

IN THE MATTER OF
**THERONOID, INC., THERONOID CORPORATION, PHILIP
 ILLSLEY, J. ROY OWENS, AND J. N. WATSON**

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

Docket 1865. Complaint, Mar. 10, 1931¹—Decision, Apr. 8, 1933

Where two corporations, engaged or interested in the sale of (a) an electric device of asserted therapeutic value which (1) consisted of a coil of wire in a belt-like container; and was designed for (2) attachment to the ordinary house lighting current, and (3) use by the individual or patient through placing the same, but without conductive contact, over or around his person, for the therapeutic benefit assertedly resulting from the electromagnetic field created; together with (b) a test coil or closed circuit, and small electrical lamp, which under a principle long known, lights, when placed in close juxtaposition to the belt in operation; and three individuals interested through stock ownership, or otherwise in device in question; in promoting sale of said article or so-called "Theronoid", through broadcasting, pamphlets, and advertising.

Represented same as a beneficial therapeutic agent in the aid, relief, prevention or cure of some twenty-one diseases including arthritis, diabetes, heart trouble, indigestion, nervous disorders, neuritis, rheumatism and high-blood pressure, making such statements as "thousands of homes all over the U.S. have been made happier, thousands of people are today useful citizens in good health instead of wrecks of humanity because of electro-magnetism and Theronoid, * * * whether you are 7 or 77 * * * electro-magnetism will increase the flow of your life forces, speed up the process of oxidation and get rid of the poisons you have filled yourself with". "You men and women who live each hour in pain * * * and wish in your inmost hearts for eternal rest, accept my challenge that you can be released from your bonds and again find not only relief but also real normal health", "* * * is proving itself daily in thousands of cases throughout the United States to be of extreme benefit in conditions of chronic diseases * * *. Offers a way of using the natural force of electro-magnetism in the treatment of many diseases * * *. If you have been suffering for weeks, months, or possibly years, and have been unable to obtain relief, now is not the time to despair or give up hope; try again something that has helped others for exactly your same condition. You may have tried everything in a vain endeavor to secure your health, but until you try electro-magnetism you cannot know how really well you can be", and other statements of similar tenor;

Notwithstanding the fact that magnetic induction with actual tests of said product and other similar devices, together with the most elaborate tests of application of electro-magnetic fields to the animal body without conductivity, showed no effect produced, and the nature and effect of the physical forces brought into existence by attaching the device in question to the

¹ Amended.

Complaint

ordinary house lighting alternating current are such that it is of no benefit in the treatment, aid, prevention or cure of any disease, acute or chronic, or any other pathological condition, its use, as directed, cannot and does not stimulate metabolism, speed up the process of oxidation, increase elimination, electrify or magnetise the person exposed, or "increase the flow of life forces" and good health, and it cannot be and is not in any way of therapeutic benefit to the purchaser or user thereof, nor calculated or likely to aid in the prevention, treatment or cure of any human ailment, except in cases where the user is so deceived by misrepresentations that a purely psychological benefit is produced;

With effect of misleading and deceiving prospective dealer and other purchasers to whom the advertising data, radio broadcasts and pamphlets supplied to dealer purchasers for redistribution were passed on, and with the tendency so to mislead and deceive such various purchasers, who bought device in question in reliance upon truth of aforesaid representations and actuated by the erroneous belief that use of said device constituted a therapeutic aid in the prevention, treatment, relief and cure of various and sundry ailments of the human body, and with effect of diverting trade from competitor wholesale and retail dealers in sale of electrical appliances designed for attachment to ordinary alternating house lighting current, and of value in treatment, prevention, and cure of many human ailments, and of thereby injuring said competitors and deceiving a substantial portion of the public, and with a tendency so to divert trade:

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

Mr. PGad B. Morehouse for the Commission.

McKercher & Link, of New York City, for Theronoid, Inc., and (along with *Mr. John W. Kern*, of Indianapolis), for J. N. Watson.

