

Complaint

IN THE MATTER OF
SEA ISLAND THREAD COMPANY, INCORPORATED

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

Docket 1211. Complaint, Aug. 1, 1924—Decision, Mar. 24, 1927

Where a corporation engaged in the manufacture and sale of cotton thread so mercerized and finished as closely to resemble silk, featured the word "Satinsilk" or "Satin Silk" upon the labels on its spools and the containers thereof, using such legends in its aforesaid labels as "Satinsilk" with the word "Trade-Mark" and "None Better Mercerized Cotton", and "Satinsilk Trade-Mark. Mercerized Machine Twist," with the word "Trade-Mark" in each case written in small letters underneath the word "Satinsilk"; with the tendency and capacity to mislead and deceive a substantial part of the purchasing public by causing them to believe the aforesaid thread to be composed in whole or in part of silk, and to purchase the same in that belief, and to divert trade from and otherwise injure competitors engaged in the sale and distribution of sewing thread composed wholly of silk and so designated and described, and competitors engaged in the sale and distribution of sewing thread composed of mercerized cotton and so designated and described:

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

Mr. T. John Butler and Mr. Robert O. Brownell for the Commission.

Munn, Anderson and Munn, of New York City, 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 New York corporation engaged in the manufacture of sewing thread and in the sale thereof in part to wholesale dealers in dry goods and notions in various States, and with principal office and place of business in New York City, with misbranding or mislabeling in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce, in that it branded or labeled the spools of a cotton sewing thread made by it and composed wholly of mercerized cotton, "Satin Silk" or "Satinsilk," in large and conspicuous letters, together with the words, in some instances, "Mercerized Cotton," "Perfect Substitute for Best Silk" or "Mercerized Machine Twist,"

Findings

11 F. T. C.

in smaller and less conspicuous letters, and so labeled the containers thereof, with the capacity and tendency to mislead and deceive the consuming public into purchasing said thread as and for a product composed of silk, and with the effect of diverting business from and otherwise prejudicing competitors manufacturing sewing thread of pure silk and properly so labeling and branding the same, and competitors manufacturing thread containing no silk, without in anywise branding, labeling or representing the same as silk; all to the prejudice of the public and respondent's competitors.

Upon the foregoing complaint, the Commission made the following

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to an act of Congress approved September 26, 1914, the Federal Trade Commission issued and served a complaint upon respondent Sea Island Thread Co., Inc., charging it with the use of unfair methods of competition in commerce in violation of the provisions of section 5 of the said act.

Respondent having entered its appearance and filed its answer to the said complaint, hearings were held before a trial examiner therefore duly appointed, and testimony was heard and evidence introduced in support of the charges stated in the complaint and in opposition thereto. The said trial examiner made his report upon the facts, to which exception was taken by counsel for the Commission, and briefs were filed and oral argument made before the Commission by counsel for the Commission and counsel for the respondent.

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

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Sea Island Thread Co., Inc., is a corporation organized under the laws of the State of New York, with its principal office and place of business in the City of New York in said State. It is engaged in the manufacture of sewing thread and the sale thereof to manufacturers of clothing and to retail dealers located in several different States of the United States. It causes its said product, when so sold, to be transported from its said principal place of business in the City and State of New York, into and through other States of the United States to the said purchasers at their respective points of location. In the regular course and conduct of its said business respondent is in competition with other corporations, partnerships and individuals who are also engaged

in the sale and distribution of sewing thread in interstate commerce between and among the several States of the United States.

PAR. 2. The thread manufactured and sold by respondent as set out in paragraph 1 of these findings is composed wholly of cotton which has been mercerized and finished so that it closely resembles silk thread. It is wound upon spools containing one hundred yards each for sale to retail dealers and on spools containing five hundred yards each for sale to manufacturers. Respondent packs the thread sold to retail dealers in pasteboard boxes each containing one dozen spools.

PAR. 3. Since on or about January 1, 1923, respondent has labeled and branded the spools of thread sold and shipped to retail dealers, as set out in paragraphs 1 and 2 of these findings, by imprinting on one end of each spool its name and address, and on the other end the word "Satinsilk" with the word "trade-mark" written beneath in small letters and the words "None Better Mercerized Cotton." Respondent labels the ends and sides of the pasteboard boxes in which the thread is packed with the words "Satinsilk Trade Mark. Mercerized Machine Twist," the words "Trade-Mark" being written in small letters under the word "Satinsilk." Upon the tops of the boxes respondent affixes labels bearing the words "Satinsilk, Trade Mark Reg., U. S. Pat. Off., None Better, Mercerized Cotton, Pure Dye Machine, Twist made in all Shades by Sea Island T. Co., New York, U. S. A."

Many retail dealers remove the spools of thread from the boxes in which they are received and place them in display cabinets or upon open counters, and others display the thread by removing the cover of the box and placing it in a cabinet or upon an open counter.

