

Complaint

IN THE MATTER OF

JACK D. MENDELSON, TRADING UNDER THE FIRM
NAME AND STYLE OF METRO MANUFACTURING
COMPANY

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

Docket 2216. Complaint, Aug. 9, 1934—Order, Nov. 6, 1934

Consent order requiring respondent, his agents, etc., in connection with the sale or distribution, in interstate commerce or in the District of Columbia or in any Territory, of radio sets manufactured or assembled or sold or offered for sale by him, under the names of other well-known manufacturers, to cease and desist from directly or indirectly—

- (a) Making or using any representations, statements, or assertions, in advertisements or trade promotion literature, on wrappers or containers, or signs, or in sales talks, or in any other manner whatsoever, to the effect that such radio sets or other similar devices, appliances or products are "Edison" or "Brunswick" (Brunswick) radio sets, devices, appliances or products manufactured, assembled and sold, or sponsored, indorsed and approved, licensed, authorized or consented to by Thomas A. Edison or companies organized or controlled by said individual, or by any person, corporation or partnership, licensed, authorized or empowered by said individual or corporation so to do, or by Brunswick-Balke-Collender Co., Warner Bros. Pictures, Inc., Brunswick Radio Corporation or any person, corporation or partnership authorized, licensed or empowered by them or either of them; and from—
- (b) Applying, attaching to or using, or causing to be applied, attached to or used, on any radio set or other device, appliance or product manufactured or assembled and sold by respondent, "escutcheon plates, brands, marks or other means, bearing the name 'Edison', or 'Brunswick' (Brunswick)."

Mr. Carrel F. Rhodes for the Commission.

COMPLAINT

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 having reason to believe that Jack D. Mendelson, trading under the firm name and style Metro Manufacturing Company, hereinafter referred to as respondent, has been or is using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

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PARAGRAPH 1. Respondent, Jack D. Mendelson, owns and has caused to be registered with the New York County Clerk's Office, New York City, on March 23, 1932, the trade name "Metro Manufacturing Company", under which name respondent operates.

PAR. 2. Respondent, Jack D. Mendelson, now is and for more than two years last past has been engaged, under the name and style "Metro Manufacturing Company" with his office and principal place of business at 2052 Eightieth Street, city of Brooklyn (formerly 117 West Street, New York City) State of New York, in the business of manufacturing or assembling radio sets and selling them to the retail trade. Respondent sells said radio sets to retail dealers and customers located in the various States of the United States other than in the State of New York, and when so sold respondent causes said radio sets to be transported from the City of New York, State of New York, through and into other States of the United States, other than the State of New York, to the purchasers thereof at their respective locations. In the course and conduct of his said business respondent is in competition with various other persons, partnerships and corporations engaged in the business of manufacturing or assembling radio sets, and selling them to retail dealers and the public in interstate commerce.

PAR. 3. Respondent, Jack D. Mendelson, in the course and conduct of his business has adopted and followed the scheme and method of appropriating the names of well-known manufacturers and applying them to the radio sets manufactured or assembled and sold by him as aforesaid, thereby appropriating to himself their goodwill by the sale of his said radio sets to the purchasing public as sets made by said manufacturers.

PAR. 4. For more than thirty years prior to his death on October 18, 1931, Thomas A. Edison had been known and recognized throughout the various States of the United States and foreign countries as the inventor, patentee, owner, and manufacturer of numerous electrical devices of various kinds and descriptions, and of machines for the reproduction of the human voice, which have acquired a wide and favorable reputation, and are in great demand by the trade and purchasing public who desire Edison products. Among the machines for the reproduction of the human voice manufactured by companies which the said Thomas A. Edison organized and controlled are phonographs, dictaphone and transcribing machines, radios, combination radios and phonographs, and many other articles of various kinds and character such as storage batteries, spark plugs, ignition coils, and household electrical appliances. Many of the machines and articles above referred to bear the name "Edison" as

part of their brand names, and said name "Edison" has acquired a valuable goodwill as identifying the manufacturer of such machines or articles.

