

Syllabus

IN THE MATTER OF

JOHN G. HOMAN, TRADING UNDER THE FIRM NAME AND
STYLE OF NEW SCIENCE INSTITUTECOMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914*Docket 1677. Complaint, May 31, 1929—Decision, Oct. 26, 1931*

Where an individual engaged in the sale of appliances or devices for the treatment of hernia or rupture; in his advertisements in magazines, newspapers, leaflets, letters, etc.,

- (a) Represented that methods, trusses and appliances other than his own were old-fashioned, cruel, unclean, generally unscientific and actually productive of serious injury, and made such statements in describing his own device or devices as "No unclean bulky leg-strap", "No cruel springs", "No more huge ham-like pads", facts being that the consensus of professional, expert, and informed opinion in the medical and surgical professions, and elsewhere was that the truss constituted the correct palliative treatment for rupture, might in some cases of reducible hernia lead to permanent relief, depending upon youth of patient or other factors, and had long been prescribed by physicians and surgeons generally, and offered and sold as a part of the regular stock of ordinary drug and surgical supply stores throughout the United States, and was neither old-fashioned, barbarous, torturous, cruel, unclean, obsolete, nor unscientific;
- (b) Offered his appliances and devices as and for appliances other than trusses and featured said devices under the trade name Magic-Dot as a new discovery revolutionizing the so-called old-fashioned methods, representing that his appliances "seal" the rupture, avoid the alleged "harsh pressure" involved in other methods and devices, allow free circulation, are unique because devices "for human beings" by means of which "an Ohio scientist is helping nature to rescue thousands of ruptured victims from the eternal horrors of many dangerous, cumbersome trusses and other torturous harness-like contraptions," and constitute latest development of science for treatment of hernia, facts being his said appliances and devices were in fact trusses, Magic-Dot device was patented for use in connection therewith, and his said devices were neither development of, nor approved by science nor useful for treatment of rupture in its advanced or serious stages;
- (c) Represented that wearer or user might easily bend, cough, jump, or sleep in any position without fear of having appliance slip and that thousands of sufferers had been cured through its agency, and set forth depictions of people engaged in athletic exercises or physical movements requiring and indicating strength, agility, muscular control, normal abdominal walls and conditions, especially in localities where hernias or ruptures usually occur, together with such captions as "Ruptured 38 years ago. Is this a miracle?" and such descriptive statements as, "A sudden strain at the age of 12. Thirty-eight years of pain and discomfort. Now at 50 relief at last", and others of similar tenor, attributing the purported remarkable recovery and advance in health and prosperity to abandonment of the so-called horrible

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truss and use of said individual's device, and distributed among purchasers booklets containing alleged communications from rupture sufferers to the effect that they had been cured by his appliances;

Facts being devices in question directly or impliedly held out as effecting cures in all cases of reducible hernia, irrespective of age or other conditions, were useless either for curative or palliative purposes in the case of 95 per cent of those afflicted, and the self-diagnosis and self-measurement called for and encouraged and use of device in question involved danger of prospective purchaser's confusing his ailment with one of a number of others, and increased danger, in the absence of personal and professional or expert attention in the fitting and application of the truss, of reducible hernia failing to receive proper support, with resulting harm or possible strangulation, with its threat to life and necessity for immediate medical service and/or operation;

With capacity and tendency to deceive purchasers and prospective purchasers into belief that trusses or appliances other than those offered and sold by said individual were old-fashioned, cruel, unclean, inefficient, and unscientific, and that his appliances could and would support every reducible hernia and generally effect a cure thereof, and to induce purchase thereof in reliance upon such erroneous belief, and to harass, embarrass, and discredit competitors offering and selling trusses recognized by scientists and medical and surgical profession as the correct palliative treatment for hernia, and to divert trade from them to him, and otherwise hinder them because of his false and slanderous misrepresentations and statements concerning their products:

Held, That such practices, under the circumstances set forth, were all to the prejudice of the public and competitors, and constituted unfair methods of competition.

Mr. James M. Brinson for the Commission.

