

IN THE MATTER OF
**WHITE-LITE DISTRIBUTING CORPORATION, AND
ALEXANDER H. FISHBERG, DOING BUSINESS UNDER
THE TRADE NAME AND STYLE OF SUN SALES DIS-
TRIBUTING COMPANY**

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

Docket 2022. Complaint, Mar. 26, 1932—Decision, Jan. 23, 1934

Where a corporation engaged in the sale of incandescent lamps or bulbs at prices substantially in excess of those ordinarily charged, and an individual, acting in his capacity as treasurer and manager thereof, and in his own behalf as a dealer in such lamps or bulbs, under the mark or designation "Sun-Glo"; in describing, offering and selling said lamps through price lists and salesmen,

- (a) Sold lamps so marked or branded as to indicate a wattage consumption substantially under the true amount, due allowance being made for tolerances prescribed for such products in Federal specifications and customarily recognized in commercial use by the manufacturing and distributing trades involved, and falsely represented said mislabeled lamps as superior to those sold in competition with them and correctly marked, and purported, by comparison between their own under-marked bulbs and their competitors' correctly branded products, to demonstrate the lighting superiority and economy of the former, the facts being their own product actually produced substantially less light per watts consumed than did their competitors';
- (b) Falsely represented said lamps, thus offered and sold, as made to comply with the Bureau of Standards' generally accepted specifications and as having been successfully marketed for many years, and as thus proved "lamps of highest quality", the facts being they fell substantially short of compliance with specified standards, due allowance being made for prescribed tolerances, both in the matter of marking and lighting efficiency as herein above set forth; and
- (c) Falsely represented said mark or designation "Sun-Glo" as registered in the Patent Office, through the legend "Trade Mark Reg. U.S. Pat. Office", printed immediately beneath the illustration of an incandescent lamp in connection with the aforesaid designation;

With effect of deceiving members of the public, users, and consumers of such lamps, into believing the same to be correctly marked, and to constitute lamps, which, compared with competitors', produced as much or more light with less current, and of inducing the purchase thereof, at higher prices, in such mistaken belief, instead of the lower priced, more efficient, and economical products of competitors, who were further deprived of the opportunity of selling bulbs to consumers to whom they had previously sold the same, during their use of the inferior lamps herein concerned, and

with capacity and tendency to mislead and deceive purchasers into believing that said lamps complied in all particulars with specifications of the Government for lamps purchased for its own use, and were products of highest quality:

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

Mr. Edward E. Reardon for the Commission.

Borowsky & Burrows and *Mr. Charles J. Holland*, of New York City, for 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 corporation, organized under the laws of New York, and engaged in the sale and distribution of electric lamps or bulbs, and respondent individual, treasurer of said corporation, and similarly engaged in his individual capacity, under the trade name, "Sun Sales Distributing Co.", and with principal place of business in New York City, in the case of both respondents, with misbranding or mislabeling and misrepresenting product as to performance and quality, and claiming trade mark registration falsely or misleadingly, in violation of the provisions of Section 5 of such Act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondent corporation and respondent individual, engaged as aforesaid, as charged, caused the lamps and bulbs dealt in by them to be stamped with a wattage mark very much under their true consumption, contrary to established practice, and caused their salesmen and employees to exhibit said lamps so marked, to prospective purchasers, and on such basis to claim falsely for their own products a performance superior to that of correctly marked competitive products then in use or being sold by competitors, and also greater economy and efficiency than possessed by competitive products with the same ostensible kilowatt consumption.

Respondents further, as charged, displayed on price lists of their said lamps, upon the depiction of a carton, the phrase "Trade Mark Reg. U.S. Pat. Office", together with the words, immediately above said depiction—

Sun-Glo lamps are manufactured to comply with the U.S. Bureau of Standards for incandescent lamps and have been successfully marketed for many years thus proving them to be lamps of highest quality.

The facts were that said trade mark was not registered in the Patent Office as a trade mark for incandescent lamps, the Bureau of Standards had not made or established any specifications or requirements for such products, tests of their said lamps made by the Bureau, as to their performance ability only, showed, among other things, "that the lamps tested had a substantially low efficiency of light output and that such lamps or bulbs would not satisfy the demands of the United States Government, in those respects, in the purchase of incandescent electric lamps or bulbs", and their said lamps or bulbs, for which they charged prices greatly in excess of competitors' prices for lamps either of same pretended, or actual wattage, were of inferior quality compared with competitive products sold throughout the United States at very substantially lower prices by many competitors.

Said representations and statements, as alleged, "which respondents, respectively, caused to be made to purchasers, of the wattage of their electric lamps or bulbs; of the amount of their output of light and the amount of expense of operating them, all in comparison with the electric lamps or bulbs sold by respondents' competitors; and the representations made in their respective said price lists and caused to be made to purchasers by respondents, that the said trade mark was registered in the United States Patent Office as a trade mark used, respectively, in the business of the sale of respondents' incandescent electric lamps or bulbs; that respondents' said incandescent electric lamps or bulbs, respectively, are manufactured to comply with the U.S. Bureau of Standards for incandescent lamps, and that the said lamps or bulbs are or have been proved to be lamps of the highest quality, are and said representations and statements were, each and all, false representations and statements, made and caused to be made by respondents, respectively, with the knowledge of the respondent corporation through its said officers and agents and with the knowledge of respondent Alexander H. Fishberg, at all times above mentioned, that they were false representations and statements."

Said representations and statements, furthermore, as charged, "each and all had the tendency and capacity to mislead and deceive members of the public, purchasers of electric lamps or bulbs, and to divert trade from respondents' competitors and they did mislead and deceive said purchasers into buying respondents' electric lamps or bulbs, as above set forth, in preference to buying the electric lamps or bulbs of respondents' competitors, and the said members of the public, the said purchasers, were thereby defrauded and trade in

incandescent electric lamps or bulbs was thereby diverted from respondents' competitors to respondents"; all to the prejudice of the public and 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 (38 Stat. 717), the Federal Trade Commission issued and served a complaint upon the above-named respondents charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act.

The respondents having filed their answers herein, hearings were had and evidence was thereupon introduced on behalf of the Commission and the respondents before an examiner of the Federal Trade Commission duly appointed.

Thereupon this proceeding came on for a final hearing on the brief filed on behalf of the Commission and upon oral arguments by counsel for the Commission and for the respondents, and the Commission having duly considered the record and being fully advised in the premises finds that this proceeding is in the interest of the public and makes this its findings as to the facts and the conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent White-Lite Distributing Corporation was a corporation organized on or about November 20, 1930, under the laws of New York, having its place of business at No. 7 West Twenty-second Street, Borough of Manhattan, New York City, and it was from on or about the date of its organization until on or about May 16, 1933, when it ceased business and was dissolved as a corporation, engaged in the business of the sale and distribution of incandescent lamps or bulbs.

PAR. 2. Respondent Alexander H. Fishberg was the treasurer and the manager of the business of the respondent White-Lite Distributing Corporation during its existence as above set forth and he also was engaged on his individual account in the business of the sale and distribution of incandescent lamps or bulbs under the trade name of Sun Sales Distributing Co., with a place of business at No. 7 West Twenty-second Street, Borough of Manhattan, New York City, which was the same place of business as that of the respondent White-Lite Distributing Corporation. He filed a certificate of discontinuance of doing business under his said trade

name in the office of the clerk of New York County, New York, on April 14, 1933.

PAR. 3. The said Alexander H. Fishberg has been engaged in or, as an officer and stockholder of corporations, has been connected with the business of the manufacture and sale of incandescent lamps or bulbs for approximately 26 years last past. Since he filed the above mentioned certificate of discontinuance of doing business under the trade name Sun Sales Distributing Co. he has on one or more occasions on his own account purchased and sold incandescent lamps or bulbs.

PAR. 4. During all of the times since on or about November 20, 1930, and January 13, 1931, respectively, the respondent White-Lite Distributing Corporation and the respondent Alexander H. Fishberg, in addition to sales thereof made in the State of New York have sold their incandescent lamps or bulbs to purchasers in various other States of the United States and they have, respectively, during said times caused the lamps so sold by them to be transported from the State of New York or from the State of origin of the shipment thereof, to, into and through States other than New York or the State of origin of the shipment to the purchasers.

