

Syllabus

IN THE MATTER OF
PASCAL COMPANY, INC.

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

Docket 2945. Complaint, Oct. 15, 1936—Decision, Sept. 8, 1937

Where a corporation engaged in manufacture of "Breatheasy," preparation, and atomizer or "nebulizer" for treatment of asthma, hay fever, and kindred diseases, and in the sale and distribution thereof through distributors and drug stores in the various States, in substantial competition with those engaged in interstate sale and distribution of other preparations recommended for, and useful in, treatment of such diseases, and of atomizers for use in connection therewith; in extensively advertising its said product through various newspapers of interstate circulation and through radio broadcasts having interstate transmission, and through booklets and circulars issued and distributed by it—

Represented that said preparation was a cure or remedy for asthma, hay fever, and kindred diseases, which could be used successfully without following any particular form of diet, and constituted a harmless remedy which would return the user to vigorous, buoyant health, had therapeutic value also in chronic bronchitis and numerous other specified ailments and conditions, including heart diseases and cardiac distress, various skin diseases, and inflammations of the nose and throat, etc., and in neuralgia and neuritis, and was the one sure relief available for treatment of asthma, and a new medicament for such treatment, through such statements, among others, as "For Asthma * * * the greatest discovery. Created by a physician to successfully cure his own asthma * * *," "only one Remedy for Asthma And that Remedy is Breatheasy," "* * * beneficial, according to authorities, in asthma and chronic bronchitis, in heart disease and cardiac distress, in gastric ulcer, * * *," " * * * the one, sure asthmatic relief available today * * * gives a sense of well-being, a return to vigorous, buoyant health * * *," " * * * no diet is necessary. You may eat anything you may desire." "Introduces a new medicament of scientific formula which applies synthetic adrenal gland extract vaporized * * *," etc.;

Facts being asthma, as classified by medical profession, may result from many varying causes, no specific cure for asthma is recognized by said profession, and such preparation is not cure therefor nor for hay fever, and, while preparation in question, as well as many other remedies containing adrenalin, may in some cases temporarily relieve asthma, it does not constitute treatment therefor, and use thereof will not bring about or restore vigorous, buoyant health or give absolute and instant relief to sufferers therefrom, should not be taken at all in many cases in which diet is essential, and is no less dangerous to user because taken through "nebulizer" than if taken through hypodermic injection, and is not beneficial in treatment of chronic bronchitis, heart disease, and various other ailments and conditions specified, and, as equivalent, through epinephrin content, of synthetic adrenalin, is not new medicament;

Complaint

25 F. T. C.

With capacity and tendency to mislead and deceive public into erroneous belief that said "Breatheasy" was in truth and in fact a remedy and cure for asthma, hay fever and kindred diseases, and that in use thereof it was not necessary to follow any particular diet, and to induce such purchasing public to buy said "Breatheasy" in preference to other preparations designed for treatment of aforesaid diseases and offered for sale by manufacturers, retailers and distributors, and with result of unfairly diverting trade to it from such manufacturers, retailers, and distributors of such other preparations who do not misrepresent the character and quality of their respective products or the results to be obtained in the use thereof:

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

Before *Mr. Henry M. White*, trial examiner.

Mr. Reuben J. Martin for the Commission.

Mr. Clarence L. Gere, of Seattle, Wash., 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 Pascal Company, 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. The respondent, Pascal Company, Inc., is a corporation organized and existing under and by virtue of the laws of the State of Washington, with its principal office and place of business located at 1014 American Bank Building, Second Street at Madison, in the city of Seattle, within the State of Washington. Said respondent is now and for more than one year last past has been engaged in the manufacture and sale of a product known as "Breatheasy" for the treatment of asthma, hay fever and kindred diseases, and of an atomizer or so-called "nebulizer" for administering the preparation "Breatheasy," and in the distribution thereof in commerce between and among the various States of the United States. It causes said "Breatheasy" and the nebulizer, when sold by it, to be transported to purchasers thereof located in the State of Washington and in various States of the United States other than the State of Washington. There is now and has been for a long time, to wit, for more than one year last past, a constant current of trade and commerce by respondent in said "Breatheasy" and said nebulizer, between and among the various States of the United States.

