

Syllabus

IN THE MATTER OF

C. S. ALLEN CORPORATION AND CLAUDE S. ALLEN,
DOING BUSINESS UNDER THE TRADE NAME AND
STYLE OF LONDON TOFFEE COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2459. Complaint, June 26, 1935—Order, Nov. 30, 1935*

Where a corporation, engaged in the manufacture and sale of confectionery products, including one known as "Toffee"—

(a) Set forth on the cellophane or paper containers thereof, and on shipping boxes, and upon its letterheads and billheads sent to dealers, purchasers, customers and prospective customers in the several States, along with other matter, its corporate name, together with words "London, England; Montreal, Canada; Brooklyn, New York", notwithstanding fact it did not own, control or operate manufacturing plants, branches or selling agencies, directly or indirectly, either in London or Montreal; and

(b) Included in the legends displayed respectively upon the containers and shipping boxes, as above set forth, and upon its letterheads and billheads, the words "Famous in London since 1860", or "Famous in England since 1860", and also depicted upon said containers and shipping boxes an English "Beef Eater" uniformed guard and English castle, notwithstanding fact that said confectionery was of domestic manufacture entirely, and was not the English or other foreign-made confectionery product which had for many years enjoyed undisputed popularity, good-will and demand among the consuming public in the United States, by many of whom it was considered superior in quality and other desirable characteristics to the domestic product, and purchased in preference thereto;

With intent, tendency and capacity to mislead and deceive a substantial portion of the purchasing public and trade and induce their purchase of said product in the belief that said representations and statements as to foreign factories, branches or selling agencies and foreign source of product were true; and

Where an individual, president of said corporation and in control thereof by virtue of stock ownership, engaged under the trade name and style of "London Toffee Co.", in sale and distribution of confectionery, including said "Toffee"—

(c) Included upon the cellophane or paper containers thereof, along with the phrase "Manufactured by" and the trade name employed by him as above set forth, words "London, England; Montreal, Canada; Brooklyn, New York", notwithstanding fact that he did not manufacture said product, or own, control or operate manufacturing plants, branches or selling agencies in London, Montreal or Brooklyn, but owned his distributing and selling business in New York only; and

(d) Included in his trade name, employed as above set forth, and in trade name and designation of said product, word "London", and set forth same on individual containers of said product, together with representation of tower of House of Parliament, and displayed upon individual wrappers of

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said product words "London Toffee", notwithstanding fact product in question was entirely of domestic manufacture, and not, as aforesaid, imported; With intent, capacity and tendency to mislead and deceive a substantial portion of the purchasing public and trade and induce their purchase of product sold by said individual in reliance upon the truth of said representations and statements as to manufacture and distribution of said "London Toffee" as an imported English confection made by a concern engaged under aforesaid trade name, in London, Montreal, or Brooklyn, with factories, branches, or selling agencies in said foreign cities; and

With further capacity and tendency unfairly to divert a substantial volume of trade from competitors of said corporation and of said individual, among whom there are those who sell such confectionery products made in England and imported to the United States, and who rightfully and lawfully represent their merchandise as an imported product, and those who manufacture and sell the domestic product without in any manner representing same as made in or imported from England or other foreign country, and with effect of so diverting, and of inducing sale of substantial quantities of said products to dealers and purchasers on account of the beliefs induced by such false and misleading representations, with resulting substantial injury to substantial competition in commerce:

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.

Mr. J. T. Welch for the Commission.

Mr. Edward T. Corcoran, of New York City, for respondents.

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 C. S. Allen Corp., a corporation, and Claude S. Allen, an individual, doing business under the trade name and style of London Toffee Company, hereafter designated as respondents, are now, and have been, 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 the charges in that respect as follows:

PARAGRAPH 1. Respondent, C. S. Allen Corp., is now, and has been at all times mentioned herein, a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, and with its office and principal place of business in the city of New York in said State, and is now, and has been at all times mentioned herein, engaged in the business of manufacturing and selling confectionery products, including a product known to the trade as "toffee." Respondent, Claude S. Allen, is an individual who is now,

and has been at all times mentioned herein, engaged in the business of selling and distributing confectionery products, including the aforementioned product known as "toffee", under the trade name and style of London Toffee Company, in the city of New York, in the State of New York. Respondent, Claude S. Allen, is the president of respondent corporation and actively in charge of its business affairs to such an extent that he is the virtual operator of both businesses as a single venture. Both of said respondents are doing business at 100 Water Street.