Mr. John W. Kern for J. Roy Owens, and, together with *Marsh & Rogers*, of Washington, D.C., for Theronoid Corporation and Philip Illsley.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent Theronoid Corporation, organized under the laws of Ohio,² respondent Philip Illsley, of Los Angeles, president and principal stock owner of said corporation, respondent Theronoid, Inc., a Delaware Corporation with principal office in New York City, and respondent J. Roy Owens, its president and general manager, and respondent J. N. Watson, its secretary and treasurer (and directors thereof), variously interested or engaged in the sale of an electromagnetic device of asserted therapeutic value, with advertising falsely or misleadingly as to nature and results of product, and mis-

² Originally organized with the corporate name of Ionaco Office, Inc.

representing in said respect, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondents, as charged, interested and engaged³ in the sale of aforesaid device or so-called "theronoid" and with offices in New York, Philadelphia, and Detroit, and Windsor, Ontario, represent that through electro-magnetism induced by an alternating current by use of said theronoid, customers suffering from some twenty-one ailments, including asthma, heart trouble, rheumatism, stomach trouble, and high blood pressure,⁴ obtain relief, making sweeping representations to that effect in advertisements and representations in newspapers, circulars, over the radio and in various other ways.⁵

Said device of respondents, as alleged, is without "remedial or therapeutic value in the disorders described * * *, and the representations as to the curative value thereof made by respondents are and have been false and misleading" and "the effect of respondents' methods and practices hereinabove described is to mislead individuals who desire to obtain relief from various ailments into the belief that respondents' theronoids provide means for their benefit and relief, whereas this belief is unfounded and erroneous, and respondents' advertising and other written and oral representations are deceptive, misleading and false", and said alleged "acts and practices of respondents above alleged are all to the prejudice of the public and of respondents' competitors, and constitute unfair methods of competition in commerce within the intent and meaning of section 5."

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, on August 22, 1930, the Federal Trade Commission issued and shortly thereafter served a complaint upon the respondent Theronoid, Inc., a Delaware corporation, Theronoid Corporation, an Ohio Corporation, Philip Illsley, J. Roy Owens, and J. N. Watson, charging each of them with the use of unfair methods of competition in commerce in violation of the provisions of said act.

³ As alleged in the complaint respondent Theronoid, Inc., is the transferee of the property and rights in said Theronoid, previously vested in respondent Theronoid Corporation, subject to certain reversionary rights in the latter, contingent upon the former's failing to make certain deferred payments upon the purchase price.

⁴ List of ailments alleged in the complaint may be found *infra*, in Findings at p. 306.

⁵ Statements and representations alleged and quoted in the complaint in this connection may be found set forth in the Findings *infra* at p. 306.

Respondents answered and thereafter the Commission issued and served an amended complaint on March 10, 1931, to which the respondents Theronoid, Inc., J. Roy Owens, and J. N. Watson, jointly, and respondents Theronoid Corporation and Philip Illsley, jointly, made answer. The last two named respondents also moved to dismiss the amended complaint and said motion was overruled by the Commission without prejudice to a renewal thereof at the final hearing. Thereupon hearings were had and evidence was introduced upon behalf of the Commission before a trial examiner of the Commission thereunto duly appointed. Upon completion of the taking of testimony for the Commission the said trial examiner was directed to take testimony and evidence on behalf of the said respondents, but no respondent offered any testimony or evidence, whereupon the trial examiner filed his findings of fact herein.

Thereupon this proceeding came on for consideration upon the record, and the brief and oral argument of counsel for the Commission. No brief was filed on behalf of respondents, none of whom appeared at the argument except the respondent J. Roy Owens, who then and there moved that the complaint as to him be dismissed. The Commission having duly considered these matters and being fully advised in the premises makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Since long prior to 1928 the respondent Philip Illsley was engaged in the interstate sale of an electro-magnetic belt of alleged therapeutic properties which was known as the "Ionaco". In March, 1928, he caused to be organized under the laws of the State of Ohio, a corporation known as "Cleveland Ionaco Office" and to it transferred said business, both wholesale and retail, and the following September the company changed its name to "Theronoid Corporation", one of these respondents.

Philip Illsley is and has been president of Theronoid Corporation and owner of the stock since its organization. Until the early part of April, 1930, respondent Illsley actively directed its affairs, concurrently engaging in the competitive sale of the same belt individually through one or more of his own offices operated for that purpose in the cities of Cleveland, Ohio; Detroit, Mich.; New York, N.Y.; Trenton, N.J.; Philadelphia, Pa.; Washington, D.C., and Windsor, Ontario. These sales offices were uniformly designated by the name "Theronoid" coupled with the name of the city where situated, as "Theronoid of Detroit", "Theronoid of Washington", etc. During the same period respondent Theronoid Cor-

poration sold such belts in Pennsylvania and elsewhere than the State of Ohio. On January 20, 1931, Theronoid Corporation changed its name to "Illsley Holding Corporation", and under that name at the time of the hearings was still actively engaged in such business.