Mr. John A. Nash, of Chicago, Ill., 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 individual, engaged at Steubenville, Ohio, in the manufacture of an appliance described as "Magic Dot" for use in the treatment of hernia or rupture, and in the sale thereof among the various States, with advertising falsely or misleadingly as to qualities or properties of its product and those of its competitors, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondent, as charged, engaged as above set forth, in its advertisements in magazines, newspapers, pamphlets, leaflets, circulars, etc., makes false and misleading statements concerning its aforesaid appliance to the effect that same is a new discovery or invention, which revolutionized old methods (referring particularly to the

truss), condemned as old-fashioned, awkward, harsh, preventing free circulation, and the full operation of the healing processes of nature; whereas respondent's appliance "seals" the rupture, "can not slip off", is anchored securely to the acute point while allowing free circulation, is an invention of "an American scientist of note", rescuing thousands of rupture victims from the "eternal horror of many dangerous, cumbersome trusses and other torturous, harness-like contraptions", is worn without pain or inconvenience, and permits the wearer to safely bend, cough, jump, or sleep in any position without fear of the appliance slipping down, etc., displaying in its advertisements representations of men engaged in athletic exercises requiring and indicating strength, agility, muscular control and normal abdominal walls and conditions particularly in localities where rupture usually occurs.¹

The facts are, as alleged, that in the case of reducible, as contrasted with irreducible or strangulated rupture, safely treated only by surgical operation, the use of the aforesaid so-called truss, described as old-fashioned and cruel, is, according to the consensus of opinion among the great body of competent men in the medical and surgical profession and other scientific professions concerned in the treatment or care of the body, "the correct palliative treatment which in cases of reducible hernia or rupture may in some instances become a curative agent by which permanent relief is effected, depending upon the youth of the sufferer or the persistence or tenacity with which the protrusion, tumor or hernia, after having been returned to the abdominal cavity, is retained therein." Neither respondent's said appliance nor any other appliance can insure such invariable results as claimed by respondent for his said device, nor will the use thereof enable the sufferer safely to engage in coughing, running, or any of the athletic performances or movements specified, or cure or benefit those using the same. It has neither the sanction of scientists, nor of any reputable medical surgical authority, and can not hold in its place "within the abdominal cavity the returned hernia or to so maintain its own position that violent exercise safely may be taken by the sufferer in reliance on such security"; and use thereof by one suffering from reducible rupture will probably lead said person to "suffer immediate conversion into irreducible rupture if subjected to such physical exertion, thereby precluding curative treatment except by surgical operation", and said appliance is "inadequate, insufficient and useless either for curative or palliative purposes."

¹ Representations and depictions alleged are described in the "findings," *infra*, at p. 329.

According to the complaint "the above and foregoing representations of respondent by means of which he has offered for sale and is selling his product, Magic-Dot especially in view of his trade name, New Science Institute, have had and have the capacity and tendency, to mislead and deceive, and have misled and deceived, the public into the belief that prevailing and customary methods for the treatment of hernia or rupture have been and are insufficient, useless, cruel, barbarous and productive of serious injury and that the appliance, Magic-Dot, represents the latest development of science in the treatment of said trouble, and to induce, and have induced, its purchase in reliance on such erroneous belief, and to divert trade from and otherwise injure competitors of respondent"; 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 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 issued and served a complaint upon John G. Homan trading under the firm name and style of New Science Institute, charging him with the use of unfair methods of competition in interstate commerce in violation of the provisions of said act. The respondent having entered his appearance and filed answer, testimony and documentary evidence were received, duly recorded and filed in the office of the Commission; thereafter the proceeding regularly came on for final hearing before the Commission on the complaint, answer, testimony, and evidence, briefs, and argument by counsel for the Commission and counsel for respondent, and the Commission having duly considered the same now makes this its report, in writing, stating its findings as to the facts and conclusion as follows, to wit:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent is now, and for several years last past has been engaged, with his principal office and place of business at Steubenville in the State of Ohio, in the manufacture, and sale, in commerce among the various States of the United States, of an appliance or appliances described as Magic Dot for use in the treatment of hernia usually known as rupture, causing them, when sold, to be transported from his said place of business to purchasers in the various States of the United States other than the State of Ohio.

In the course and conduct of such business respondent has been, and now is engaged in competition with individuals, partnerships, and corporations offering for sale or selling in like commerce, so-called trusses or other appliances or devices for treatment of hernia or rupture.