PAR. 2. Said respondents, being respectively engaged in the business of manufacturing and selling and of distributing and of selling confectionery products, including the product known to the confectionery trade as "toffee", cause said product when sold to wholesale and retail dealers located in various cities in the several States of the United States, to be transported from their principal place of business in the State of New York to the purchasers thereof located in other States of the United States and in the District of Columbia, and there is now, and has been at all times mentioned herein, a constant current of trade and commerce in said product known as "toffee", manufactured or sold by the respective respondents, between and among the various States of the United States and in the District of Columbia.

PAR. 3. Said respondents, in the course and conduct of their respective businesses, are, and have been at all times mentioned herein, engaged in substantial competition with other individuals, partnerships and corporations engaged in commerce among the several States of the United States and in the District of Columbia, in the manufacture, importation, distribution and sale of domestic and foreign confectionery products, including the product known as "toffee."

PAR. 4. Respondent, C. S. Allen Corp., in the course and conduct of its business, as detailed in paragraphs 1 and 2 hereof, has offered for sale and sold, in commerce, as hereinabove set out, certain of its products, to wit, "Allen's Toffee", in cellophane or paper bags or containers, on the outside of said bags or containers, by way of advertisement and inducement to purchase, there being lithographed or printed, together with other words, the following:

Allen's Toffee
Famous in England since 1860
C. S. Allen Corp.
London, England, Montreal, Canada
Brooklyn, New York.

The aforesaid cellophane bags or containers also have lithographed or printed on the outside a picturization of an English guard in

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uniform and an English castle. The shipping boxes in which the cellophane or paper bags or containers are shipped from respondent's place of business in commerce, as set out in detail in paragraph 2, to dealers and purchasers located in the several States, and in the District of Columbia, contain the same printed advertising as hereinabove set out in detail. Respondent, C. S. Allen Corp., also uses letterheads and billheads, having printed thereon the following:

London, England—Montreal, Canada
C. S. Allen Corporation
Manufacturers of
English Toffee Specialties
Famous in London, England since 1860
100 Water Street
Brooklyn, New York.

Cable Address: Altofee New York

- The letterheads and billheads used by the said respondent in its course of business, containing the said advertisements as above detailed in full, are sent through the United States mails to dealers, purchasers, customers and prospective customers located in the several States of the United States and in the District of Columbia.

PAR. 5. Respondent, C. S. Allen Corp., does not own, control or operate manufacturing plants, branches or selling agencies, directly or indirectly, either in London, England or Montreal, Canada. The confectionery product, known as "toffee", manufactured by respondent in its plant in Brooklyn, New York, has not been famous in England since 1860 under the popular name "Allen's Toffee", and has not been famous in England since 1860 as the product of respondent corporation. Respondent corporation does not own, operate or control its manufacturing plant in Brooklyn, New York, in conjunction with or under license from any English confectionery manufacturer of "toffee". Respondent corporation does not manufacture "Allen's Toffee" by use of methods, processes or formulas used in England in the manufacture of "toffee."

PAR. 6. Respondent, Claude S. Allen, doing business under the trade name of London Toffee Company, in the course and conduct of his business, has offered for sale and sold, in commerce, as set out in paragraph 2, said confectionery products, to wit, "London Toffee", in cellophane or paper bags or containers, on the outside of said bags or containers, by way of advertisement and inducement to purchase, there being printed or lithographed, together with other words, the following:

London Toffee
Manufactured by
London Toffee Company
London, England, Montreal, Canada
Brooklyn, New York

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The aforesaid cellophane bags or containers also have lithographed or printed on the outside a picturization of the tower of the Houses of Parliament of London, England. The individual wrappers on the product itself bear the words "London Toffee." Since the commencement of the investigation in connection with this complaint, the respondent, Claude S. Allen, doing business and trading as aforesaid, has changed the advertising matter appearing on the cellophane bags or containers used in transporting respondent's products in interstate commerce as aforesaid, so as to read:

London Style Toffee
Manufactured By
London Toffee Company
Brooklyn, New York

The cellophane bags or containers also have lithographed or printed thereon on the outside, a picturization of the tower of the Houses of Parliament of London, England.