In April, 1930, respondent Theronoid Corporation transferred its assets to one Frank J. Stoltz and respondent Philip Illsley, joining in the transaction, conveyed his personal ownership of the Theronoid trade mark and his various sales offices mentioned. On or about April 8, 1930, the said Frank J. Stoltz caused to be organized under the laws of the State of Delaware the respondent Theronoid, Inc., having 100,000 shares of no-par common stock and principal office at 522 Fifth Avenue, New York, N.Y. Respondent J. Roy Owens, is president and general manager and respondent J. N. Watson secretary and treasurer of Theronoid, Inc., both being directors therein. To Theronoid, Inc., were transferred the property and rights previously transferred by Theronoid Corporation and Illsley to Mr. Stoltz.

PAR. 2. The Theronoid Corporation and Philip Illsley from the commencement of their business, as aforesaid, and Theronoid, Inc., J. Roy Owens, and J. N. Watson, since April 8, 1930, have been and are now engaged in the business of offering and selling to the public, for a stated money consideration, a device consisting of a coil of wire or solenoid in a container intended to be placed around patients whereby, by means of an alternating electric current, an electro-magnetic field of therapeutic value is said by respondents to be created to the great benefit of customers of respondent using the said solenoid. The said solenoid has been designated by respondents and has been known to them and their customers as Theronoid. The said theronoids have been and are manufactured for the said corporate respondents, respectively, during the said periods of control within the times above described by the Anylite Electric Company of Fort Wayne, Ind., under contract made with Theronoid Corporation and by it assigned to Theronoid, Inc., and by said respondents, or at their order, transported to purchasers thereof from the State of Indiana to the office of respondent Theronoid, Inc., in New York City and also direct to respondents' customers in Ohio, New Jersey, Pennsylvania, and various other States of the United States. The evidence shows that prior to the sale of the business to Theronoid, Inc., respondent Theronoid Corporation and respondent Illsley paid office rent, salaries to managers and broadcasters and other expenses and made contracts with newspapers and radio stations and authorized the same to be made in States other than the State of Ohio, the location of their principal

office. These respondents also caused shipments to be made from the States of Ohio and Indiana to other States of the United States. After April 8, 1930, the same methods as herein set forth were continued by Theronoid, Inc. "Theronoid of Washington" in the District of Columbia was owned by the respondent Illsley, but Theronoid Corporation paid the office rent and the salaries of the broadcasters and other employees, respondent Illsley being in charge. These appliances were sold and delivered from this office into Maryland, Pennsylvania, Virginia, and elsewhere outside as well as inside of the District of Columbia. After Theronoid, Inc., succeeded to the business the orders for the devices went to New York City instead of Cleveland, the latter company paying the salaries and arranging for the advertising by radio, newspapers, pamphlets, and otherwise.

"Theronoid of New York" was managed prior to the sale to respondent Theronoid, Inc., by respondent J. Roy Owens, who was paid by Philip Illsley for his services. Illsley owned this office and supervised the business. Sales were made therefrom by respondent Illsley, by Theronoid, Inc., by J. Roy Owens with the active participation of respondent J. N. Watson and appliances shipped from the New York office to New Jersey. Theronoid, Inc., has now discontinued the District of Columbia office, but did pay salaries in this and in the other offices formerly owned by the respondent Illsley until dealers were appointed.

Upon consideration of all the evidence, the Commission finds that the respondents jointly and severally have engaged in interstate commerce in the sale and distribution of said electrical appliances, shipped from the manufacturer at Fort Wayne, Ind., upon orders from Theronoid Corporation at Cleveland, Ohio, and upon orders from J. Roy Owens and Theronoid, Inc., at New York, N.Y., into and through the various States of the United States to some 40 independent dealers located in some 25 different States and the District of Columbia, as well as to many ultimate purchasers. These dealers buy the device at a fixed price and sell to customers on their own account and arrangements; Theronoid, Inc., through the active direction and management of J. Roy Owens cooperating with these dealers, furnishing the radio talks, pamphlets, testimonials and other literature, and in many cases paying for extensive broadcasts of radio advertising. By means of this aid and cooperation the said dealers resell these appliances not only in the exclusive sales territories assigned to them, but to and through various other States and Territories. Exclusive sales territories were usually purchased by the dealer from respondent Theronoid, Inc., upon a down

payment and installments to be paid upon each belt by said dealer purchased, which purchase price was transmitted to the manufacturer at Fort Wayne, Ind., and an accounting and settlement had at periodic intervals by and between the said manufacturer and Theronoid, Inc., through the agency of respondent J. Roy Owens and respondent J. N. Watson. The original records of the said factories show that during the years 1930 and 1931 in the aforesaid manner, respondents Theronoid Corporation and Theronoid, Inc., with the active supervision and assistance of respondents J. Roy Owens, Philip Illsley, and J. N. Watson, have caused to be sold and shipped to their dealers and other customers a total of 15,599 such appliances at an average retail price to the ultimate consumer of \$75.

