representing themselves as so doing:

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

Mr. O. R. Stites and Mr. Alfred M. Craven for the Commission.
Shearer, Byard & Trogner, of Minneapolis, Minn., for respondent.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent, a Minnesota corporation engaged in the sale of hosiery, knit goods of various kinds, woolen blankets, wool and cotton underwear, leather vests, flannel shirts, overcoats and similar merchandise, direct to consumers and to retail dealers in various States, with principal office and place of business in Minneapolis, with using misleading corporate name, misrepresenting business status, and advertising falsely or misleadingly in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce, in that respondent, neither owning, controlling, nor operating any woolen mill or other factory since 1922, when it discontinued manufacturing, but purchasing the garments sold by it, from the stock of manufacturers and others, used as its corporate name, the name "Minneapolis Woolen

Mills Company," and prominently displayed the same in its newspaper advertising, letterheads, order blanks, package labels and other stationery and literature, and through its agents who solicit and obtain orders direct from the consumer, represented itself as the manufacturer of the articles offered for sale; with the tendency and capacity to mislead and deceive and with the effect of misleading and deceiving the public into believing it to be the owner and/or operator of mills or factories manufacturing the articles dealt in by it, and that purchasers from it are buying directly from the manufacturer and thereby saving the profits of the middleman, to the prejudice of the public and its competitors.

Upon the foregoing complaint, the Commission made the following

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an act of Congress approved September 26, 1914, the Federal Trade Commission issued and served a complaint upon the respondent, Minneapolis Woolen Mills Company, Inc., a corporation, charging it with the use of unfair methods of competition in commerce, in violation of the provisions of said act.

Respondent having entered its appearance and filed its answer herein, hearings were had and evidence was thereupon introduced on behalf of the Commission and the respondent, before John W. Bennett, an examiner of the Federal Trade Commission, duly appointed.

Thereupon this proceeding came on for decision and the Commission having duly considered the record and being fully advised in the premises makes this its findings as to the facts, and its conclusions drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent is now, and has been since its incorporation in 1913, a corporation organized and existing under and by virtue of the laws of the State of Minnesota, with its principal place of business at Minneapolis in said State. Respondent is, and during its corporate existence has been, engaged in the business of buying and selling merchandise made in whole or in part from wool, including blankets, sweaters, underwear, flannel shirts, suits and clothing, and also other merchandise such as clothing made from cotton and leather. It sells its merchandise to retail merchants and also to consumers in the States of Minnesota, North Dakota, South Dakota, Montana, and other States west of the Mississippi River. Its sales to consumers, numbering in 1925, 75,000 persons, aggregate in

amount to over half of its total sales. Orders for its merchandise are solicited by traveling salesman who call upon both the retail merchants and consumers. Respondent also offers its merchandise for sale through advertisements in newspapers and by means of circulars and price lists widely distributed. Respondent transports, or causes to be transported, from its principal place of business in Minnesota, its merchandise to the purchasers thereof in their various locations in its trade territory above mentioned.

In the course and conduct of its business above mentioned, respondent is and has been in direct competition with many individuals, partnerships, and corporations engaged in the business of selling, distributing and transporting similar merchandise in commerce between and among the several States of the United States, and particularly the States above mentioned, as comprising the trade territory of respondent.

PAR. 2. From the time of its incorporation up to March, 1922, respondent was, in addition to the business described in paragraph 1 hereof, engaged in the business of manufacturing, and did during said period of time manufacture, about 35 per cent of the merchandise which it sold. In March, 1922, respondent sold its manufacturing plant and machinery and ceased to manufacture, and has not since that date manufactured any of the merchandise sold by it or owned, operated or controlled a mill or factory of any kind.

PAR. 3. Respondent, in the course and conduct of its business, uses and has used its corporate name "Minneapolis Woolen Mills Company, Inc." and has prominently displayed its said name in its newspaper advertising, circulars, price lists, letterheads, order blanks, and other trade literature, using at times such variations as "Minneapolis Mills Co." and "Minneapolis Woolen Mills Co., Inc."