PAR. 7. Respondent, Claude S. Allen, doing business under the trade name of London Toffee Company, does not manufacture any of the products, including "toffee", designated by him as "London Toffee", distributed or sold by him and does not own, control or operate manufacturing plants, branches or selling agencies either in London, England, Montreal, Canada or Brooklyn, New York, except the distributing and selling business conducted in New York City, New York, as hereinabove set out.

PAR. 8. The product commonly known to the confectionery trade as "toffee", manufactured by the corporation respondent and sold and distributed by the corporation respondent and the individual respondent, under the respective names of "Allen's Toffee", and "London Toffee", is of domestic manufacture and is not imported from a foreign country and is not manufactured under foreign processes or formulas.

PAR. 9. Confectionery products, including "toffee", manufactured in England or other foreign countries, have for many years enjoyed widespread popularity, good will and demand among the consuming public throughout the United States, many of whom believe and consider that confectionery products, especially those designated as "toffee", manufactured in England or manufactured under English methods, formulas and processes, are superior in quality and other desirable characteristics to similar confectionery products manufactured in the United States. Many of the consuming public throughout the United States purchase "toffee" manufactured in England and imported to the United States in preference to "toffee" manufactured in the United States.

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PAR. 10. The false and misleading advertising and representations hereinabove set out, on the part of both of respondents places in the hands of aforesaid wholesale and retail dealers and jobbers, an instrument and a means whereby said dealers and jobbers may commit a fraud upon a substantial portion of the consuming public by enabling such dealers to represent and offer for sale and sell the said products known as "Allen's Toffee" and "London Toffee", either as an imported product or as a product manufactured in the United States in conjunction with or under license from English manufacturers of "toffee" or as a product manufactured in the United States by use of foreign methods, processes and formulas. There are among the competitors of both respondents, many who deal in confectionery products and sell "toffee", as well as other confectionery products, manufactured in England and imported to the United States and who rightfully and lawfully represent such merchandise to be imported. There are others among the competitors of both respondents who deal in confectionery products, including "toffee", that are manufactured in the United States and who in no manner represent their products as manufactured in or imported from England or any other foreign country.

PAR. 11. The effect of the foregoing false and misleading advertisements and representations of both the respondent corporation and respondent individual is to mislead a substantial number of wholesale and retail merchants and jobbers, as well as a substantial portion of the consuming public, in the several States by inducing them to believe:

- (1) That respondent corporation owns and operates factories in London, England, and Montreal, Canada, as well as in Brooklyn, New York, in which factories is manufactured a product known as "Allen's Toffee", offered for sale and sold to said wholesale and retail merchants and jobbers;

- (2) That individual respondent owns and operates manufacturing plants in London, England, Montreal, Canada, and Brooklyn, New York, where said individual respondent manufactures the product known as "London Toffee", offered for sale and sold to said wholesale and retail merchants and jobbers;

- (3) That they are securing for themselves and their consumer customers the advantage of close prices resulting from purchasing from a larger manufacturer with several factories, thus assuring themselves of both close prices and quality by dealing direct with the manufacturers and saving the profit of the customary middleman;

- (4) That the products known as "Allen's Toffee" and "London Toffee" are importations of a foreign manufactured product that can

be sold by them on the open market to the consumer public at a higher price than like products of a domestic manufacture, and at a less cost to the dealer than a like product genuinely imported, so as to allow the dealer a wider margin of profit;

(5) That the products known as "Allen's Toffee" and "London Toffee" are manufactured in conjunction with or under license from foreign manufacturers who have been engaged in the confectionery business for many years, or are manufactured by the use of methods, formulas, or processes used by foreign manufacturers of the same or similar products.