1007

Complaint

In the course and conduct of its said business, said respondent is now and for a long time, to wit, for more than one year last past, has been in substantial competition in commerce between and among the various States of the United States with sundry other corporations, partnerships, firms, and individuals engaged in the interstate sale and distribution of other preparations recommended for the treatment of asthma, hay fever, and kindred diseases, and of atomizers or nebulizers for use in connection therewith.

PAR. 2. The preparation "Breatheasy" and the atomizer or nebulizer used in connection therewith are manufactured by said respondent and are sold and distributed by said respondent through distributors and drug stores located in the various States of the United States.

PAR. 3. Said respondent, in the course and conduct of its said business as hereinbefore set out in paragraphs 1 and 2, has been and now is engaged in extensive advertising of its said products as a means of furthering and aiding in the interstate sale and distribution of "Breatheasy" and the atomizer or nebulizer for use in connection therewith, and as media of such advertising it has been and now is using various newspapers of interstate circulation, and broadcasts over radio stations having interstate reception. Said respondent also issues booklets and circulars describing the said product "Breatheasy."

Said respondent in its said advertisements of the preparation "Breatheasy" and the atomizer or nebulizer used in connection therewith, manufactured and distributed by it, has made and is now making various false, deceptive, and misleading statements concerning said products. Among the statements which said respondent has used and is now using in its advertisements in newspapers and over the radio and in its booklets and circulars distributed with its said products, are the following:

WANTED: A distributor for a nationally known remedy for asthma. Would rather have somebody that has had experience in similar lines, or who is an asthmatic. This does not require a great deal of capital and is a money maker.

FOR ASTHMA

"Breatheasy"

(trade mark)

THE GREATEST DISCOVERY

Created by a physician to successfully cure his own asthma, "Breatheasy" is now sold on money-back guarantee.

REMEMBER

There is only one

Remedy for

ASTHMA

And that Remedy is

Breatheasy

Complaint

25 F. T. C.

Breatheasy is a creation of a physician, who himself suffered from asthma, and was developed until now it gives absolute, instant and complete relief. For asthmatics who seek relief, they will find this remedy their "doctor," ever ready to relieve them.

BREATHEASY means exactly what the name implies. It is the one, sure asthmatic relief available today. In working its wonders, BREATHEASY gives a sense of well-being, a return to vigorous, bouyant health. BREATH-EASY was developed by a physician who suffered from asthma, and, in striving for relief, he evolved this marvelous remedy. If YOU suffer from asthma or if any of your friends are afflicted with the symptoms, stop in at the West End Drug Store, First and Monroe, and ask to have this thoroughly marvelous treatment demonstrated. Remember, there is no charge.

Asthmatics everywhere hail the BREATHEASY method as the one remedy that can be relied upon.

During the use of "Breatheasy", no diet is necessary. You may eat anything you may desire.

In truth and in fact, "Breatheasy" is not a remedy for and it does not cure asthma. In any treatment for asthma the proper diet is essential, as mucus-forming foods are injurious in cases of asthma.

Respondent in its said advertising has created and is now creating upon the public the false impression and erroneous belief that "Breatheasy" is a reliable and dependable remedy and cure for asthma, hay fever, and kindred diseases, and that in the use of the same it is not necessary to follow any particular diet. In fact, "Breatheasy" is not a reliable and dependable cure for asthma, hay fever, or kindred diseases.