PAR. 4. The use of the words "Woolen Mills" in the corporate name of respondent has a tendency and capacity to mislead and deceive both the trade and the public, and has misled and deceived both the trade and a substantial portion of the purchasing public, and induced both the trade and consumers to purchase such of respondent's merchandise as was composed in whole or in part of wool, in the erroneous belief that the merchandise so purchased was manufactured by it, and that in purchasing from respondent, a saving in cost was effected by reason of the elimination of the middleman's profit.

PAR. 5. Among competitors of respondent referred to in paragraph 1 hereof, there are many who manufacture merchandise composed in whole or in part of wool and who sell same directly to the consuming public and also to the trade, under truthful representations.

There are also many others among said competitors who buy the merchandise in which they deal from manufacturers and sell same to the consuming public, and who in no wise represent that they do manufacture the merchandise in which they deal, or that they are owners or operators of the mill in which said merchandise is manufactured. The use by respondent of its corporate name, as mentioned in paragraph 3 hereof, tends to and does unfairly divert trade from both classes of competitors, and is also to the prejudice and injury of the purchasing public.

CONCLUSION

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

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission on the complaint of the Commission, answer of respondent, the testimony and evidence received by an examiner heretofore duly appointed by the Commission and the brief and argument of counsel for the Commission and the Commission having made its findings as to the facts and 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, Minneapolis Woolen Mills Company, Inc., its officers, agents, and employees do cease and desist from selling and distributing in commerce among the several States of the United States, under a trade name or corporate name, which includes the word "Mills" in combination with the word "Woolen" or any words of like import, materials or garments made in whole or in part of wool, unless and until the respondent actually owns or directly controls or operates a mill or mills wherein is made any and all such materials or garments sold or offered for sale by it under such title or name.

It is further ordered, That the respondent, Minneapolis Woolen Mills Company, Inc., within sixty days after the service upon it of this order file with the Commission its report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinbefore set forth.

IN THE MATTER OF
WESTERN WOOLEN MILLS COMPANY

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

Docket 1365—June 8, 1926

SYLLABUS.

Where a corporation engaged in the sale of knitted or woven products such as blankets, underwear, etc., bought by it from manufacturers and others and sold at a profit to retail dealers and the consuming public through advertisements, letters, circulars and other trade literature and through traveling salesmen, and neither owning, operating, nor controlling any mill or any other manufacturing establishment, used as a corporate name a name which included the words "woolen mills" and featured the same in its advertisements and on its labels, shipping tags, letterheads, order blanks, and other business stationery, and in its letters, pamphlets, and other trade literature and in the written and oral representations of its traveling salesmen, together with such representations and assertions as "DIRECT FROM MILL TO YOU. Buy Your Sweaters, Blankets, Underwear, Hosiery, Leather Vests, Overcoats, Knitted Novelties at a GREAT SAVING," "* * * Knitters of Fine Underwear, Ribbed Sport Coats & Jumbo Sweaters," "* * * Our Name is Your Guarantee. FROM MILL TO CONSUMER"; with the effect of misleading and deceiving purchasers and prospective purchasers into believing it to be the manufacturer of the aforesaid merchandise, which it sold and distributed direct to the consumer at a saving to such consumer of the charges and profits of all middlemen, and of unfairly diverting trade from and prejudicing competitors who as manufacturers sold their products directly to the consuming public under truthful representations, and competitors who did not manufacture the products dealt in by them and in nowise represented themselves as so doing:

Held, That such practices, under the circumstances set forth, constituted unfair methods of competition.

Mr. Henry Miller for the Commission.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent, a Minnesota corporation, engaged in the sale of knit garments for men, women, and children, and other articles of wearing apparel, direct to the consuming public in various States, and with principal office and place of business in Minneapolis, with using misleading corporate name, misrepresenting business status, and adver-