The foregoing false and misleading statements and representations, on the part of both respondents, are added inducements for a substantial number of wholesale and retail merchants and jobbers, as well as consumer purchasers, to buy the product known as "Allen's Toffee", manufactured and offered for sale by respondent corporation, and the product known as "London Toffee", sold and distributed by respondent individual, and have a tendency and a capacity to, and do divert a substantial volume of trade from competitors of both respondents engaged in similar businesses to both respondents, with the result that substantial quantities of said products known as "Allen's Toffee" and "London Toffee" are sold to said dealers and purchasers and to the consuming public on account of said beliefs induced by said false and misleading representations, and, as a consequence thereof, a substantial injury has been done by both respondents to substantial competition in commerce among the several States of the United States, and in the District of Columbia, as hereinabove detailed.

PAR. 12. The above and foregoing acts, practices and representations of both respondents, have been, and are, all to the prejudice of the public and respondents' competitors, and have been, and are, unfair methods of competition within the meaning and intent 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."

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an Act of Congress, approved September 26, 1914, entitled an "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 its complaint upon the respondents herein C. S. Allen Corporation, a corporation organized and doing business under and by virtue of the laws of the State of New York, and Claude S. Allen, doing business under

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the trade name and style of London Toffee Company, charging said respondents with the use of unfair methods of competition in commerce in violation of the provisions of said act.

Both respondents, having entered their respective appearances and having filed their answers herein, entered into a stipulation whereby it was stipulated and agreed that a statement of facts signed and executed by both respondents, and their counsel, and J. T. Welch, attorney for the Federal Trade Commission, subject to the approval of the Commission, are the facts in this proceeding and shall be taken by the Federal Trade Commission as such and in lieu of testimony before the Commission in support of the charges stated in the complaint, or in opposition thereto, and that said Commission may proceed further upon said statement of facts, stating its findings as to the facts and conclusion thereon and entering its order disposing of the proceeding:

And, thereupon, this proceeding came on for final hearing and the respondents having waived the filing of briefs and the hearing of oral argument herein before the Commission, and said Commission having approved and accepted said stipulation as to the facts and having duly considered the record and being now fully advised in the premises, makes this its findings as to the facts and conclusion:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The corporation respondent, C. S. Allen Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. The individual respondent, Claude S. Allen, is the president of the respondent corporation and the present owner of a sufficient number of shares of the various classes of stock to enable him to elect three of the five directors of the corporation and control its operation. Both respondents maintain their offices and principal places of business at 100 Water Street, in the city of New York and in the State of New York. The respondent corporation is now, and has been since the date of incorporation in 1926, engaged in the business of manufacturing and selling confectionery products, including a product known as "Toffee." The individual respondent, Claude S. Allen, is now, and has been for a number of years, engaged in the business of selling and distributing confectionery products, including a product known to the trade as "Toffee", under the trade name and style of London Toffee Company.

PAR. 2. From the date of the incorporation of the respondent corporation, both respondents have caused said confectionery products.

including the product known as "Toffee", when sold by either of them, to be transported from their principal office and place of business in the State of New York to the purchasers thereof located at various cities in other States of the United States. Since the inception of their respective businesses there has been at all times a constant and substantial current of trade and commerce in said confectionery products, known to the trade as "Toffee", manufactured or sold by the respondents, between and among the various States of the United States.

Both respondents are now, and have been at all times since the incorporation of respondent corporation, operating their respective businesses in substantial competition with individuals, firms and corporations engaged in the business of manufacturing, distributing and selling confectionery products of like kind and character in commerce among and between the various States of the United States.

PAR. 3. In the course of the operation of his said business the individual respondent, Claude S. Allen, has sold, in commerce as hereinabove set out, said confectionery products, to wit: "Toffee" designated as "London Toffee" in cellophane or paper containers. On the outside of said containers, by way of advertisement and inducement to purchase, there is printed or lithographed, together with other words, the following:

London Toffee
Manufactured by
London Toffee Company
London, England, Montreal, Canada
Brooklyn, New York

The aforesaid containers also have lithographed or printed on the outside a picturization of the tower of the House of Parliament in London, England. The individual wrappers on the product itself bear the words "London Toffee."

