

IN THE MATTER OF
EMILE CARPENTIER, TRADING AS DR. EMILE
CARPENTIER

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

Docket 3073. Complaint, Mar. 10, 1937—Decision, Feb. 11, 1938

Where an individual engaged in manufacture of his "T. B. Compound" proprietary preparation for tuberculosis in various forms and for chronic bronchitis and other ailments, and in sale and distribution thereof to individual purchaser users and to members of the medical profession; in advertising the same in newspapers of general circulation and posters and circulars mailed to purchasers and prospective purchasers throughout the country and through legend captioned "Pass This On!" contained on label of each package thereof, and through advertising leaflets—

- (a) Represented that said product was a cure and remedy for tuberculosis of the lungs, larynx, intestines, and other parts of the body and that such malady had been cured thereby and that victims thereof could verify the astonishing results achieved with the herbs, roots, and other ingredients which were used therein;
- (b) Made use of the abbreviation "Dr." and represented himself as a "naturopathic doctor," and that physicians had prescribed his said product for patients suffering from tubercular conditions and had sent to him patients suffering from such ailments and that it was not necessary for him to diagnose or see patients for their treatment which they took at home, and which consisted of two teaspoons of his said compound daily for "proper results"; and
- (c) Represented that his said product also constituted cure for chronic bronchitis, colitis, chronic gastritis, and ulcerated duodenum and ailments of the stomach or intestines;

Facts being said compound had no curative, remedial, or therapeutic value in the treatment of the various types of tuberculosis or causes thereof or various other ailments or conditions above specified and was of no beneficial value whatever in the treatment thereof, no one had been cured of tuberculosis by its use, nor had physicians successfully prescribed it in treatment of patients with tuberculosis or other diseases for which he claimed his product to be a cure, said product was not an original or secret discovery and use thereof by persons afflicted with tuberculosis might delay the securing of essential medical care and hospitalization so long that there was no possibility of arresting the disease, through attempted self-medication without proper and necessary advice or otherwise, and said individual had had no medical training and was not a physician and maintained no office nor place where condition of purchasers or prospective purchasers might be determined;

With effect of misleading and deceiving substantial part of purchasing public into false and erroneous belief that said representations were true and that his said preparation was a cure for all types of tuberculosis and causes thereof and other ailments and conditions above specified, and that public acting in the mistaken and erroneous beliefs induced by such false

and exaggerated statements and representations bought a substantial volume of his said product and trade was unfairly diverted to him from competitors likewise engaged in manufacture, sale, and distribution of treatments intended and used for relieving pains incident to diseases and afflictions of the body and for which said individual recommended his said compound, or for building up resistance of patients to such diseases and afflictions and who truthfully represent the extent of the therapeutic value of their respective products:

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

Before *Mr. John W. Norwood*, trial examiner.

Mr. S. Brogdyn 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 Emile Carpentier, an individual trading as "Dr. Emile Carpentier," hereinafter referred to as the 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:

PARAGRAPH 1. Respondent, Emile Carpentier, an individual trading as "Dr. Emile Carpentier," has his principal office and place of business located at 68 Chestnut Street, in the city of Hillsdale, State of New Jersey. Respondent has been for more than 1 year last past engaged in the business of compounding, selling, and distributing a compound that is an alleged cure for tuberculosis, chronic bronchitis, colitis, chronic gastritis, ulcerated duodenum, ulcerated stomach, and ulcerated intestines. In the course and conduct of his business, respondent offers said compound for sale and sells the same in commerce between the State of New Jersey and the several States of the United States and the District of Columbia.

When said product is sold, respondent transports it, or causes it to be transported from his principal place of business in the State of New Jersey to purchasers thereof located in States of the United States other than the State in which said shipments originated, and in the District of Columbia. There has been for more than 1 year last past, and still is, a constant current of trade and commerce in said product so manufactured, sold, and shipped by respondent between and among the various States of the United States and in the District of Columbia.

Respondent has been, for more than 1 year last past, and is now engaged in substantial competition with other individuals, partnerships, firms, and corporations engaged in the manufacture of like and similar products, or other products, and treatments intended, designed, and used for similar purposes in the treatment of tuberculosis, and for the treatment of chronic bronchitis, colitis, chronic gastritis, ulcerated duodenum, ulcerated stomach, and ulcerated intestines, and in the sale thereof in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. Respondent, in soliciting the sale of and selling his commodity, and for the purpose of creating a demand for it on the part of the consuming public, causes his commodity to be advertised through the medium of printed matter published, issued, and circulated to customers and prospective customers in the various States of the United States and in the District of Columbia. In the course and conduct of his aforesaid business, the respondent has advertised in various printed media, as follows:

(1)

PASS THIS ON

Ample verifications have proved absolute cures in from 6 weeks to 6 months' time. In all of the diseases involving tuberculosis of the lungs, the larynx, the bones, the intestines, the kidneys or the brains, chronic bronchitis, which means congested lungs, colitis, chronic gastritis, ulcerated duodenum, stomach or intestines. Intestinal tuberculosis of 9 years' standing was completely cured in six weeks in 1927. A case of hasty consumption was cured in six weeks in 1928.