Among the companies organized and controlled by the said Thomas A. Edison before his death, is Thomas A. Edison, Inc., which said company is still engaged in the manufacture of many of the machines and articles invented and developed by Thomas A. Edison. Thomas A. Edison, Inc., during the years 1928 to 1930, inclusive, manufactured and sold radio sets valued at many millions of dollars, and during the said period spent several millions of dollars in advertising its said radio products. All of the radio sets manufactured and sold by Thomas A. Edison, Inc., featured the name "Edison" as part of their brand name.

PAR. 5. Respondent, Jack D. Mendelson, in the course and conduct of his said business conducted in the name of Metro Manufacturing Company has purchased what are known as escutcheon plate, which plates bear various names and which are attached in a prominent place to radio sets. Respondent has purchased and attached to radio sets manufactured or assembled, and sold by him, escutcheon plates bearing the name "Edison". Respondent has no authority or license from Thomas A. Edison, Inc., to use the name "Edison" on the radio sets manufactured, assembled, and sold by him, and his said use of that name has the capacity and tendency to, and does, mislead and deceive the trade and purchasing public into the erroneous belief that the radio sets manufactured or assembled, and sold by respondent are radio sets which have been manufactured by Thomas A. Edison, Inc., and to cause the trade and purchasing public to buy said radio sets in that belief.

PAR. 6. During many years last past the Brunswick-Balke-Collender Company has been a large manufacturer of billiard and pocket billiard tables, bowling alleys, and various other articles, and its products have acquired a wide and favorable reputation, and have been in great demand by the trade and purchasing public. During all this period the products manufactured and sold by said company have featured the name "Brunswick" as part of their brand names, which said name has been attached in a prominent place to said products. In 1915 the Brunswick-Balke-Collender Company began the manufacture and sale of phonographs and phonograph records and sometime later began the manufacture and sale of radio sets and combination radio and phonograph sets, on all of which articles the name "Brunswick" was featured in a prominent place on said machines. In 1930 the radio and phonograph division was sold to Warner Bros. Pictures, Inc., which company organized a corporation under the

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corporate name of Brunswick Radio Corporation to operate the business. Said latter company obtained the exclusive right to use the name "Brunswick" in connection with said radio sets, phonographs, and accessories thereto. Until January 1, 1933, Brunswick Radio Corporation continued the manufacture and sale of radio sets and combination radio and phonograph sets, on all of which sets the name "Brunswick" was prominently featured. Since January 1, 1933, the manufacture of radio sets has been stopped, but said Brunswick Radio Corporation still owns the manufacturing plants in which said sets were manufactured, and may resume such manufacture at some time in the future. The radio sets and combination radio and phonograph sets manufactured by Brunswick-Balke-Collendar Company and Brunswick Radio Corporation were sold to the purchasing public by retail dealers throughout the United States. During all of the time that the Brunswick-Balke-Collender Company and the Brunswick Radio Corporation were manufacturing and selling radio sets and combination radio and phonograph sets, said companies expended large sums of money advertising said sets, and the name "Brunswick" has at all times been prominently displayed in said advertising.

PAR. 7. Respondent, Jack D. Mendelson, in the course and conduct of his said business conducted in the name of Metro Manufacturing Company, has purchased escutcheon plates bearing various names which he has attached in a prominent place to radio sets manufactured or assembled, and sold by him. Among the escutcheon plates which respondent has purchased and attached to said radio sets are plates bearing the name "Bronswick." The said name "Bronswick" is so nearly like the name "Brunswick" in appearance and sound that it is difficult for a purchaser to distinguish the difference, and the use of said name "Bronswick" by respondent on said radio sets manufactured or assembled, and sold by him has the capacity and tendency to, and does, mislead and deceive the trade and purchasing public into the erroneous belief that the radio sets manufactured or assembled, and sold by respondent are radio sets which have been manufactured by the "Brunswick Radio Corporation."

PAR. 8. The use by respondent, Jack D. Mendelson, on radio sets manufactured, assembled, and sold by him of the names "Edison" and "Bronswick", in the manner set forth hereinabove, is false, deceptive, and misleading to the trade and purchasing public, and tends to, and does, divert trade to respondent from his said competitors who do not use such false, deceptive and misleading names for radio sets manufactured, assembled and sold by them.