The individual respondent, Claude S. Allen, doing business under the trade name of London Toffee Company, does not manufacture the product designated by him as "London Toffee", which is distributed and sold by him under his trade name, and does not own, control or operate manufacturing plants, branches or selling agencies either in London, England; Montreal, Canada or Brooklyn, N. Y., except the distributing and selling business conducted by him in New York City.

PAR. 4. Respondent, C. S. Allen Corporation, in the course and conduct of its business has sold, in commerce as hereinabove set out, certain of its products, to wit: "Allen's Toffee"—in cellophane or paper containers. On the outside of said containers, by way of ad-

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vertisement and inducement to purchase, there is printed or lithographed, together with other words, the following:

Allen's Toffee
Famous in London Since 1860
C. S. Allen Corporation
London, England, Montreal, Canada
Brooklyn, New York

The aforesaid containers also have lithographed or printed on the outside a picturization of an English "Beef Eater" guard in uniform and an English castle. The shipping boxes in which the containers are shipped from respondent's place of business to dealers and purchasers located in the several States contain the same printed advertising legend above set out in detail.

Respondent, C. S. Allen Corporation, also uses letterheads and billheads having printed thereon the following:

London, England, Montreal, Canada
C. S. Allen Corporation
Manufacturers of
English Toffee Specialties
Famous in England Since 1860
100 Water Street
Brooklyn, New York

Cable Address Altofee, New York.

The shipping boxes, letterheads and billheads used by the respondent in the course of its business, containing the said advertisements above detailed in full, are sent to dealers, purchasers, customers and prospective customers located in the several States of the United States through the United States mail and otherwise.

Respondent, C. S. Allen Corporation, does not own, control or operate manufacturing plants, branches or selling agencies, directly or indirectly, either in London, England, or in Montreal, Canada. Respondent, C. S. Allen Corporation, does own, control and operate a manufacturing plant for the production of the confectionery products known as "Allen's Toffee" and "London Toffee" in Brooklyn, N. Y. and there produces and manufactures the above-named confectionery products.

The confectionery product manufactured by the corporation respondent and sold and distributed by the corporation respondent and the individual respondent under the respective names of "Allen's Toffee" and "London Toffee" is of domestic manufacture entirely and is not imported from a foreign country.

PAR. 5. Confectionery products, including "Toffee", manufactured in England or other foreign countries, have for many years enjoyed widespread popularity, good-will and demand among the consuming public throughout the United States, and many of them believe and

consider that such products are superior in quality and other desirable characteristics to similar confectionery products manufactured in the United States. Many of the consuming public throughout the United States purchase such "Toffee" imported from England or other foreign countries to the United States in preference to "Toffee" manufactured in the United States.

PAR. 6. There are among the competitors of both respondents many who sell confectionery products, such as "Toffee", in interstate commerce as herein set out, manufactured in England and imported to the United States and who rightfully and lawfully represent such merchandise to be imported. There are others among the competitors of both respondents who manufacture and sell, in interstate commerce as herein set out, confectionery products, such as "Toffee", that are manufactured in the United States and who in no manner represent their products as manufactured in or imported from England or any other foreign country.

PAR. 7. The false and misleading statements on the part of the individual respondent operating under the trade name and style of London Toffee Company, in the marketing of the product designated as "London Toffee", to the effect (1) that the product is actually manufactured by the London Toffee Company either in London, England; Montreal, Canada, or Brooklyn, N. Y.; (2) that the London Toffee Company maintains factories, branches or selling agencies in Montreal, Canada, or London, England and (3) that the London Toffee Company manufactures and distributes "London Toffee" as a product imported from England are, and were, made for the purpose, and have, and have had, a tendency and capacity to mislead and deceive a substantial portion of the purchasing public and the trade and to cause them to purchase the product sold by the individual respondent under the belief that the said representations and statements were true.