PAR. 5. During the times above mentioned, other individuals, firms, and corporations located in the United States have been engaged in the business of the sale of incandescent lamps or bulbs to members of the public located throughout the various States of the United States and they have caused the lamps or bulbs when so sold by them, respectively, to be transported to, into and through States other than the State of the seller, or the State of origin of the shipment to the purchasers.

PAR. 6. The respondents during the times above mentioned were, respectively, in competition in interstate commerce in the sale of incandescent lamps or bulbs with the other individuals, firms, and corporations referred to in paragraph 5 hereof.

PAR. 7. A watt of electricity is a unit of power and the wattage of an incandescent lamp is the measure of electric power used in operating the lamp. A lumen is the unit of light.

PAR. 8. During all of the times above mentioned it has been the universal custom substantially with all manufacturers of incandescent lamps or bulbs, sold to the public in the United States, to label, mark or brand each lamp or bulb with the number of watts indicating the electric power used in operating the lamp and with the number of volts indicating its voltage, allowing for a certain tolerance of measure also customarily recognized in the manufacturing and distributing trades in incandescent lamps or bulbs, and to so

label, mark, or brand the lamps with the appropriate number of watts and volts before the sale or distribution of the lamps by the manufacturers to dealers for resale or to members of the public for their use and consumption.

PAR. 9. During all of the times above mentioned the United States Government has caused specifications to be made and issued with which incandescent lamps purchased by the various departments or establishments of the Government must comply.

Among other things, the Federal specifications for incandescent lamps prescribe the tolerances allowed above or below the rated or labeled or branded wattage and above or below the rated lumens per watt for lamps of various measured wattage purchased by the United States Government for its use.

During all the times above mentioned and referred to, the tolerance customarily recognized in commercial use in the manufacturing and distributing trades in the manufacture and sale of incandescent lamps has coincided with the tolerances contained in the Federal specifications.

PAR. 10. During the times above mentioned and referred to the tolerance of measure for variance above or below the labeled, marked, or branded wattage or watt rating, referred to in paragraphs 8 and 9 hereof, for lamps of the watt rating herein stated, among others, was as follows:

Watt rating	Tolerance
	<i>Percent</i>
15.....	5
25 to 100, inclusive.....	4
150 to 1,500, inclusive.....	5

PAR. 11. The efficiency of incandescent lamps or bulbs is governed or established, among other things, by the amount of lumens of light produced per watt of electric power used in operating the lamps.

During the times above mentioned and referred to it was the universal understanding in the commercial manufacturing and distributing trades in incandescent lamps that the lamps, in order to be considered efficient in the production of light, should produce a certain number of lumens of light per watt rating, with allowance recognized by custom for a certain tolerance of lumens above or below the lumens rated per watt, and it was the custom adopted by the manufacturers of such lamps in accordance with said understanding to make and sell, to dealers for resale or to the public for

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use and consumption, incandescent lamps of the various watt ratings, which among others, allowing for the said tolerance stated below, produced lumens of light as follows:

Watt rating	Lumens	Tolerance above or below lumen rating
	<i>Per watt</i>	<i>Percent</i>
25.....	10.0	6
40.....	10.6	6
50.....	11.1	6
60.....	11.9	6

PAR. 12. And during the times above mentioned the respondent Alexander H. Fishberg, doing business under the trade name Sun Sales Distributing Co., caused a price list of incandescent lamps sold by him, among the lamps referred to in paragraph 4 hereof, to be printed and distributed among the purchasing agents of retail dealers in incandescent lamps and in the price list caused the phrase "Trade Mark Reg. U.S. Pat. Office" to be printed immediately beneath the illustration of an incandescent lamp in connection with which the words "Sun-Glo" were printed.

Immediately above the said illustration the respondent Alexander H. Fishberg caused the following statement to be printed:

Sun-Glo lamps are manufactured to comply with the U.S. Bureau of Standards for incandescent lamps and have been successfully marketed for many years thus proving them to be lamps of highest quality.

PAR. 13. The trade mark consisting of the illustration and words above referred to was not registered as a trade mark in the United States Patent Office during the times it was represented to have been registered in the price list above mentioned.

PAR. 14. During the times above mentioned the incandescent lamps, hereinafter mentioned and referred to in paragraphs hereof 15 to 17, inclusive, sold under the trade mark or trade name "Sun-Glo" by the respondent Alexander H. Fishberg under his trade name Sun Sales Distributing Co., were not made to comply with and they did not comply with the specifications of the Bureau of Standards of the United States Department of Commerce for incandescent lamps marked, respectively, 25-watts, 50-watts and 60-watts; and, with respect both to the said specifications of the Bureau of Standards and the custom recognized and followed by the manufacturing and distributing trades in marking or branding lamps with the number of watts indicating the amount of electric power used in operating them, mentioned in paragraph 8 hereof, the said

Sun-Glo lamps were falsely marked or branded so as to indicate that they were operated by a substantially less amount of electric power than was actually used in operating them, and consequently they were falsely represented to purchasers and users to be lamps that were operated at less expense than was actually the fact.

PAR. 15. The respondent Alexander H. Fishberg, during the times above mentioned, sold lamps marked 25-watts under the trade mark "Sun-Glo" to a dealer who sold them in interstate commerce to a retail dealer who resold them to members of the public, as marked, but which actually measured 28.1 watts and 28.2 watts; or 2.1 and 2.2 watts above the watt measurements customarily represented by the number of watts marked on the lamps, after allowing for the customary tolerance above mentioned between the actual watt measurement and the measurement of 25-watts with which they were marked and represented to purchasers.

PAR. 16. The respondent Alexander H. Fishberg, during the times above mentioned, sold to a dealer lamps marked 50-watts under the trade name "Sun-Glo" and the purchaser sold them in interstate commerce to a retail dealer who resold them to members of the public as marked. These lamps actually measured 63.6 watts and 69.1 watts; or in other words, 11.6 watts and 17.1 watts, respectively, more than the watt measurement customarily represented by the measurement, 50 watts, marked on the lamps, after allowing for the customary tolerance between the actual watt measurement and the number of watts with which the lamps were marked.

PAR. 17. The respondent Alexander H. Fishberg, during the times above mentioned, sold to a dealer lamps marked 60 watts under the trade mark "Sun-Glo" and the purchaser sold them in interstate commerce to a retail dealer who resold them as marked to members of the public. These lamps actually measured 69.8 watts; or 7.4 watts more than the watt measurement customarily represented by the number, 60-watts, marked on the lamp after allowing for the customary tolerance above mentioned.

PAR. 18. The respondent White-Lite Distributing Corporation by its officer and manager, respondent Alexander H. Fishberg, during the times above mentioned, caused and permitted its salesmen in the sale of its lamps as set forth in paragraphs 4 and 6 hereof, to make it a practice to exhibit and demonstrate to members of the public, purchasers and prospective purchasers, its lamps marked or branded a substantially less number of watts than their real or actual watt measurement, after allowing for the customary tolerance of measure referred to in paragraphs 8, 9, and 10 hereof; and at the same time and in connection with the exhibition and demonstration of respond-

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ent's lamps, to exhibit and demonstrate lamps of its competitors which were marked or branded with their correct number or measure of watts; and caused and permitted its salesmen to make it a practice in so exhibiting and demonstrating its lamps and its competitors' lamps, to compare the amount of light produced from its lamps with the amount of light produced from the lamps of respondent's competitors which were marked correctly a greater number or measure of watts.

Among many other similar instances the respondent corporation caused and permitted its salesmen to demonstrate its lamps marked 15-watts (which was really a 27- or 28-watt lamp) against the 25-watt standard lamp of one of its competitors then in use by a prospective purchaser; and to compare the amount of light produced from the said 25-watt standard lamp with the amount of light from the 28-watt White-Lite lamp which was marked 15-watts and represented by the respondent's salesmen to the purchaser as a 15-watt lamp. The result of the demonstration and comparison in this instance was that respondent's 28-watt lamp was represented by respondent's salesmen and believed by the purchaser to be a 15-watt lamp and to have produced, as a 15-watt lamp, as much light as the competitor's 25-watt standard lamp.

PAR. 19. The respondent White-Lite Distributing Corporation by its said officer and manager, respondent Alexander H. Fishberg, during the times above mentioned, caused and permitted its salesmen referred to in paragraph 18 hereof to make it a practice to represent to members of the public, purchasers and prospective purchasers, in connection with the demonstration and comparison of its lamps referred to in paragraph 18 hereof, that its lamps were superior to the lamps of its competitors, in that with the lesser quantity of electric power falsely indicated to be used to operate respondent's lamps (indicated by the watt measurement with which they were marked) as much or more light would be produced by them as would be produced by its competitors' lamps with the greater quantity of electric power used to operate them, as indicated by the watt measurement with which they were correctly marked, and said respondent caused and permitted its salesmen further falsely to represent that its said lamps were operated at less expense to the purchaser and user of them than the lamps of the competitors against which they were demonstrated and compared, when in reality as much or more electric power was used to operate respondent's lamps.

PAR. 20. The Sun-Glo lamps mentioned in paragraph 16 hereof sold by respondent Fishberg should have produced, respectively, and according to their actual watt measurement of 63.6 watts and 69.1

watts, and according to the commercial understanding and custom in the manufacturing and distributing trades in incandescent lamps mentioned in paragraph 11 hereof, 717.4 lumens of light and 779.4 lumens of light, whereas they produced, respectively, 417 lumens and 552 lumens. The difference in the amount of lumens of light produced by these lamps and the amount that they should have produced, with the electric power that was used to operate them, represents the difference in efficiency between respondent's lamps and the lamps of respondent's competitors and the difference in the cost of the light produced by them.

The lamps sold by said respondent marked "Sun-Glo", mentioned in paragraph 17 hereof, according to the custom in the trades above referred to, should have produced 788 lumens of light in accordance with their actual measurement. They produced only 569 lumens of light, whereas a standard 50-watt lamp of said respondent's competitors produces 575 lumens.

The cost of electric power for operating this latter 69.8-watt lamp of said respondent, but which was falsely marked 60-watts at 6 cents per kilowatt-hour would be \$4.19, whereas the cost of operating a 50-watt standard lamp sold by one of respondents' competitors, producing as much or more lumens of light, would be \$3 per 1,000 hours or \$1.19 less to the purchaser or user for approximately the same amount of light.

PAR. 21. In 1931 and 1932 the regular retail prices of respondents' competitors to consumers for inside frosted incandescent lamps of standard manufacture was 20 cents each for the sizes marked 10-watts to 60-watts, inclusive; 35 cents each for sizes marked 75-watts and 100-watts; and 60 cents each for 150-watt lamps.

During the said times the respondent White-Lite Distributing Corporation sold its lamps referred to in paragraphs 4, 18, and 19 hereof, amongst other sizes, the 28-watt lamp, which was marked "15-watt", for 40 cents each and its lamps marked "100-watt" for \$1.10 each.

PAR. 22. The lamps above mentioned sold by respondents were inefficient in the production of light according to the standards set for lamps by custom in the manufacturing and distributing trades; were inferior to lamps sold by their competitors; and were more expensive to operate. By means of false marking or branding of their lamps as to the number of watts indicating the quantity of electric power used to operate them and by means of the practices of the respondents above mentioned and referred to, the respondents deceived and misled members of the public, users and consumers of

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incandescent lamps, into the belief that the number of watts with which the respondents' lamps were marked or branded was their true watt measurement; into the belief that respondents' lamps in comparison with their competitors' lamps were better and produced as much or more light with the use of less electric power to operate them and therefore at less expense to the consumer; and relying upon that belief into purchasing the respondents' lamps and paying higher prices for them instead of purchasing the lamps of respondents' competitors which were less expensive to operate, more efficient in producing light, and were superior and sold for less; and with the further consequence thereof prevented and deprived respondents' competitors, during the time respondents' lamps were in use by purchasers, from the opportunity of selling incandescent lamps to consumers to whom they had previously sold lamps and thus diverted trade from respondents' competitors.

PAR. 23. The representations of respondent Alexander H. Fishberg above mentioned that "Sun-Glo" lamps sold by him were manufactured to comply with the United States Bureau of Standards for incandescent lamps and were thus proven to be lamps of highest quality were false representations of material facts and had the tendency and capacity to deceive and mislead purchasers of incandescent lamps into believing that said lamps were lamps that would comply in all particulars with lamps made according to the Federal specifications for incandescent lamps and purchased for use by the United States Government; and the false statement made by said respondent to the effect that the trade mark mentioned in paragraph 12 hereof was registered in the United States Patent Office had the tendency and capacity to increase the effect of the false representations that said lamps complied with specifications of the United States Bureau of Standards for incandescent lamps and that they were lamps of higher quality.

CONCLUSION

The practices of respondent White-Lite Distributing Corporation and of respondent Alexander H. Fishberg under the conditions and circumstances described in the foregoing findings were to the prejudice and injury of respondents' competitors and were to the prejudice and injury of the public and were unfair methods of competition in commerce and constitute a violation of 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".

ORDER OF DISMISSAL AND ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, answers of respondents, testimony and evidence introduced, upon the brief of Commission's attorney and oral arguments of counsel for the Commission and for the respondents; and the Commission having made its findings as to the facts and its conclusion that the respondents White-Lite Distributing Corporation and Alexander H. Fishberg, trading as the Sun Sales Distributing Co., 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", and it appearing that the respondent White-Lite Distributing Corporation has ceased business and was dissolved before the close of the taking of evidence.

It is now ordered, That this proceeding be and the same is hereby dismissed as to the respondent White-Lite Distributing Corporation; and,

It is ordered, That the respondent Alexander H. Fishberg, trading under the name Sun Sales Distributing Co. or under his own name or any other trade name, in connection with the sale or the offering for sale of incandescent lamps in interstate commerce between and among the several States of the United States and in the District of Columbia, do cease and desist from—

(1) Offering for sale or selling, directly or indirectly through others, incandescent lamps marked or branded other than with the correct number of watts, indicating the amount of electric power used in operating the lamps, with allowance for the tolerance of measure in watts, which is customarily recognized in the manufacturing trade in the United States in marking or branding incandescent lamps.

(2) Representing, directly or indirectly in price lists or otherwise, that incandescent lamps offered for sale and sold by him are lamps manufactured to comply with specifications of the United States Bureau of Standards for incandescent lamps.

(3) Representing to the public, directly or indirectly in price lists, or by any means whatsoever, that any trade mark used in the sale of incandescent lamps is registered as a trade mark in the United States Patent Office unless such trade mark shall be in fact so registered.

It is further ordered, That the respondent, Alexander H. Fishberg, shall, within 30 days after the service of this order, file with the Federal Trade Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order to cease and desist.

Complaint

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IN THE MATTER OF
WORTH ENGLISH, INC.

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

Docket 2131. Complaint, Nov. 10, 1933—Decision, Jan. 25, 1934

Where a corporation engaged in the sale and distribution of face creams and cosmetics, described, characterized and represented as containing turtle oil as an active ingredient thereof,

Represented through labels, circulars, newspaper advertising and radio talks that the aforesaid substance constituted the effective ingredient of said preparations, and penetrated and nourished the skin, removed lines and wrinkles, built up sagging muscles and underlying flesh, rejuvenated the skin and tended to build and firm the bust, through such statements as "Marvelously effective because of the magical qualities of the turtle oil they contain", "Penetrates quickly, cleansing and nourishing the pores and has remarkable rejuvenating properties", "Penetrates every pore and helps build up sagging muscles", contains "imported turtle oil that erases lines and softens wrinkles";

The facts being that none of said various products, nor the ingredient turtle oil, nourish the skin beyond the outer layer thereof, nor do they have rejuvenating properties, or the quality of affecting the muscles, flesh or layers of skin beneath the epidermis;

With tendency and capacity to confuse, mislead and deceive the public into believing that its said products and the said ingredient thereof had the aforesaid properties, and to induce the purchase and use thereof because of such erroneous beliefs thereby engendered, and thereby to divert trade to it from competitors, including those who in nowise misrepresent the functions, uses or effects of their competing products, and with effect of so diverting, to the substantial injury and prejudice of such competitors:

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

Mr. Harry D. Michael for the Commission.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent, a New York corporation engaged in the sale and distribution of face creams and cosmetics, including its "English's Turtle Oil Creme", referred to also as "English's Turtle Oil Cream", "English's Turtle Oil Cleansing Cream", and "English's Turtle Oil Skin Freshener and Tonic", and with its office and principal place of business in New York City, with advertising falsely or misleadingly and misbranding or mislabeling as to qualities of