PAR. 2. On January 17, 1925, respondent applied in the United States Patent Office at Washington for a patent on his appliance known as Magic Dot. It was represented in his application that the invention was for "means for retaining a supporting pad or like therapeutic device in place, and especially relates to a device to be used in connection with present forms of hernial trusses and body supports."

There was registered on May 31, 1927, in the United States Patent Office, on the application of respondent, the words "Magic Dot" as a trade-mark. In his application respondent represented that it was a trade-mark for "appliances for retaining supporting pads and trusses in position." Respondent further represented in such application that the trade-mark had been continuously used in his business since July 10, 1919, and that the trade-mark is applied to the goods by placing the goods in envelopes on which the mark is printed. Thereafter respondent caused his appliance to be inclosed when sold, in a wrapper bearing the words "This cover contains valuable goods from New Science Institute." It also bore the trade-mark Magic Dot.

The appliance now sold by respondent differs materially from the one sold by him when complaint issued and is less effective, but both have been, and still and now are, sold under the trade name or designation Magic Dot. Respondent sells his original device now only when orders therefor are received from those who have used them. His principal business consists in the sale of an appliance or device more nearly resembling the standard truss than his initial or original device also sold as Magic Dot.

It is the practice of respondent to offer and sell, when practicable, to those unwilling to purchase or use either of his Magic Dot appliances, another one which he calls Electra, which is also a truss. He also offers for sale and sells a device known as Sanatape, which is a leg strap to be used, as declared by respondent, in supporting a very low rupture.

While the appliances of respondent or his devices for the treatment of hernia or rupture, have been and are trusses, and his appliance or device Magic Dot was patented to be used in connection with the present form of hernial trusses, respondent has offered his appliances or devices for sale by means of advertisements in magazines, newspapers, pamphlets, leaflets, letters, circulars and otherwise,

under the name of Magic Dot as and for appliances other than trusses. He has featured the device Magic Dot, together with a rubber pad, or his later appliance which he now sells as Magic Dot, Magic Dot Outfit, Airtex-Magic Dot Combination, or New Science System. It has been, and is his practice to employ as his principal method of competition, false, misleading, and disparaging representations regarding trusses, the products of his competitors, and false and misleading representations and statements regarding the merits or efficiency of his own appliances, which he contrasts with trusses, the products of his competitors, declaring his own appliances or devices free from the cruel and unscientific deficiencies of trusses. Such method of competition is exemplified in representations and statements to the following effect appearing in the advertisements of his products, to wit:

That the methods of helping hernia prior to the introduction by respondent of Magic Dot have been and are old-fashioned;

That said product is a new discovery or invention which has revolutionized said old-fashioned methods;

That before such discovery or invention of his appliance, the customary or prevailing methods so described by respondent as old-fashioned, subjected sufferers from such affliction to the use of "awkward steel springs, weighty cushions, unclean leg straps and other makeshift devices that were always slipping off the wound";

That the so-called old-fashioned method involved "harsh pressure" which prevents free circulation of the blood and thereby a full operation of the healing processes of nature;

That the appliance of respondent instead of "pressing" rupture, reduces it by the so-called new science method which "seals" the rupture; and that such "sealing" method was impossible with the so-called "old-fashioned" appliances;

That it is impossible for Magic Dot to slip off, but on the contrary it "anchors to the acute point of rupture," and "allows free circulation to tend to knit the tissues over the wound, and heal it much like every other wound is permitted to heal";

That this quality or ability of the appliance, Magic Dot to seal the rupture and to anchor securely to its acute point, while allowing free circulation of the blood to promote healing processes is an "exclusive advantage, which science says is important";

That there is no other appliance like it in the world, particularly because it is one for human beings, by means of which "an Ohio scientist is helping nature to rescue thousands of rupture victims from the eternal horror of many dangerous, cumbersome trusses and other torturous, harnesslike contraptions";

That all other appliances than Magic Dot for use in treatment of hernia or rupture are cruel, barbarous, torturous, unadapted to human beings, actually productive of serious injury and that science has proclaimed its approval of Magic Dot as a departure from the ineffective and agonizing methods employed in treatment of hernia or rupture before "an American scientist of note" disclosed his invention to the public and offered it for sale to sufferers from said affliction;

That its use or application to rupture, while sealing it securely without interference with the circulation of the blood is attended by no pain, inconvenience, or discomfort, and the wearer or user may safely bend, cough, jump, or sleep in any position without fear of the appliance slipping down and that thousands of sufferers from hernia or rupture have been healed and are being healed through its agency.

Respondent has also caused to be inserted in such advertisements in Psychology, Physical Culture, and other magazines and newspapers of general circulation in the various States of the United States, pictures, illustrations, or representations of men engaged in athletic exercises or physical movements requiring, and indicative of strength, suppleness, agility, muscular control, normal abdominal walls and conditions, particularly in the localities where hernia or rupture usually occur. In connection with and immediately before such pictures, illustrations or representations appear in extremely large black and conspicuous letters, statements such as the following.

RUPTURED THIRTY-EIGHT YEARS AGO,
IS THIS A MIRACLE?

with the further statement in smaller letters, but also large and conspicuous:

A SUDDEN STRAIN AT THE AGE OF TWELVE * * *
THIRTY-EIGHT YEARS OF PAIN AND DISCOMFORT—
NOW AT FIFTY, RELIEF AT LAST!

Respondent has published and publishes in said magazine and others, an advertisement wherein is presented under the caption:

BOGGSVILLE MYSTERIOUS STRANGER EXPOSED

an illustration of a man leaving his home, with his family assembled on a porch in front of it, expressing unrestrained joy and delight, his wife exclaiming, "Yes, children, that is papa since he quit wearing a truss," as he apparently proceeds along the adjacent street with the speed and vigor of a professional pedestrian. His neighbors are displayed gazing from windows with expressions of amazement on their faces, obviously caused by his physical vim and

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prowess, while acquaintances are pictured standing in groups as he races by them, discussing his remarkable advance in health and business which in the picture they are all represented as declaring due to the abandonment of the so-called "horrible" truss and his rescue therefrom by Magic Dot after having suffered 10 years from rupture with incidental decline in the efficiency of his work and amount of his compensation.

Respondent has caused to be circulated and distributed among purchasers and prospective purchasers in the various States of the United States pamphlets or booklets wherein he has made statements such as the following:

A new kind of "finger-tip" called Magic Dot. Wonderfully simple, amazingly effective. So tiny it would take a handful to weigh an ounce. So small it takes a number of them to equal the weight of a silver quarter. Yet it anchors and holds rupture support so it can't skid sideways.

Hence, no unclean bulky leg straps. It enables clean people to be clean. No cruel springs.

No more huge hamlike pads made big so that in case of skidding they would still be big enough that some part of their enormous surface would cover the rupture. No plug pads to prevent skidding by "boring" into the very wound you seek to heal.

Magic Dot is instantly put on—or instantly taken off.

Because Magic Dot means so much in helping nature cure reducible rupture, you will wish to read and know about the interesting New Science System of which it is a part. And as you read we shall be glad to tell you also, what others say.

In a booklet distributed by respondent among purchasers and prospective purchasers containing a description of his appliances with directions for their use, there appears the following language:

It is believed that there is no case of reducible rupture that this outfit cannot successfully support.

In advertisements in the Beacon, a newspaper of Wichita, Kans., the Post, a newspaper of Cincinnati, Ohio, the Record, a newspaper of Philadelphia, Pa., the Courier Express, a newspaper of Buffalo, N. Y., the State Register, a newspaper of Springfield, Ill., the American Tribune, a newspaper of Dubuque, Iowa, appear, among other representations and statements, the following:

It is not claimed that this system will cure every case of reducible rupture, but reports are coming continuously of such cases.

Respondent has also followed the practice of distributing among purchasers and prospective purchasers, booklets containing alleged communications from rupture sufferers to the effect that the individuals to whom they are attributed have been cured of rupture by use of the appliance or appliances of respondent.

In his representations, whether by booklets or other forms of advertising, there is no differentiation by respondent between ruptures among the young and ruptures among the old. On the contrary, his representations clearly signify or imply that the use of his appliances will enable sufferers from hernia, of any age, to support and cure their reducible ruptures. This is evidenced by his use of communications purporting to have been subscribed by individuals of all ages containing representations of cures effected. Several of such communications relate to instances of rupture among infants or children, but generally they embrace instances of rupture among adults whose ages range from early maturity to extreme old age. One instance is reported by respondent to purchasers and prospective purchasers of his appliances, of a man 75 years old who had been ruptured for 38 years, but was cured by use of respondent's appliance, and thereafter worked as a laborer without any appliance. He reported another instance of a man ruptured for years, but who, having used his appliance, engaged in wrestling, boxing, and other forms of athletics without fear of harm. Respondent has gone so far as to represent cures of ruptures of long standing in men as old as 83 years, and in one instance, he represented a man at the age of 77 years suffering from a rupture measuring seven inches around had been cured in three months by use of the Magic Dot Outfit.

In truth and in fact the appliance or appliances, device or devices of respondent described or designated as Magic Dot, or Magic Dot Outfit, or Airtex-Magic Dot Combination, or New Science System are neither a development of science nor approved by science and are neither a discovery nor invention adapted to, or useful for the treatment of hernia or ruptures, in any of its advanced or serious stages.

His Magic Dot, or Magic Dot Outfit, or Airtex-Magic Dot Combination or New Science System, is inadequate, insufficient, and useless either for curative or palliative purposes except in less than 5 per cent of the cases of rupture. Rupture in children may be cured in the majority of cases by use of the appliance of respondent, and in an extremely limited degree there are moderate cases of rupture in adults which his appliance, or appliances may hold in place, and thereby a cure may, in some instances, be effected. Ninety-five per cent of the cases of rupture are incurable by means of the appliances of respondent, nor can it support the hernial sac in its proper place in 95 per cent of the cases of rupture.

It is the consensus of opinion, among the great body of competent men in the medical and surgical profession and other scientific professions concerned in the treatment and care of the human body who have had experience in, or engaged in, research or experimentation in

connection with hernia or rupture, that the use of the so-called truss described by respondent as "old-fashioned and cruel" is the correct palliative treatment which, in cases of reducible hernia or rupture may, in some instances, become a curative agent by which permanent relief is effected, depending upon the youth of the sufferer or the resistance or tendency with which the protrusion, tumor, or hernia, after having been returned to the abdominal cavity, is retained therein.

The truss is now, and for a long period of time has been recognized as the appropriate agency for the palliative treatment of hernia or rupture, and in cases of children and of adults with moderate hernias, as a curative agency. There are now, and have been competitors of respondent offering for sale and selling trusses in interstate commerce, and they have been for a long period of time, and now are, prescribed by physicians and surgeons generally, and offered for sale and sold as a part of the regular stock of the ordinary drug and surgical supply stores throughout the United States. They are neither old-fashioned, barbarous, torturous, cruel, unclean, obsolete, nor unscientific. They represent, and long have represented the scientific view for the palliative treatment of hernia or rupture.

While respondent does not claim that his appliances can either cure or support irreducible or strangulated hernia or rupture, reducible hernia or rupture may become irreducible at any moment, and there-upon palliative treatment with a truss must be succeeded by radical treatment or surgical operation in order to accomplish permanent relief safely or at all. Any hernia may become strangulated, and there is constant danger of it. Such hernia is extremely dangerous and usually results fatally unless there is immediate surgical operation. It is a very definite condition. If an appliance is used which does not exert the proper pressure at the critical point, there is always a danger that the hernia will come down and result in strangulation.

There are various diseases which simulate and may be mistaken for hernia such as hydrocele, lipoma, adenitis and varicocele. As a rule, strangulation occurs in patients whose hernias are down, or have been controlled by trusses. Sometimes the patient leaves off his truss from neglect or from a belief that he is cured, but strangulation is most often caused by the hernia slipping by the truss. It is necessary, therefore, for a truss or other appliance to be fitted to the individual sufferer from hernia or rupture by a competent person familiar with the mechanics involved in the palliative treatment of hernia, and also able to distinguish between hernia and other conditions which simulate it.

The respondent requires prospective patients or purchasers to furnish certain information in the orders, and thereupon he causes an appliance to be transmitted to the patient or sufferer with a little booklet containing directions for its use. There is no individual examination of the patient or sufferer. The measurements around the body on line with the rupture or ruptures are given in the order, the size of the rupture when out is stated, and compared with that of a marble, a walnut, a golf ball, or a hen's egg, for the information of respondent. The height, weight, age, and occupation of the sufferer or patient are supplied; also the age of the rupture, and information whether or not trusses have been worn, and if so, the particular truss then being worn. This is the only information respondent is furnished prior to the transmission of his appliance or appliances in pursuance of orders received. The physical condition of the individual is unknown to respondent. There is no suggestion in his literature that the sufferer or patient obtain the diagnosis of a competent physician or the service of a truss fitter. The whole trend of respondent's advertising and of his communications to individuals answering his advertisements is the encouragement of the individual to diagnose his own case and fit himself without the assistance of a physician, surgeon, or anyone else.