The false and misleading statements on the part of the corporation respondent, C. S. Allen Corporation, in the marketing of the product designated as "Allen's Toffee", to the effect (1) that C. S. Allen Corporation owns, operates or controls factories, branches or selling agencies in Montreal, Canada, or London, England, and (2) that the product manufactured and distributed by the respondent corporation is a product manufactured in and imported from England or any other foreign country are, and were, made for the purpose, and have, and have had, a tendency and capacity to mislead and deceive a substantial portion of the purchasing public and the trade and to cause them to purchase the product sold by the corporate respondent under the belief that the said representations and statements were true.

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PAR. 8. The false and misleading statements and representations, used by both respondents as hereinabove set out, have had, and now have, a capacity and tendency to, and do, unfairly divert a substantial volume of trade from both classes of competitors of the respondents, as hereinabove set out.

The false and misleading statements and representations, on the part of both respondents, are added inducements for a substantial number of wholesale and retail merchants and jobbers, as well as consumer purchasers, to buy the product known as "Allen's Toffee", manufactured and sold by the respondent corporation, and the product known as "London Toffee", sold and distributed by the respondent individual.

Substantial quantities of said products, known as "Allen's Toffee" and "London Toffee" respectively, are sold to said dealers and purchasers on account of said beliefs induced by the false and misleading representations on the part of both respondents and, as a result, substantial injury has been done by both respondents to substantial competition in commerce among and between the several States of the United States.

PAR. 9. Since the filing and service of the complaint, the respondent, Claude S. Allen, doing business and trading as aforesaid, has altered the advertising matter appearing on the cellophane bags or containers used in transporting the product known as "London Toffee", in interstate commerce as aforesaid, so as to read:

London Style Toffee
Manufactured for
London Toffee Company
In Brooklyn, New York

The cellophane bags or containers continue to have lithographed or printed thereon on the outside a picturization of the tower of the House of Parliament in London, England. The letters of the word "Style" are plainly and clearly printed in close connection with the words "London" and "Toffee" and are readily discernible. The remaining portion of the legend, indicating that the product is actually manufactured in Brooklyn, N. Y., appears conspicuously placed in letters of sufficient size to be easily readable.

PAR. 10. Since the filing and service of the complaint, the respondent, C. S. Allen Corporation, has changed the advertising matter appearing on the cellophane bags or containers used in transporting respondent's products in interstate commerce as aforesaid, so as to read:

Allen's Toffee
Famous in England Since 1860
Manufactured by
C. S. Allen Corporation
In Brooklyn, New York

The aforesaid cellophane bags or containers continue to have lithographed or printed on the outside thereof a picturization of an English "Beef Eater" guard in uniform and an English castle. The remaining portion of the legend, indicating that the product is actually manufactured in Brooklyn, N. Y., appears conspicuously placed in letters of sufficient size to be easily readable.

The shipping boxes in which the cellophane or paper bags or containers are shipped from respondent's place of business to dealers and purchasers located in several States have been altered so that the printed or advertising matter now appearing thereon corresponds with that now appearing on the cellophane bags or containers.

The letterheads and billheads now used by the respondent have printed thereon the following:

C. S. Allen Corporation
Manufacturers of
Toffee Specialties
Famous in London, England Since 1860
100 Water Street
Brooklyn, New York

Cable address Altoffee, New York.

PAR. 11. The change in the reading matter on the various containers now used by both respondents, as set out in paragraphs 9 and 10, includes the addition of words clearly indicating that the product contained therein was actually manufactured in the United States. The size of the lettering in the words indicating the place of manufacture is sufficient to be clearly readable and to remove any doubt or confusion in the mind of the purchaser as to the place of origin of the product that might arise out of the use of the phrase "Famous in England Since 1860"; the use of the words "London Style Toffee" in designating the product manufactured by the corporation respondent and sold by the individual respondent and the various picturizations herein detailed appearing on the containers used in marketing both products.

CONCLUSION

The acts and practices of both respondents, C. S. Allen Corporation and Claude S. Allen, trading as London Toffee Company, except those corrected or modified as herein set out in paragraphs 9 and 10, are each and all to the prejudice of the public, and to the competitors of both respondents, and constitute unfair methods of competition in 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."