PAR. 4. Prior to January 1, 1923, respondent had branded and labeled the spools of its thread sold to retail dealers by imprinting on one end of the spool the words "Satin Silk. Warranted None Better," and on the other end the words "Perfect Substitute for Best Silk, Made by Sea Island T. Co., New York." Upon the labels of boxes in which the spools were packed appeared the words "Satin Silk" followed by the words "Reg. Trade Mark, U. S. Pat. Off., Mercerized Cotton, None Better Made. Warranted Fast Color, Sea Island Thread Co., New York."

PAR. 5. The word "Silk," when used to designate or describe sewing thread, is understood by the trade and the purchasing public to mean that the thread so designated and described is composed wholly of silk made from the cocoon of the silkworm. The word "Satin," when used to designate and describe a fabric, is understood

by the trade and by the purchasing public to mean that the fabric so described is composed wholly of silk made from the cocoon of the silkworm, to which has been imparted a glossy finish.

PAR. 6. The use by respondent of the word "Satin-silk" as the first and most prominent word in brands or labels upon spools of thread composed wholly of cotton and the containers thereof, as set out in the foregoing findings, has the tendency and capacity to mislead and deceive a substantial part of the purchasing public by causing them to believe that the thread so branded and labeled is composed, in whole or in part, of silk, and to cause them to purchase it in that belief.

PAR. 7. Among the competitors of respondent mentioned in paragraph 1 of these findings, are many who sell and distribute, in interstate commerce, sewing thread composed wholly of silk, and so designate and describe it. There are others of said competitors who sell and distribute in interstate commerce mercerized cotton sewing thread, and who so designate and describe it. The acts and practices of respondent as set out in the foregoing findings have the tendency and capacity to divert trade from and otherwise injure both classes of its said competitors.

CONCLUSION

The acts and practices of respondent under the conditions and circumstances set out in the foregoing findings are all to the prejudice of the public and respondent's competitors, and constitute unfair methods of competition in commerce within the intent and meaning of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST

This proceeding having been heard upon the complaint of the Commission, the answer of respondent, the testimony taken and evidence adduced at hearings, the report upon the facts by the trial examiner and the exceptions thereto, and briefs and oral argument, and the Commission having made its findings as to the facts with its conclusion that respondent has been and is using unfair methods of competition in commerce in violation of the provisions of section 5 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 ordered, That respondent, Sea Island Thread Co., Inc., its officers, agents and employees, cease and desist from—

Using the word “Satinsilk” or the words “Satin Silk”, either alone or with other word or words, as a brand or label upon spools of thread composed wholly of cotton, or upon the containers of such thread.

And it is further ordered, That respondent shall within thirty days from the date of receipt of the order set out herein file with the Commission a report in writing setting out the manner and form in which it has complied with the said order.

Dissent by Commissioner Humphrey

The name “Satin Silk” or “Satinsilk” in itself seems somewhat fanciful and might to some extent put the purchaser on inquiry. Under all the facts as presented in this case, I am not entirely satisfied that a person of reasonable intelligence, exercising reasonable care, would be deceived.

Complaint

11 F. T. C.

IN THE MATTER OF

ATLANTA WHOLESALE CONFECTIONERS ASSOCIATION, ITS OFFICERS AND MEMBERS

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

Docket 1364. Complaint, Feb. 20, 1926—Decision, Mar. 30, 1927

Where an association of wholesalers or jobbers dealing in candies or confectionery, and members thereof; in pursuance of a conspiracy to prevent chain stores, and jobbers dealing principally in products other than confectionery and candy (held by them to be "illegitimate" dealers and not entitled to deal in such products) from obtaining the same from the manufacturers or other sources,

- (a) Held meetings for the interchange of information concerning, and the discussion and adoption of plans and measures for carrying out, the same;
- (b) Wrote letters to manufacturers of candy, confectionery and allied products selling the same to "illegitimate" dealers, representing that all of the "legitimate" dealers in the products concerned in the city involved were members of the association and that others were "illegitimate" dealers and should not be permitted by said manufacturers to purchase such merchandise, and made similar representations in personal interviews with said manufacturers and their agents;
- (c) Threatened to cancel and canceled orders given said manufacturers, on account of sales by them to "illegitimate" dealers;
- (d) Falsely represented by letters to and interviews with, said manufacturers and their agents, that the "illegitimate" dealers were selling their goods below their suggested prices and were thereby demoralizing the market; and
- (e) Gave the representative of a manufacturer orders conditioned upon his thereafter refusing to deal with certain competitors of the members classified by them as "illegitimate" dealers;

With the result that many competitors were hindered and many others prevented from purchasing confectionery, candy and allied products, and competition in the purchase and sale thereof was hindered and suppressed: *Held*, That such practices, under the circumstances set forth, constituted unfair methods of competition.

Mr. Alfred M. Craven for the Commission.

Messrs. A. A. Meyer and E. L. Meyer, of Atlanta, Ga., for respondent *Harry L. Schlesinger*, and *Candler, Thomson & Hirsch*, of Atlanta, Ga., for all other respondents.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent, Atlanta Wholesale Confectioners Association, its officers