The order, when received, is considered by an assistant of respondent who has had experience in the fitting of trusses, but who is neither a physician nor surgeon, and who claims no other knowledge of, or familiarity with hernia or rupture than such as has been derived from his experience in fitting trusses. It is a necessary result of this practice that an individual who follows the suggestions of respondent, orders, receives, and applies to his body the appliances of respondent, without any accurate or reliable knowledge of his real condition. There may be no hernia or rupture. The condition the individual attributes to hernia or rupture may be the result of other diseases, in connection with, or treatment of which, the appliances of respondent or any form of trusses are useless, injurious and, possibly, dangerous. Generally, where there has been a diagnosis by a competent physician, or an examination of the individual by a truss fitter acquainted with the particular condition resulting from hernia or rupture and therefore able, to some extent at least, to differentiate between hernia or rupture and other diseases, and where the individual has been instructed how to reduce the rupture or hernia and has successfully reduced it, he is able to determine for himself whether or not the hernia or rupture is "down" or "up," and the particular point at, or on which pressure should be applied, in order to hold it in place when returned thereto. Even in such in-

stances it is unsafe for the individual to order a truss by mail and thereafter apply it to his own body without the supervision and assistance of someone experienced or skillful in the fitting of trusses.

It frequently happens that those actually suffering from hernia or rupture who have been using trusses are unable to determine for themselves whether or not their hernia or rupture has been completely returned into the abdominal cavity where it belongs. It has frequently happened that individuals suffering with hernia or rupture wearing the appliances of respondent have purchased other trusses in ignorance of the fact that the appliances of respondent were not holding up their rupture or hernia, but that it was "down" and out, with the appliance of respondent resting on top of it.

There are instances of a hernia or rupture which is partly reducible and partly irreducible, and contrary to the directions of respondent in his booklet distributed among purchasers and prospective purchasers which accompanies his appliance when transmitted in pursuance of orders, the patients or sufferers are frequently unable to return a part of the hernia because of a condition usually due to some adhesions between the contents of the hernial sac and the sac itself. These adhesions may result from an ill-fitting truss, and therefore the fitting of the individual to himself of respondent's appliance or appliances secured through the mail enhances the possibility of such adhesions and of a condition in which the hernia or rupture is partially irreducible. When such a situation arises and it may arise without the sufferer from hernia or rupture knowing it, the attention or service of a physician is immediately needed. If the sufferer is mistaken in believing that his hernia or rupture has been entirely reduced or has entirely gone back, when in fact it is only partially reduced, the application or use of a truss may prove serious, resulting in damage to the gut that is down in the sac and unreduced, and inflammation, or even strangulation. Every patient or individual whose hernia or rupture the appliance of respondent is insufficient to support or hold up, and these are 95 per cent of hernia or rupture cases, has been, and is in constant danger of irreducible or strangulated hernia or rupture.

Strangulated hernia, which is a constant menace to sufferers from hernia or rupture, and which, when present, demands immediate, radical treatment, occurs more frequently among those who have worn trusses than among those who have never worn them. Removal of the control of the hernia or rupture by a truss and substitution of the appliance of respondent enhances the danger of strangulation. Respondent has sold 100,000 of his appliances to sufferers or supposed sufferers from hernia or rupture, and less than 5 per cent of

such appliances, aside from those used on children or infants, have been able to support the hernia or rupture which they were sold to support, or to bring about a cure. Ninety-five per cent of them have been either useless or a source of injury or damage. Eight per cent of the men and 2 per cent of the women have suffered from hernia or rupture during some period of their lives and there is interest of substantial and far-reaching character in the protection of such a numerous portion of the public from the false and misleading representations of respondent and the injury and dangers that may result therefrom. There is interest of a substantial and far-reaching character in the protection of competitors of respondent who have been and are manufacturing and selling in interstate commerce, trusses for the treatment of hernia, a method of treatment which has long been recognized, and is now recognized as the most effective palliative treatment of hernia or rupture, as hereinbefore stated.