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ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and a stipulation entered into between the respondents herein, C. S. Allen Corporation, a corporation, and Claude S. Allen, trading as London Toffee Company, and their counsel, Edward T. Corcoran, and counsel for this Commission, and the Commission having made its findings as to the facts and its conclusion that said respondents 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":

Now, therefore, it is hereby ordered, That respondent, Claude S. Allen, trading and doing business as London Toffee Company, or trading under any other name, his agents, representatives and employees, in connection with the distribution, offering for sale and sale of confectionery products, including "Toffee", in interstate commerce, forthwith cease and desist from:

(1) Causing the words "Montreal, Canada" or "London, England", or any other names of cities, either in foreign countries or in any State of the United States, except "Brooklyn, New York", to be printed on the cellophane or paper containers in which said product is distributed to the respondent's purchasers and to the ultimate consumers thereof or on the shipping boxes in which said containers are packed, unless and until said product is actually manufactured by said respondent in said city so designated on the said containers or shipping boxes;

(2) Causing the words "Manufactured by" or words of similar import to be printed on said containers or shipping boxes in connection with the respondent's trade name, until and unless the respondent is actually the manufacturer of said products;

(3) Representing himself or his company, by advertisements, advertising literature, stationery or by any manner or means whatever, as a manufacturer of confectionery products, including the product known as "Toffee", until he owns, operates or controls the factory or factories in which the said products are manufactured by him, or as owning, operating or controlling factories in any city of the United States or in any city in any foreign country, unless and until such is the fact;

(4) Using the word "London", alone or in conjunction with other words, or using picturizations of the tower of the House of Parliament in London, England or similar picturizations, unless there is placed in close proximity to and equal prominence with said word or picturizations words that clearly indicate that the product sold

and distributed by the respondent is actually produced or manufactured in the United States.

It is further ordered, That the respondent, C. S. Allen Corporation, its officers, agents, representatives and employees, in the manufacture, sale and distribution in interstate commerce of confectionery products, including "Toffee", forthwith cease and desist from:

(1) Causing the words "Montreal, Canada" or "London, England", or any other names of cities, either in foreign countries or in any State of the United States, except "Brooklyn, New York", to be printed on the cellophane or paper containers in which said product is distributed to the respondent's purchasers and to the ultimate consumers thereof or on the shipping boxes in which said containers are packed or on the stationery, including letterheads, invoices and similar business stationery used by the respondent, unless and until said product is actually manufactured by said respondent in said city so designated on the said containers, shipping boxes or stationery;

(2) Using the phrase "Famous in England Since 1860", alone or in conjunction with other words or phrases, or using picturizations of an English "Beef Eater" guard in uniform and an English castle, or similar picturizations, unless there is placed in close proximity to and equal prominence with said phrases or picturizations words that clearly indicate that the product sold and distributed by the respondent is actually produced or manufactured in the United States.

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

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IN THE MATTER OF

GOTHAM ASEPTIC LABORATORY CO., INC.

COMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2600. Complaint, Oct. 28, 1935—Order, Dec. 4, 1935*

Consent order requiring respondent, its officers, etc., in the course of or in connection with the sale or offer for sale or distribution of absorbent cotton in interstate commerce, to cease and desist from, directly or indirectly—

- (a) Advertising, branding, labeling, designating, or otherwise representing cotton as sterilized, or using any other word or words to the effect that such cotton is sterilized, unless said cotton is sterile and free of bacteria after having been packaged and while contained in original unbroken package, or when in fact said cotton is not and has not been sterilized and rendered free from bacteria, after having been packaged and while contained in original unbroken package, respectively;
- (b) Advertising, etc., cotton as manufactured under the strictest sanitary conditions, when in fact such cotton has not been manufactured or packed under strictest sanitary conditions, or when such cotton has been manufactured or packed under conditions in which full and strictest sanitary precautions have not been provided for or followed for the removal and exclusion from such cotton of all bacteria; or
- (c) Advertising, etc., absorbent cotton as being manufactured from the finest quality cotton obtainable, unless such cotton was manufactured from the finest selected quality of said product.

Mr. Astor Hogg for the Commission.

Mr. William L. Carns, of New York City, 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 Gotham Aseptic Laboratory Co., Inc., a corporation, hereinafter referred to as respondent, 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: