

IN THE MATTER OF
NURITO 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 2084. Complaint, Jan. 13, 1933—Decision, May 7, 1934

Where a corporation engaged in the sale and distribution of a certain medicinal preparation,

Represented the same on cartons and in circulars and newspaper advertisements as a cure and treatment for the relief of neuritis, rheumatism, neuralgia, sciatica, and lumbago, and kindred ailments, through such statements as "Acts like magic, making bed-ridden sufferers get up and dance", "So many thousands have found quick relief from neuralgia, neuritis, sciatica, lumbago, and rheumatism through Nurito, that it has now become the standard relief throughout the world", and numerous others of similar tenor, such as "Now! grandma runs upstairs without an ache or pain", "Runs back to work; yesterday couldn't move aching legs", etc.;

The facts being that while said preparation would temporarily relieve muscular aches and pains, it did not in and of itself have any appreciable therapeutic value in the treatment of neuritis, rheumatism, neuralgia, sciatica, and lumbago, and did not have the proper therapeutic values to produce the results claimed for it, but contained certain ingredients which were liable to produce toxic effects in certain cases and were actually contraindicated in certain ailments;

With effect of misleading and deceiving customers and prospective customers into purchasing said product in the belief it would produce the results claimed, as above set forth, and with capacity and tendency so to do, and to injure substantially competitors engaged in sale of numerous products having the same action, without falsely advertising the same as a cure for such diseases, or otherwise, and with effect of so doing, through unfairly diverting trade from said competitors to itself:

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

Mr. Henry C. Lank for the Commission.

Mr. Clinton Robb, of Washington, D. C., 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, an Illinois corporation engaged in the sale and distribution to retail dealers of a medicinal preparation designated "Nurito", and with office and principal place of business in Chicago, with advertising falsely or misleadingly as to the results or qualities of

said product, in violation of the provisions of Section 5 of such Act, prohibiting the use of unfair methods of competition in interstate commerce, in that respondent, on its cartons and in its circulars, newspapers, and otherwise, so describes and advertises the same as to represent falsely and misleadingly that said "Nurito" constitutes an efficacious treatment for neuritis, rheumatism, neuralgia, sciatica, lumbago, and kindred ailments, acting like magic, making bed-ridden sufferers get up and dance, so successful that it has become the standard relief throughout the world, etc.,¹ with capacity and tendency to mislead and deceive retail dealers and the consuming public, and to induce them to purchase the product in question because of their belief in the truth of its said representations and advertisements, and with the effect of diverting trade to respondent from its competitors, and with the tendency so to do, 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, 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 the respondent, Nurito Company, charging it with the use of unfair methods of competition in interstate commerce in violation of the provisions of said act.

Respondent filed its answer, and the case was set down for the taking of testimony before an examiner of the Commission. Evidence was adduced in support of the charges of the complaint. No testimony was offered by the respondent.

Thereupon this proceeding came on for hearing on the brief of counsel for the Commission and upon the record. No brief was filed on behalf of the respondent. The Commission, now having considered the matter 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 its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Nurito Company, is a corporation organized under the laws of the State of Illinois, with its principal office and place of business in the city of Chicago in said State. It is now, and for more than 2 years last past has been, engaged in the

¹ Respondent's advertisements and representations, as alleged and quoted in complaint, are set forth in the findings, *infra*, at pp. 26, 27.

Findings

19 F.T.C.

business of selling and distributing in interstate commerce to retail dealers a medicinal preparation which it designates as "Nurito". Respondent causes said preparation, when sold, to be transported from its place of business in Chicago, Ill., to the purchasers thereof at their respective points of location in the various States of the United States.

PAR. 2. Respondent's product is in powder form and contains the following ingredients in the indicated quantities:

	<i>Grams</i>
Acetyl salicylic acid.....	7½
Caffeine alkaloid.....	½
Phenolphthalein.....	½
Colchicine salicylate.....	1/400
Sugar milk.....	4

Respondent's directions for taking said powders are as follows:

Take 1 powder followed by a full glass of water, every 3 hours as necessary, gradually reduce to 2 powders a day, 1 in the morning and 1 at night.