PAR. 3. The above and foregoing representations and statements of respondent, which have been and are used by him in order to induce the purchase of his appliances, have had and have the capacity and tendency to mislead and deceive purchasers and prospective purchasers into the belief that trusses or other appliances than those offered for sale and sold by respondent, are old-fashioned, barbarous, cruel, unclean, inefficient, unscientific, obsolete, and that the appliances of respondent can, and will, support every reducible hernia or rupture, and will effectuate, generally, cures of hernia or rupture, and to induce the purchase of respondent's appliance or appliances in reliance on such erroneous belief.

The above and foregoing representations of respondent have had, and have the capacity and tendency to harass, embarrass, and discredit competitors offering for sale or selling trusses actually recognized by science and the medical and surgical profession as the correct, palliative treatment of hernia or rupture, and to divert trade from them to respondent and otherwise to injure them because of his false, misleading, slanderous, and disparaging representations and statements concerning their products.

CONCLUSION

The practices of the said respondent, under the conditions and circumstances described in the foregoing findings are to the prejudice of the public and of respondent's competitors, are unfair methods of competition in commerce and constitute a violation 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

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ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, the testimony and evidence, briefs and arguments of counsel for the Commission and of counsel for respondent, and the Commission having filed its report stating its findings as to the facts and its conclusion that the respondent has violated 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, for other purposes":

It is now ordered, That respondent John G. Homan, trading under the firm name and style of New Science Institute, cease and desist directly and indirectly—

(1) From representing, in connection with offering for sale or selling in interstate commerce his appliance or device, that science has condemned trusses for the treatment of hernia as old-fashioned or barbarous, or torturous or unclean, or obsolete or because they prevent or retard the cure of hernia or rupture, and that his appliance or device is the latest invention, or development of science for treatment of hernia and has rescued ruptured men and women from the doom of rupture by trusses.

(2) From representing, in connection with offering for sale or selling in interstate commerce, his appliance or appliances, device or devices, variously designated, described, or called Magic Dot, Magic Dot Outfit, Airtex-Magic Dot Combination, or New Science System, that by use of them, or any or either of them, every reducible hernia or rupture, or reducible hernia or rupture in any considerable proportion of the cases, can or will be supported, or that by use of them or any or either of them, hernia or rupture can or will be cured generally, or in any considerable proportion of the cases, or from using representations of similar import.

It is further ordered, That respondent, within 60 days from and after the service of this order, file a report in writing, setting forth in detail the manner and form of its compliance with the order.

Complaint

IN THE MATTER OF

THOMAS KNAPIK AND GEORGE W. ERICKSON, CO-
PARTNERS TRADING AS KNAPIK & ERICKSON

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

Docket 1750. Complaint, Jan. 24, 1930—Decision, Oct. 26, 1931

Where a firm engaged in selling leather to work glove manufacturers, designated as "Muleide" a nonleather fabric one side of which so closely resembled the genuine, mule, horse, or cattle "splits" or "leather glove splits" used by such manufacturers and formerly stamped "mule hide," as to make possible deception of a person with little or no knowledge of leather, when used in manufacture of such gloves, and employed said coined word or trade name and registered trade-mark in referring to said imitation leather or fabric in advertisements, letters, and invoices, and on tags supplied by it to glove manufacturers for attachment by them to each glove made in whole or in part therefrom;

With tendency and capacity to deceive ultimate purchasers of gloves and mittens so manufactured into believing that said articles were made in whole or in part from leather made from the skin or hides of mules, or other leather, and to induce them to purchase the same in such belief, and with result of thereby placing in the hands of retailer buyers of said gloves from aforesaid manufacturer's wholesale or jobber purchasers, the means of committing a fraud, and thereby creating a tendency unfairly to divert trade from and otherwise injure said firm's competitors in the sale of materials used for aforesaid purposes, and also manufacturers of workmen's gloves and mittens made of leather and other materials:

Held, That such practices, under the circumstances set forth, were all to the prejudice of the public and competitors, and constituted unfair methods of competition.

Mr. E. J. Hornibrook 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 respondents Thomas Knapik and George W. Erickson, partners engaged in the sale at wholesale of leather goods and specializing in the kind of leather used in workmen's gloves, and mittens, and also in the sale of a nonleather fabric finished so as to simulate leather, and with principal place of business in Chicago, with naming product