PAR. 4. The use by the said respondent, Pascal Company, Inc., of the foregoing false, deceptive and misleading representations has had and does now have the capacity and tendency to and does mislead and deceive the public into the erroneous and untrue belief that "Breatheasy" is in truth and in fact a remedy for and will cure asthma, hay fever and kindred diseases, and that in using the same it is not necessary to follow any particular diet. Acting in such erroneous belief, the consuming public, and especially that portion of the public suffering from asthma, hay fever, or kindred diseases, have been induced and are now induced to purchase "Breatheasy" in preference to other preparations designed for the treatment of asthma, hay fever and kindred diseases, and offered for sale by manufacturers, retail dealers, and distributors. As a result of such false, deceptive and misleading representations on the part of said respondent, trade is unfairly diverted to respondent from such manufacturers, retail dealers, or distributors of other preparations for treating asthma, hay fever, and kindred diseases, who do not misrepresent the character and quality of their respective products or the results obtained from the use thereof.

1007

Findings

PAR. 5. Said false, deceptive, and misleading representations of said respondent, contained in its advertisements, have resulted in injury to respondent's competitors and to retail dealers, and in prejudice to the buying public, 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."

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 on the 15th day of October 1936, issued and on October 20, 1936, served its complaint in this proceeding upon the respondent, Pascal Company, Inc., charging said respondent with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of the respondent's answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by Reuben J. Martin, attorney for the Commission, before Henry M. White, an examiner of the Commission theretofore duly designated by it, and in opposition to the allegations of the complaint by Clarence L. Gere, attorney for the respondent; and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint, the answer thereto, testimony and other evidence, and briefs in support of the complaint and in opposition thereto, no oral argument having been heard, and the Commission having duly considered the same and being now 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, Pascal Company, Inc., is a corporation, organized and existing under and by virtue of the laws of the State of Washington, with its principal office and place of business located at 1014 American Bank Building, Second Street at Madison, in the city of Seattle, within the State of Washington. Said respondent is now, and has been since July 19, 1936, engaged in the manufacture and sale of a preparation known as "Breatheasy" for

Findings

25 F. T. C.

the treatment of asthma, hay fever, and kindred diseases, and of an atomizer or so-called "nebulizer" for administering the preparation "Breatheasy," and in the distribution thereof in commerce between and among the various States of the United States. It causes said "Breatheasy" and the "nebulizer" when sold by it to be transported to purchasers thereof located in the State of Washington and in various States of the United States other than the State of Washington. There is now, and has been for more than one year last past, a constant current of trade and commerce by respondent in said "Breatheasy" and said "nebulizer" between and among the various States of the United States. In the course and conduct of its said business, respondent is now, and since July 19, 1936, has been in substantial competition in commerce between and among the various States of the United States with sundry other corporations, and with partnerships, firms, and individuals engaged in the interstate sale and distribution of other preparations recommended for the treatment of asthma, hay fever, and kindred diseases, and of atomizers or "nebulizers" for use in connection therewith, which said preparations are useful in the treatment of said diseases.

PAR. 2. The preparation "Breatheasy" and the atomizer or "nebulizer," used in connection therewith, are manufactured by said respondent and are sold and distributed by said respondent through distributors and drug stores located in the various States of the United States.

PAR. 3. The respondent, in the course and conduct of its said business has been, and now is engaged in extensive advertising of its said products as a means of furthering and aiding in the interstate sale and distribution of "Breatheasy" and the atomizer or "nebulizer" for use in connection therewith, and as media of such advertising it has been, and now is using various newspapers of interstate circulation and broadcasts over radio stations having interstate transmission. Said respondent also issues and distributes booklets and circulars describing the said preparation "Breatheasy."

PAR. 4. The respondent, in its said advertisements of the preparation "Breatheasy" and the atomizer or "nebulizer" used in connection therewith manufactured and distributed by it, has made, and is now making, various statements regarding efficacy of said preparation known as "Breatheasy" in the treatment of asthma, hay fever, and kindred diseases. Among the statements which said respondent has used, and is now using, in its advertisements in newspapers and over the radio, and in its booklets and circulars distributed with its said products are the following:

1007

Findings

For ASTHMA
 "Breatheasy"
 (trade mark)

THE GREATEST DISCOVERY

Created by a physician to successfully cure his own asthma, "Breatheasy" is now sold on money-back guarantee.