PAR. 9. The above alleged acts and things done by respondent are each and all of them to the prejudice of the public and respondent's

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competitors, and constitute unfair methods of competition in interstate commerce within the intent and meaning of Section 5 of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST

This proceeding coming on for final hearing by the Federal Trade Commission upon the record, including the complaint of the Commission issued under 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", and respondent's answer thereto in which he waives hearing on the charges set forth in the complaint and refrains from contesting the proceeding, and, pursuant to the provisions of the Commission's Rules of Practice with respect to answers, consents that the Commission may make, enter, and serve upon respondent, without a trial, without evidence and without findings as to the facts or other intervening procedure, an order to cease and desist from the methods of competition alleged in the complaint, and the Commission having duly considered the matter and being fully advised in the premises—

It is now ordered, That in the course of, or in connection with, the sale or distribution in interstate commerce, or in the District of Columbia, or in any territory of the United States, of radio sets manufactured or assembled and sold or offered for sale by respondent under the names of other well-known manufacturers, the respondent, his agents, representatives, servants, and employees, cease and desist—

1. From directly or indirectly making or using any representations, statements or assertions, in advertisements, trade promotion literature, on wrappers or containers, or signs, or in sales talks, or in any other manner whatsoever, to the effect that the radio sets or other similar devices, appliances or products manufactured or assembled and sold by respondent are "Edison", or "Brunswick" (Brunswick) radio sets, devices, appliances or products manufactured, assembled and sold, or sponsored, endorsed and approved, licensed, authorized, or consented to by—

(A) (1) Thomas A. Edison, Thomas A. Edison, Inc., or Companies which Thomas A. Edison organized and controlled; or

(2) Any person, corporation or partnership licensed, authorized or empowered by Thomas A. Edison, or Thomas A. Edison, Inc., so to do.

(B) (1) Brunswick-Balke Collender Co.

(2) Warner Bros. Pictures, Inc.

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(3) Brunswick Radio Corporation, or

(4) Any person, corporation, or partnership authorized, licensed, or empowered by them, or either of them.

2. From directly or indirectly applying, attaching to or using, or causing to be applied, attached to or used, on any radio set or other device, appliance or product manufactured or assembled and sold by respondent, escutcheon plates, brands, marks or other means, bearing the name "Edison", or "Brunswick" (Brunswick).

It is further ordered, That respondent, Jack D. Mendelson, shall, within 60 days after the service upon him of a copy of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with the order to cease and desist hereinabove set forth.

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IN THE MATTER OF
EASTMAN, SCOTT & COMPANY, TRADING AS HOME
RESEARCH, INC.

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

Docket 2234. Complaint, Sept. 27, 1934—Order, Nov. 6, 1934

Consent order requiring respondent corporation, its agents, etc., to cease and desist from selling, shipping, mailing, or otherwise circulating in interstate commerce its so-called "Mystery Book" containing false, exaggerated, unfair, and misleading statements to the general effect that foods in electric refrigerators lose water to such an extent that their nutritive properties are impaired, distorting diets and disarranging food balances, retarding digestion and assimilation and leading to indigestion, constipation, and numerous other ailments, and that gases, volatile matter and odors given off from foods in so-called "airtight" chamber of an electric refrigerator are absorbed by and contaminate other foods, rendering them unsanitary and dangerous to health, and that foods refrigerated in an electric refrigerator cause toxic poisoning, constipation, appendicitis, and numerous other ailments, or from selling, etc., said book or pamphlet until the statements theretofore contained therein are true in fact.

Mr. John W. Hilldrop for the Commission.

Harold Hirsch and *Marion Smith*, of Atlanta, Ga., for respondent.

COMPLAINT

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 having reason to believe that Eastman, Scott & Company, a corporation trading as Home Research, Inc., has been and is using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public interest hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Eastman, Scott & Company, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Georgia with its principal office and place of business in the city of Atlanta, in said State, and now and for more than two years last past has traded under the name Home Research, Inc. It is now and for more than two years last past, under the name Home Research, Inc., been engaged in creating, formulating,