PAR. 3. In the course and conduct of their aforesaid business, the respondents are in direct and substantial competition with other individuals, partnerships, and corporations engaged in the business of offering and selling in interstate commerce, other electrical devices and appliances which are alleged to and do have some therapeutic value. Representatives of many such competitors testified and exhibits were received showing such appliances and their manner of use and value, and showing that a large interstate business in such devices is being carried on for similar and identical purposes, and in the same general territory as that in which respondents have sold the Theronoid. There are a great many physical therapy devices and appliances sold and used throughout the United States, some of which operate electrically by attachment to the ordinary alternating 110 volt, 60 cycle, house lighting current; static machines, high frequency machines, various kinds of therapeutic lamps, sun rays, X-rays, devices for giving galvanic, faradic and sinusoidal currents; telatherms for cautery and quartz mercury vapor lamps, all of which are sold in competition with respondents' Theronoid for the purpose of aiding in the treatment, prevention or cure of various physical ailments.

PAR. 4. The Theronoid is an electrical appliance or device consisting of a coil of wire, or solenoid, in a container resembling a very large belt. It has an imitation leather covering and is used by attaching it to the ordinary alternating electric current of 110 to 120 volts, 60 cycles. It is then placed around or over some portion of the body, but without contact in the conductive sense. More technically speaking, such appliances consist of a low frequency coreless solenoid containing 612 turns of enameled aluminous wire, 0.032 of an inch in diameter, the windings being arranged in 12 layers, each insulated from the next by brown paper, the inside stiffened and wrapped with a strip of impregnated burlap and the whole assembly

being covered with padding. There is a tap connection and toggle-switch dividing the coils into two windings having 460 and 152 turns, respectively. These toggle-switches are labeled "off-on" and "high-low". When set at "low" the 152 turn winding is closed upon itself permitting the circulation of such current as may be induced in it by transformer action from the 460 turn winding. When attached to an alternating 110 to 120 volt, 60 cycle current such as ordinarily supplies residence lighting it produces a magnetic field of a frequency of 120, and an intensity of 22 Gauss, when the switch is set at high, which roughly speaking, is a magnetic induction strength 50 to 100 times as powerful as that force which causes an ordinary compass needle to point northward. The evidence shows that magnetic fields of the intensity of 10,000 Gauss are common and that experiments have disclosed that no sensations have been produced in a field of an intensity of less than 1,000 Gauss.

Commencing January 16, 1932, the Fort Wayne manufacturer began shipping, under respondents' orders a Theronoid belt "improved" by a switch-box which can result in 3 different field strengths instead of 2 as formerly. This belt can be made to operate with both a stronger and a weaker magnetic field than the one heretofore described. The strongest magnetic field, however, which can be created by this "improvement" is not twice as strong as the field formerly created, according to the testimony of the inventor of the "improvement".

Together with each Theronoid sold, comes a smaller closed circuit of wire also wrapped in artificial leather, to which circuit is attached a two candle power electrical lamp. This is known as a test coil. When placed in close juxtaposition to the belt while the latter is attached to an alternating 120 volt, 60 cycle, alternating current, the lamp lights, by reason of the induced alternating current set up therein due to its exposure to the magnetic flux of the belt.

The discovery of the principal involved in this phenomenon (lighting an electric light with no visible connection) was attributed to Michael Faraday, who found, in 1831, that if an alternating current were passed through a coil of wire and a second coil were placed within or without that first coil with no physical connection whatever, that there would be set up in the secondary coil a so-called induced current—in other words, there would be a current flowing in the closed circuit of the second coil.

PAR. 5. Together with each device sold was a leaflet of instructions, recommending that the patient expose his body to the aforesaid magnetic field produced by the Theronoid for intervals of 1 to 15

minutes 2 to 4 times daily. The respondents, by means of newspaper advertisements, copies of which were received in evidence as Commission's exhibits; by radio broadcasts made by various agents, servants, and employees over 19 radio broadcasting stations made with the purpose and effect of achieving sales of the Theronoid; and by the distribution of pamphlets and journals and testimonials, have represented and do represent to purchasers and prospective purchasers that the use of the said device or appliance in the manner aforesaid is a beneficial therapeutic agent in the aid, relief, prevention or cure of the following diseases, namely: asthma, arthritis, bladder trouble, bronchitis, catarrh, constipation, diabetes, eczema, heart trouble, hemorrhoids, indigestion, insomnia, lumbago, nervous disorders, neuralgia, neuritis, rheumatism, sciatica, stomach trouble, varicose veins, and high blood pressure. Representations by respondents to such effect have been made through advertising in newspapers, over radio, by circular matter, bulletins, tabloid sheets, oral representations and in various other ways. Among other statements made by respondents in the course of their sales efforts are the following:

We do not have to paint the lily or gild the gold piece, for the *Truth about Theronoid is good enough*. Thousands of homes all over the U.S. have been made happier, thousands of people are today useful citizens in good health instead of wrecks of humanity because of Electro-magnetism and the Theronoid. * * *

It makes no difference whether you are 7 or 77 years of age, or any number of years between, Electro-magnetism will increase the flow of your life forces, speed up the process of oxidation and get rid of the poisons you have filled yourself with by irregular living, bad hygienic habits, overwork and overworry. * * *

You men and women who live each hour in pain, find each day an added burden, wonder how you are going to have the courage to pull through another month, and wish in your inmost hearts for eternal rest, accept my challenge that you can be released from your bonds and again find not only relief but also real normal health. Do you think that I could possibly talk to you in this manner unless I knew from actual results that these things are possible and probable? I am here telling you because I have seen, talked to and rejoiced with men and women who have been in as bad condition as any of you are at this moment.

Anyone who has been ill for years, suffered terrific agonies, and never found any permanent relief, should really consider the Theronoid. The very naturalness and reasonableness of this method of treatment for any diseases resulting from a toxic condition should appeal to chronic sufferers.

We are glad to have you investigate, because it is your disease you have to deal with and what anybody guesses about it will, after all, not help you one particle. We know what the Theronoid will do in the great majority of cases because of what the Theronoid has done in thousands of homes all over this land. These oftentimes amazing, sometimes seemingly almost miraculous restorations to health are not mere happenings or isolated examples.

I want to help you to a realization * * * that electro-magnetism can benefit the majority of people who are chronically ill and about willing to give up trying to regain their health.

This action of the Theronoid is established beyond all controversy by scientific proof and by the thousands of recoveries from chronic types of diseases, such as arthritis, paralysis following apoplexy, neuritis, rheumatism—just to mention a few.

Electro-magnetism has been found to be very effective in stimulating all natural functions to bring about normal conditions in many chronic ailments, a few of which are enumerated below. (There are enumerated below the 21 ailments named in the paragraph above.) If you suffer from some of these diseases, do not think that Theronoid, because of its wide range of recoveries in so many various diseases is a cure-all—for it is not. It stimulates normal function by using natural agents.

Many thousands of people are regaining their health through using Theronoid, and if you have tried many things and have failed, investigate the Theronoid for yourself. Vital and robust good health can be yours through the application of a natural force—electro-magnetism.

The Theronoid invites everyone with any of the following ailments a return to health. Visit the Theronoid office located nearest you and try it. It will prove its efficacy in your own case. There is no charge or obligation for the use of Theronoid in our offices, so avail yourself of this opportunity to see yourself return to health. *Excellent results have been reported in the following diseases.* (The same disorders are listed which are named in this paragraph above.)

Theronoid is proving itself daily in thousands of cases throughout the United States to be of extreme benefit in conditions of chronic diseases. Many thousands of people who have been hopeless sufferers with supposedly chronic diseases have regained their health and have secured radiant vitality. The Theronoid offers a way of using the natural force of electro-magnetism in the treatment of many diseases. It has been used throughout the United States with great success. Hundreds right here in Philadelphia acclaim its efficacy in their own condition. If you have been suffering for weeks, months, or possibly years, and have been unable to obtain relief, now is not the time to despair or give up hope; try again something that has helped others who have exactly your same condition. You may have tried everything in a vain endeavor to secure your health, but until you try electro-magnetism you cannot know how really well you can be.

PAR. 6. Prospective dealers and other purchasers, believing and relying upon the truth of the aforesaid representations, have been and are by respondents deceived into believing that the use, as directed, of the device known as the Theronoid will be of remedial or therapeutic value in the aid, relief, prevention, or cure of the above and other ailments, and will stimulate metabolism and oxidation, thereby increasing elimination of toxic conditions in the human body, electrify or magnetize the person exposed and “increase the flow of life forces and good health”.

The clear, convincing, and undisputed testimony of many disinterested scientists, eminent in their respective fields of physics, bio-

physics, physiology, medicine, surgery, biology, neuro-physiology, psycho-biology, electro-therapy, physical therapy, electrical engineering, magnetics, and specialists in nervous and mental diseases supports the conclusion that such belief is false. The testimony of twenty-two such witnesses, based upon their observation, experience, research in their particular fields and, in the case of eight of such witnesses, based in part at least upon actual tests of the Theronoid itself or of the Ionaco, which device was similar in principle and construction to the Theronoid, is unqualifiedly to the effect that human exposure to the magnetic field of the Theronoid either in the strength produced by the device prior to, or after the so-called improvement therein dating January 16, 1932, as aforesaid, cannot and will not be of any benefit whatsoever in the treatment, relief, prevention, or cure of any pathological condition.

The evidence of record shows only two effects possible through exposure, without any physical conductive connection of the patient in the circuit, to the electro-magnetic field of the strength, frequency and intensity produced by this device when attached to the ordinary house lighting current. Those effects are—eddy currents and hysteretic loss. The testimony shows that eddy currents are currents going around and around inside an object without leaving it, circulating similarly to eddy currents in a creek or bay. They are waste currents, not useful, but induce heat proportionately to their amount and the resistance of the object in which they circulate. No appreciable eddy currents can be set up by a magnetic field of such low frequency as that produced by the Theronoid. "Hysteretic loss" was made clear by the testimony of technical experts in substance as follows: When a material having magnetic qualities such as iron is placed in a magnetic field supplied by direct current the iron is magnetized. If it is put in a field supplied by an alternating current it is not magnetized excepting temporarily, being magnetized first in one direction and then in the other due to the alternations of the current directing the lines of force alternately towards the North and the South poles of the said magnet. The theory is that in magnetic materials there are molecular magnets which all turn in one direction when the lines of force point that way and then they have a tendency to turn back in the other direction when the lines of force reverse upon themselves. The loss of energy due to such molecular change or disturbance manifests itself in heat. This is known as hysteretic loss. The only manifestation of either eddy currents or hysteretic loss is heat.

But there can be no hysteretic loss upon or in an object not possessing the property of retaining magnetism or residual magnetism,

and since any animal body has the same permeability approximately as that of air, it does not possess such a property; and further since the amount of heat that may be generated in an animal body by such eddy currents as the Theronoid is capable of producing is infinitesimally small, the Commission finds that the nature and effect of the physical forces brought into existence by attaching this device to the ordinary house lighting alternating current are such that it is impossible for it to be and that it is not of benefit in the treatment, aid, prevention, or cure of any disease acute or chronic, or any other pathological condition; that its use as directed, cannot and does not stimulate metabolism, speed up the processes of oxidation, increase elimination, electrify or magnetize the person exposed, "increase the flow of life forces" and good health, and cannot be nor is in any other way of therapeutic benefit to the purchaser or user thereof. Actual tests of this and similar devices together with the most elaborate tests of the application without conductivity of electromagnetic fields to the animal body, have shown that no effect was produced. Twenty-five lay purchasers of the device, all of whom were people in the average walk of life and each one of whom was suffering from some disease or ailment, testified concerning the purchase and use of it according to directions over divers periods of time. In the majority of such instances such sales had been induced by advertising over radio broadcasting stations as aforesaid. The testimony of each of these witnesses unqualifiedly condemned such device as of no benefit.

Dr. Frank H. Krusen, a physician and specialist in physical therapeutics, assistant dean of Temple University School of Medicine, and director of its department of physiotherapy, testified that its use in accordance with the directions would have no beneficial effect in the prevention, treatment or cure of any of the diseases mentioned.

Dr. Detlev W. Bronk, professor of biophysics of the University of Pennsylvania and specialist in electro-physiology, member of the National Research Counsel of Cambridge and London, testified that such use would have no biological effect if 500 times the strength of Theronoid.

Dr. Frederick J. Peterson, specialist in nervous and mental diseases, practicing physician since 1888 and for 25 years connected with the nervous and mental department of Columbia University, conducted experiments with a magnetic field 27,778 times as strong as that of the earth horizontal component which aligns the compass needle, and testified that the use of this device would have no effect whatever upon a patient suffering from any physiological symptom.