REMEMBER
 there is only one
 Remedy for
 ASTHMA
 And that Remedy is
 Breatheasy

Breatheasy is a creation of a physician who himself suffered from asthma, and was developed until now it gives absolute, instant and complete relief. For asthmatics who seek relief, they will find this remedy their "doctor," ever ready to relieve them.

BREATHEASY is beneficial, according to authorities, in asthma and chronic bronchitis, in heart disease and cardiac distress, in gastric ulcer, in serum rashes, urticaris (hives) and other skin diseases of the erythematous and eczematous types, in hay fever, in inflammation of the nose, throat, tonsils, larynx and lungs; and in neuralgia and neuritis. This by no means completes the list, but it suffices to show the enormous value of this substance elaborated by the adrenal glands and what may happen if they are deficient.

BREATHEASY means exactly what the name implies. It is the one, sure asthmatic relief available today. In working its wonders, BREATHEASY gives a sense of well-being, a return to vigorous, bouyant health. BREATHEASY was developed by a physician who suffered from asthma, and in striving for relief, he evolved this marvelous remedy. If YOU suffer from asthma or if any of your friends are afflicted with the symptoms, stop in at the West End Drug Store, First and Monroe, and ask to have this thoroughly marvelous treatment demonstrated. Remember, there is no charge.

Asthmatics everywhere hail the BREATHEASY method as the one remedy that can be relied upon.

During the use of "Breatheasy," no diet is necessary. You may eat anything you may desire.

Doctors had the only relief
 for
 ASTHMA

thirty years ago . . . but they did not know how to use it. Finally a physician who was an asthmatic, took the remedy and discovered how it could be used to give absolute, instant and complete relief. He called it BREATHEASY—Write today for complete information.

STOP
 Suffering from
 ASTHMA
 "Breatheasy"
 (Trade Mark)

Findings

25 F. T. C.

Introduces a new medicament of scientific formula which applies synthetic adrenal gland extract vaporized thru the

"Breatheasy"
NEBULIZER

"Vapor, not a spray"

Now available, with money-back guarantee.

ASTHMA
"Breatheasy"
(Trade Mark)
with
SPECIAL NEBULIZER
is your best answer
for
ASTHMA

Supplies adrenal deficiency which is the prime cause of Asthma, thru special Nebulizer that delivers 10 times the vapor (not spray) possible with ordinary means. Not habit forming, not a drug.

All asthmatics will find BREATHEASY the one, sure relief available on the market today. Write for full complete details. There is no obligation.

Of course you know that epinephrin is the only specific remedy for asthma and hay fever, and that it has been in the hands of the medical profession for the past twenty years. Only two things prevented its coming into popular use for all sufferers at all times. They were, its high cost and the difficulty of its administration, we have overcome both of these obstacles in BREATHEASY.

The use of BREATHEASY in the treatment of asthma will conclusively prove to you that at last asthmatic sufferers have found the one, sure relief for this painful affliction.

that no other person, firm or corporation has any right to manufacture or in any manner deal in this vaporizer or any imitation thereof.

BREATHEASY
Gives you swift, sure relief
for
ASTHMA

All asthmatics will find BREATHEASY the one, sure relief on the market today. Write for full, complete details. There is no obligation.

PAR. 5. The respondent corporation is owned by Dr. Benjamin S. Paschall and other members of his family. Dr. Paschall is a physician and Chief Chemist of the respondent corporation. The respondent is engaged in the business of making pharmaceuticals and its principal product is epinephrin. The product epinephrin, together with the "nebulizer", an apparatus for administering the epinephrin, constitutes the commodity sold to the public in interstate commerce by the respondent under the trade name of "Breatheasy." The respondent maintains a laboratory in which the product ephinephrin is manufactured. The product epinephrin is a solution of epinephrin hydrochlorides, at least 2½ percent, put up in physiological salt solu-

1007

Findings

tion containing traces of carminatives and preservatives of chemically pure grade. Its structure is racemic.

PAR. 6. Epinephrin may be obtained in two ways, namely, by synthetically building it up in the laboratory, and also by extracting it from the glands of animals. The epinephrin sold by the respondent is obtained synthetically. The epinephrin is put into the "nebulizer" and by means of the "nebulizer" is breathed into the lungs of the user. The epinephrin is not injected into the user by means of a hypodermic needle.

The "nebulizer" sold and distributed by the respondent is an instrument which turns liquid into vapor and is the means by which the user takes the medicine into the body. The "nebulizer" is manufactured by the respondent for use in connection with its product epinephrin and the epinephrin, together with the "nebulizer," constitutes the commodity sold as "Breatheasy." The chemical ingredients used by respondent in manufacturing its epinephrin are purchased by the respondent in the open market for use in respondent's laboratory. Epinephrin contains the same properties as adrenaline and is synthetic adrenaline. The preparation "Breatheasy" is sold by the respondent for the purpose of treatment of asthma, hay fever, and kindred diseases. Adrenaline has been constantly used by the medical profession in the treatment of asthma for thirty years and has been customarily administered to the patient hypodermically.

PAR. 7. True asthma is defined as a "A condition of shortness of breath caused by the constriction of the bronchial muscles and by the exudation of mucous into the narrow bronchial passages, the reason for which is a reflex due to the ingestion or inhalation of substances to which the patient is hypersensitive." There are many various forms of asthma or physical conditions which are generally classified by the medical profession as asthma. The basic causes of the ailments classified by the medical profession as asthma are not yet known to the medical profession, and asthma may result from many varying causes:

PAR. 8. There is no specific cure for asthma generally recognized by the medical profession. "Breatheasy" is not a cure for asthma nor is it a cure for hay fever. Asthma may be, and often is, cured when the cause of the asthma is known and eliminated. The elimination of the cause of asthma may sometimes be produced by surgery and by other methods, but it cannot be eliminated by "Breatheasy." "Breatheasy" as well as many other remedies containing adrenaline, may in some cases temporarily relieve asthma.

Conclusion

25 F. T. C.

"Breatheasy" does not constitute a treatment for asthma, and its use will not bring about or restore vigorous buoyant health.

PAR. 9. "Breatheasy" will not give "absolute, instant and complete relief" to sufferers from asthma and is not a sure relief for persons suffering with asthma. The use of "Breatheasy" is not harmless in all cases, and there are cases where its use would be distinctly dangerous. The use of "Breatheasy" is not beneficial in the treatment of chronic bronchitis, heart disease, cardiac distress, gastric ulcer, hives, inflammation of the nose, throat, tonsils, larynx, lungs, neuralgia, or neuritis.

PAR. 10. In many cases of asthma, proper diet is very important and may become the means of effecting a cure. Many persons suffer from asthma due to being allergic to certain foods. In such cases diet is essential as only by refraining from using the particular food to which the sufferer is allergic may a cure be effected. In such cases diet is essential and "Breatheasy" will not give relief in these cases independent of the proper diet. In many of such cases "Breatheasy" should not be used at all. Epinephrin is no less dangerous to the user because it is taken by means of a "nebulizer" than it would be if taken by means of a hypodermic injection.

PAR. 11. The advertisements and representations made to the purchasing public by the respondent, as hereinbefore set out in paragraph 4, are false and misleading. They have had, and do now have, the capacity and tendency to mislead and deceive the public into the erroneous and untrue belief that "Breatheasy" is in truth and in fact a remedy for, and will cure, asthma, hay fever, and kindred diseases, and that in the use of the same it is not necessary to follow any particular diet, and to induce such purchasing public to purchase "Breatheasy" in preference to other preparations designed for the treatment of asthma, hay fever, and kindred diseases and offered for sale by manufacturers, retail dealers and distributors. The result of such false, deceptive, and misleading representations on the part of said respondent is to unfairly divert trade to said respondent from such manufacturers, retailers, or distributors of other preparations for treating asthma, hay fever, and kindred diseases, who do not misrepresent the character and quality of their respective products or the results to be obtained from the use thereof.

CONCLUSION

The aforesaid acts and practices of the respondent, Pascal Company, Inc., are to the prejudice of the public and competitors of the respondent and constitute unfair methods of competition in com-

1007

Order

merce 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 having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before Henry M. White, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto and briefs filed herein, no oral arguments having been heard, and the Commission having made its findings as to the facts and its conclusion that said respondent, Pascal Company, Inc., has violated the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes,"

It is ordered, That the respondent, Pascal Company, Inc., its officers, representatives, agents, and employees, in connection with the offering for sale, sale and distribution of the preparation now known as, and sold under the name "Breatheasy," or any preparation under whatever name sold, composed of the same or similar ingredients and possessing similar therapeutic properties, in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing that

(a) Said preparation is a cure or remedy for asthma, hay fever, or kindred diseases;

(b) Said preparation can be successfully used without following any particular form of diet;

(c) Said preparation is a harmless remedy which will return the user to vigorous, buoyant health;

(d) Said preparation has a therapeutic or beneficial value in the treatment of asthma, chronic bronchitis, heart diseases, cardiac distress, gastric ulcer, serum rashes, uticaris (hives) and other skin diseases of the erythematous and eczematous types, hay fever, inflammation of the nose, throat, tonsils, larynx and lungs, and in neuralgia and neuritis;

(e) Said preparation is the one sure relief available for the treatment of asthma;

(f) Said preparation is a new medicament for the treatment of asthma;

(g) Said preparation has any therapeutic or medicinal value other than to afford temporary relief in some instances in cases of asthma;

Order

25 F. T. C.

(h) and from making any other similar representations of like import or effect as to the therapeutic or medicinal value of said preparation unless and until said representations are true in fact.

It is further ordered, That the respondent, Pascal Company, Inc., shall within 60 days after service upon 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 the order to cease and desist hereinabove set forth.

Complaint

IN THE MATTER OF
MAY HOSIERY MILLS, INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3172. Complaint, July 15, 1937—Decision, Sept. 9, 1937*

Where a corporation engaged in manufacture, sale, and distribution of textile products, including hosiery for men and women, in substantial competition with others engaged in manufacture, sale, and distribution of like and similar products in commerce among the various States and in the District of Columbia—

Made use of such statements and representations as "Pure Thread Silk and Rayon," "Creptone with Silk Wrap," and "Genuine Wrap Pure Thread Silk and Rayon," with words "and Rayon" on a separate line and in small capital letters, as contrasted with preceding words in large conspicuous capital letters, in the advertisements of its said commodities in trade papers, price lists, etc., and on transfers appearing on the merchandise in question, and led purchasers and prospective purchasers into mistaken and erroneous belief that commodities involved were made largely from materials entirely different from those contained therein, and contained finer materials of manufacture than actually was the case, and that silk was major material used in merchandise made and sold by it, facts being hosiery designated as aforesaid was not made entirely of silk of the silk-worm, and silk was not major component of hosiery upon which transfers bearing such legends, as above set forth, appeared, but silk used in such instances varied from infinitesimal proportions in such "Creptone" brand product to far less than major proportion in the other two;

With tendency and capacity to lead distributors and purchasing public into belief that said statements and representations were true, and with result of inducing members of public to purchase its said products on account of such erroneous beliefs, to resultant damage and injury of manufacturers and distributors, and to injury of general public, and of unfairly diverting trade to it from competitors; to the substantial injury of competition in commerce:

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

Mr. S. Brogdyne Teu II 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 May Hosiery Mills, 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 of Congress, and it appearing to said Commission that a proceeding by it in respect thereof