PAR. 3. Respondent has represented by advertisements that its product "Nurito" will cure and is a treatment for the relief of neuritis, rheumatism, neuralgia, sciatica, lumbago, and kindred ailments. These advertisements have appeared on its cartons and in circulars and in newspapers published throughout the United States. Among the representations and claims made by respondent in its various advertisements are:

Nurito prescription acts like magic, making bed-ridden sufferers get up and dance;

* * * a physician's prescription for rheumatism, neuritis, neuralgia, sciatica, and lumbago;

So many thousands have found quick relief from neuralgia, neuritis, sciatica, lumbago, and rheumatism through Nurito that it has now become the standard relief throughout the world;

For rheumatism, neuritis, neuralgia, sciatica, lumbago, and other torturing aches and pains the relief is quick and sure;

So certain does Nurito banish sciatica, rheumatism, neuralgia, lumbago, and neuritis * * *;

Now they have found something they can absolutely depend upon to rid them of the pain of rheumatism, sciatica, lumbago, neuralgia, or neuritis, and other torturing aches and pains;

Helpless, bed-ridden, pain-racked, sleepless people from torturing pain are the ones who should try Nurito;

* * * this remarkable prescription that gets the helpless out of bed * * *;

Tells quickest way to stop neuritis;

Kills pain and enables the helpless to get up and walk;

Rheumatics vanish;

Physiological properties—

* * * Intestinal antiseptic eliminant

* * * Bladder antiseptic.

PAR. 4. Respondent advertised its product in newspapers in practically all the large cities of the United States and in some of the small cities. In these newspaper advertisements various representations concerning its product were made, some of which are:

Lucky woman finds relief from neuritis. Neuritis sufferers are positively thrilled with joy at the discovery of Nurito. A doctor was finally induced to put up his famous prescription as a great public benefit. It works like a charm, fast, and powerful * * *.

Rheumatic sings praise for relief. Here's the fast and quick way to get relief * * *. Help, bedridden, pain-racked, sleepless from torturing pains are the ones who should try Nurito.

Now! Grandma runs up stairs without an ache or pain. Runs back to work; yesterday couldn't move aching legs.

Jumps out of bed—Rheumatics vanish. There is no use wasting effort with anything that doesn't stop your pain. And if it does that you know you are going to get well.

Relieves his own mother of neuritis. She is out of bed and on her feet every day now. So certain does Nurito banish sciatica, rheumatism, neuralgia, lumbago, and neuritis that the head of the syndicate which has purchased this German specialist's prescription treats his own mother with it.

Wife wins freedom from neuritis. Couldn't walk for 5 years—Nurito puts her on her feet. Thousands have discovered this magic relief from neuritis, rheumatism, sciatica, lumbago, and neuralgia. Nurito works different than any other treatment in the world.

Tells quickest way to stop neuritis. Kills pain and enables the helpless to get up and walk.

Oh, boy! Rheumatics went like magic. Is able to walk and goes back to work. Those who have tried everything without benefit are finding Nurito the most startling discovery of recent times.

Rheumatic happy; conquers torture. German specialist's prescription amazes hospitals and physicians. So many thousands have found quick relief from neuritis, neuralgia, sciatica, lumbago, and rheumatism through Nurito that it has now become the standard relief throughout the world.

Rheumatic goes wild with joy. Nurito preparation acts like magic making bedridden sufferers get up and dance.

PAR. 5. Respondent's product "Nurito" has an analgesic and anodyne effect when taken in accordance with respondent's instructions. It will temporarily relieve muscular aches and pains, but does not, in itself, have any appreciable therapeutic value in the treatment of rheumatism, neuritis, neuralgia, sciatica, and lumbago. In some mild cases of rheumatism, or simple cases of neuralgia, the use of the above-described powders might relieve the pain, and the disease might subside, with or without treatment, but the said medicines in and of themselves do not have proper therapeutic values to produce the results claimed by respondent.

PAR. 6. Respondent's claims and representations and advertisements as hereinabove recited are false and misleading, and such claims and representations have had and do have the capacity and tendency to mislead and deceive, and have misled and deceived, customers and prospective customers into purchasing respondent's said product in the belief that it would produce the results claimed by respondent in its advertising as recited above.

PAR. 7. Nurito is an anodyne and antipyretic largely composed of aspirin, and acts on the living human body in a similar manner as other prepared medicines such as Aspirin, Hexine, Colchisal, Diacin, Atophan, and other pain relievers. The colchicine salicylate present has a tendency to increase the analgesic effect. The caffeine and phenolphthalein in it in the dosage indicated have respectively mild diuretic and mild laxative effects. Nurito has a tendency to relieve muscular aches and pains; such aches and pains, which include some types of neuralgia and lumbago, however, usually subside in a few days with or without treatment. There are other types of neuralgia such as trigeminal, and of lumbago, in which Nurito would not relieve the pain. It would tend to relieve the pain of neuritis, including sciatica, but most sciatica is so severe that Nurito would hardly be effective in relieving the pain, though it might relieve the pain in the milder types not severe enough to need much treatment. It would tend to relieve the pain of mild, temporary types of rheumatism. Sciatica and other types of neuritis, as well as lumbago and rheumatism, are commonly merely symptoms, or danger signals, or foci of infection, and Nurito is not a cure or proper treatment for the infections or causes of the pain, but merely a palliative relieving or hiding the danger signals temporarily, and thus might lull the user into a false sense of security.