Findings

17 F.T.C.

Dr. Norman Edwin Titus, fellow of the Academy of Medicine, fellow of the French Academy of Electrology and associated surgeon and director of physical therapy of Columbia University, testified that "if any patients changed in any way from use of Theronoid the change came just from the mental attitude, no real effect".

Dr. Richard Kovacs, specialist in physical-therapy and electro-therapeutics, a graduate of the University of Budapest, and visiting physical therapist to several New York hospitals, said that the use of Theronoid would "do about as much good as the magnetic field in a subway—that it amounts to nothing in affecting the human body".

Dr. Horatio Burt Williams, director and dean of the department of physiology of Columbia University who is a biologist, electro-physicist and bio-physicist, testified that "the only known effects such use could have would be to set up small currents producing theoretical heat less than one two-thousandths of the heat required by the human body under normal conditions—no effect except psychological—like a rabbit's foot".

Dr. Kenneth Stewart Cole, assistant professor of physiology, Columbia University, student of low speed electrons, assistant bio-physicist and who experimented in electromagnetic fields in collaboration with Dr. Williams, said that the eddy currents produced were negligible with less than thirty-five one-thousandths of a watt energy, and that one hour's continuous application of the Theronoid in the manner directed would produce as much heat as one teaspoon full of hot water.

Francis B. Silsbee, principal scientist of the United States Bureau of Standards, M.S., in electrical engineering, Massachusetts Institute of Technology, Ph.D., in physics, Harvard University, and for 20 years assigned by the Bureau of Standards to test electrical instruments and miscellaneous apparatus, testified that the effect of the theoretical heat produced by the use of Theronoid was equivalent to one one-millionth of a kilogram calory or combustion of one-millionth of an ounce of starch.

Dr. Melvin F. Fischer, an electrical engineer, for 18 years assistant physicist in the U.S. Bureau of Standards, whose duties have been devising methods of magnetic measurements and studying related magnetic phenomena, magnetic field intensities and permeability—compared the heat produced from the use of Theronoid with the consumption of half a pinhead of coal, i.e., immeasurable.

Captain Hubert L. Nicholson of the Medical Corps, U.S. Army, assigned to Walter Reed General Hospital as officer in charge of the physio-therapy department; Dr. Winthrop M. Phelps, chief of the

orthopedic section in charge of the physical therapy department of the New Haven Hospital, Yale University; Dr. J. F. Fulton, sterling professor and chair of physiology of Yale University; and Dr. Walter Bradford Cannon for twenty-five years in the chair of physiology, Harvard University School of Medicine—all testified that the use of such device would have no effect whatsoever in preventing, treating or curing disease, and would have no effect therapeutic or otherwise.

Dr. Willis S. Peck, assistant director of the department of physical therapy in the Michigan University Hospital, was of the same opinion. Dr. J. W. Schereschewsky, medical director of the United States Public Health Service, engaged in cooperation with Harvard University in charge of cancer investigations and who for the past eight years has been experimenting with biological reactions caused by exposure without physical conductivity to electro-magnetic fields of ultra high frequency ranging from 10,000,000 to 400,000,000 cycles per second (as against Theronoid's frequency of 60 to 120 cycles per second), testified that the use of Theronoid would have no biological effect or reaction whatever.

Dr. Anton J. Carlson, chair of physiology, University of Chicago, member of American Federation of Experimental Biology, testified that the use of such a device not only was not beneficial but might be harmful in that if one limited himself to such therapy, known remedies might be neglected to his great detriment.

Dr. Kamil Schulhof, M.D., University of Prague, Bohemia, Czecho-Slovakia, physician and assistant clinical professor of medicine, Rush Medical College and the University of Chicago, specialist in internal medicine and metabolism, testified that the probable efficacy of the device in question is zero except as psycho-therapy in nerve disorders.

From a consideration of all the testimony the Commission finds that neither the solenoid belt or device, heretofore known as Theronoid nor any similar device or appliance designed or intended to operate through exposure of a human subject to a low-frequency alternating magnetic field, without any physical conductive connection of such subject in the circuit, has any physical therapeutic effect upon such subject, or is calculated or likely to aid in the prevention, treatment or cure of any human ailment, sickness or disease, except in cases where the user is so deceived by misrepresentations that a benefit purely psychological is produced.

PAR. 7. The foregoing false and misleading representations by respondents and each of them as hereinbefore set forth have a tendency to mislead and have misled and deceived prospective dealer and other purchasers, and the advertising data, radio broadcasts

and pamphlets supplied to such dealer purchasers for redistribution to ultimate purchasers have been passed on and have misled and deceived such ultimate purchasers, all of whom, relying upon the truth of such representations, and actuated by the erroneous belief that the use of the Theronoid device is a therapeutic aid in the prevention, treatment, relief and cure of various and sundry ailments in the human body, have purchased and do purchase from the respondents the said Theronoid belts. Such misleading and false representations have a tendency to, and do divert trade to respondents from competitors dealing, both wholesale and retail, in the sale of electrical appliances in interstate commerce, which appliances are designed for use by attachment to the ordinary alternating house lighting current, and which are of value in the treatment, prevention and cure of many human ailments, and which are offered for sale and sold in States and Territories co-extensive with those in which Theronoid is offered and sold. Hence the aforesaid methods and practices have injured and do injure such competitors and have deceived and do deceive a substantial portion of the public.

CONCLUSION

The practices of said respondents under the conditions and circumstances described in the foregoing findings have been and are to the prejudice of the public and of respondents' competitors and 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 TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the amended complaint of the Commission, the answers of the several respondents thereto, the testimony taken and brief and oral argument of counsel for the Commission, counsel for none of respondents having filed brief or appeared for oral argument, except J. Roy Owens who then and there moved that the amended complaint as to him be dismissed, and the Commission having fully considered the record and made its findings as to the facts and its conclusion that respondents and each of them have 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, and for other purposes",

It is now ordered, That the motion of respondent, J. Roy Owens to dismiss the amended complaint herein as to him be, and the same is hereby, denied.

It is further ordered, That respondents, Theronoid, Inc., a Delaware corporation, Theronoid Corporation, an Ohio corporation, Philip Illsley, J. Roy Owens, and J. N. Watson, and the officers, directors, agents, representatives, servants, employees, and successors of each of them—in connection with the advertising, offering for sale, and sale, in interstate commerce or in the District of Columbia, of a solenoid belt or device, heretofore known as Theronoid, cease and desist from representing in any manner whatsoever that the said belt or device or any similar device or appliance designed or intended to operate through exposure of a human subject to a low-frequency alternating magnetic field, without any physical conductive connection of such subject in the circuit, has any physical therapeutic effect upon such subject, or that it is calculated or likely to aid in the prevention, treatment, or cure of any human ailment, sickness, or disease.

It is further ordered, That the said respondents, within 60 days from and after the date of the service upon them of this order shall file with the Commission a report in writing setting forth in detail the manner and form in which it is complying and has complied with the order to cease and desist hereinabove set forth.

IN THE MATTER OF
NANCY LEE INSTITUTE TRADING AS NANCY LEE AND
AS MARY TITUS

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

Docket 1996. Complaint, Jan. 18, 1932—Decision, Apr. 10, 1933

Where a corporation engaged in the sale of a massage cream for the development of the bust; in advertising and describing its said product in periodicals, letters, circulars, booklets, purported testimonials and other trade literature, and through photographs purporting to be descriptive of the merits thereof,

- (a) Sold said product under the name "Nancy Lee Miracle Cream", and held out to purchasers and prospective purchasers in all letters and advertising matter dealing therewith that a woman named Nancy Lee was the manufacturer thereof and in personal charge of the sale of said product, and of correspondence with reference thereto, facts being business of the corporation, including all advertising and preparation of form letters was in charge of a man, said corporation's president, vice president, and principal stockholders were two men formerly engaged as partners in the sale of the product, and there was no Nancy Lee connected therewith, prior to action of said vice president in causing said name to be taken by his sister, who had no training as doctor, dietician or chemist, was charged with duty of sending out form letters of said corporation, and had no other connection with it other than that of a stenographer;
- (b) Represented that use of aforesaid cream would produce speedy, striking and impressive results, as specified in detail and otherwise, in the development and beautification of the bust of the user, through its action in replenishing or nourishing the glands or tissues and in other ways, as in said advertising and representations set forth, and constituted a scientific restorative, and employed photographs assertedly demonstrating such results, facts being that said cream was not a scientific preparation, had no other virtue than as a lubricant in massage, and any results to users were dependent upon the little mentioned or stressed diet, exercises, and treatments prescribed for user *following* purchase of product, and aforesaid photographs did not represent depictions of women who had employed and benefited by cream in question, but represented photographs selected by aforesaid corporation without knowledge of the person portrayed, and altered or not as deemed desirable to serve best their purpose as asserted demonstrations of the merit of the cream in question;

With tendency and capacity to mislead and deceive purchasers and prospective purchasers of said cream into believing said representations to be true, induce purchase thereof in such belief, and divert trade unfairly from competitors to it:

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