PAR. 8. Nurito is a dangerous medicine if used by some persons. The phenolphthalein or colchicine present are liable to produce toxic effects, especially in children. Colchicine is contra-indicated in persons with severe heart lesions. Caffeine is also contra-indicated in a great many cases of arthritis, particularly if cardiac disorder is present.

PAR. 9. Nurito is not efficacious in the treatment of neuralgia, neuritis, sciatica, lumbago, or rheumatism generally. These ailments are merely symptoms of other diseases. Nurito affects only the symptoms and does not reach the causes. It is not a standard relief for these ailments throughout the world. It is not a quick and sure relief for the ailments mentioned and does not get sufferers who are afflicted with more than mild types of these ailments out of bed.

PAR. 10. Since this proceeding was commenced respondent has revised its newspaper advertising. The advertising copy now used by respondent contains such statements, among others, as:

She is out of bed and on her feet now.

Walks like youth; no longer suffers from aching legs.

Conquers torture.

Quick-acting Nurito enables her (grandma) to enjoy life again.

Such statements imply that Nurito will cure these ailments and not merely temporarily relieve the pain, whereas Nurito will not relieve all the aches and pains of these ailments but only those of the milder types.

PAR. 11. There are numerous other preparations on the market, and sold and distributed in interstate commerce, that have the same physiological action as respondent's product. The majority of such products are offered and sold in commerce among the States in direct and substantial competition with respondent's product and are not advertised as a cure for the several diseases mentioned and are not otherwise falsely advertised.

PAR. 12. The misrepresentations and practices of respondent set forth above have the capacity and tendency to injure, and do injure to a substantial extent, respondent's competitors in the sale of their products by unfairly diverting trade from such competitors to the respondent.

CONCLUSION

The acts and 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 TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission on the complaint of the Commission, the answer of the respondent, the testimony and briefs of counsel for the Commission, and the Commission having made a report in writing in which is stated its findings as to the facts, with its conclusion that the respondent had violated the provisions of Section 5 of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for

Order

19 F.T.C.

other purposes", and the Commission being fully advised in the premises,

It is ordered, That the respondent Nurito Company, its officers, agents, representatives, and employees, in connection with the advertising, offering for sale and selling in interstate commerce or in the District of Columbia the medical preparation now known and designated by it as "Nurito", or any other medical preparation of the same or substantially the same ingredients or composition, shall cease and desist from representing in any manner that the use of said medical preparation, by whatever name or description known, will cure or is a treatment for the relief of neuritis, rheumatism, neuralgia, sciatica, and lumbago.

It is further ordered, That the respondent shall within 60 days after service on it of this order file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Complaint

IN THE MATTER OF
THE MACEY COMPANYCOMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC.
5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914*Docket 2138. Complaint, Dec. 19, 1933—Order, May 11, 1934*

Consent order requiring respondent corporation, in connection with the offer or sale of furniture in interstate commerce, to cease and desist from directly or indirectly advertising, describing, or designating furniture as walnut, the exposed parts of which, when placed in the generally accepted position for use, have for an outer ply or a face veneer, other wood or woods than walnut, or a combination of walnut with other wood or woods, or whose exposed solid parts consist of other wood or woods than walnut or walnut in combination with other wood or woods, unless such use of other wood or woods than walnut except in marquetrices, inlays, or overlays is disclosed by apt and adequate words in immediate connection with the word "walnut."

Mr. James M. Brinson for the Commission.

COMPLAINT

Acting in the public interest 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 charges that The Macey Company, a corporation, hereinafter called respondent, has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondent, The Macey Company, has been for several years last past and now is, a corporation organized, existing, and doing business under and by virtue of the laws of the State of Michigan, with its principal office and place of business at Grand Rapids in said State, engaged in the manufacture of sectional bookcases and office furniture, and its sale and transportation in commerce from its said place of business at Grand Rapids in the State of Michigan to purchasers in the various other States of the United States and in the District of Columbia. In the course and conduct of such business respondent has been and is in competition with individuals, partnerships, and corporations engaged in the sale and transportation of such class of furniture in like commerce.

PAR. 2. It has been and is the practice of respondent, in the course and conduct of its business, to manufacture the broad parts, and