CERTIFICATE OF PURITY BY THE DISCOVERER

I certify that my tuberculosis compound contains no creosote, mercury, calomel, strychnine or narcotics, nor habit-forming drugs; nor anything irritating, dangerous or harmful to the stomach or the intestines. It contains only tested, exhilarating and vitalizing herbs, roots and ingredients that eliminate the bugs.

Take two level teaspoons a day, one on arising in the morning and one on retiring at night.

(2)

TUBERCULOSIS

Beneficial results have been proven since 1927 by taking DR. EMILE CARPENTIER'S COMPOUND of ORIENTAL HERBS and NATUROPATHIC-NON-SURGICAL Treatment. Checks the disease and saves the victims, in any climate and in all countries, without diagnosing or ever seeing them. T. B's. contagion is only in the sputum.

Diametrically contrary to and revolutionizing all previous sterile cures and treatments. Verified by the Court, State and Government authorities. Secret formula and Registered Patent Rights for sale by discoverer. Registered Patented in 26 World Countries.

EMILE CARPENTIER, N. D.

68 Chestnut Street, Hillsdale, Bergen County, New Jersey and 3261 S. W. 23rd Terrace, Miami, Florida.

(3) Victims of Tuberculosis can verify the astonishing results achieved with the herbs, roots and other ingredients which are used in the T. B. Compound of Mr. Emile Carpentier of Hillsdale, Bergen County, N. J.

Physicians of New York and New Jersey send critical and incurable consumptive patients to take his medicine.

(4)

CONSUMPTION

Is Cured By

Dr. Emile Carpentier's

T. B. Compound

He does NOT Diagnose

The aforesaid statements, together with other similar statements not set out herein, serve, directly or through implication, as representations with respect to the efficacy and therapeutic value of said compound in use, to the effect that it will cure tuberculosis of the lungs, larynx, bones, intestines, kidneys, and brain; that it will cure chronic bronchitis, chronic gastritis, ulcerated duodenum, stomach, and intestines; that it contains exhilarating and vitalizing herbs and roots; that it will cure tuberculosis in all climates and in all countries; that the results achieved can be verified by many persons who have been cured of tuberculosis through the use of said compound; and that physicians send critical and incurable consumptive patients to respondent.

Over a period of many years the universally used professional designations for a Medical Doctor or a Doctor of Medicine have been, and now are, the abbreviations "Dr." and "M. D." The abbreviation "N. D." when used with respondent's name in connection with the representations or statements herein set out is a colorable simulation and imitation of the well known and long used term "M. D." The respondent's use of the terms "Dr." and "N. D." in close proximity to his name in the aforementioned statements and representations serves as a representation to prospective purchasers that respondent is a Medical Doctor or a Doctor of Medicine and tends to and does lead them into the mistaken and erroneous belief that he is a Medical Doctor.

The representations made by the respondent with respect to the nature and effect of his compound when used are grossly exaggerated, false, misleading, and untrue. In truth and in fact, the alleged compound will not cure tuberculosis of the lungs, larynx, bones, intestines, kidneys, or brain; and it will not cure chronic bronchitis, colitis, chronic gastritis, ulcerated duodenum, ulcerated stomach, and ulcerated intestines. It does not contain any exhilarating and vitalizing herbs, roots, or ingredients. It will not cure the victims of tubercu-

losis in any climate or any country. No victim of tuberculosis can, or is competent to, verify the statements made by respondent that such person has been cured of tuberculosis through use of said compound. Physicians do not send to respondent critical or incurable consumptive patients. The respondent is not either medically trained or a medical practitioner and is not a Doctor of Medicine.

PAR. 3. The effect of the foregoing false and misleading representations of the respondent in selling and offering for sale the alleged tuberculosis compound is to mislead and deceive a substantial portion of the consuming public in the various States of the United States and in the District of Columbia, into the erroneous and mistaken beliefs that said tuberculosis compound will cure consumption of the lungs, larynx, bones, intestines, kidneys, and brain, and will cure chronic bronchitis, chronic gastritis, ulcerated duodenum, ulcerated stomach, and ulcerated intestines; that the said compound contains exhilarating and vitalizing herbs and roots; and it will cure tuberculosis in all climates and in all countries; that the victims of tuberculosis can verify the results achieved by the use of the alleged compound; that physicians send critical, incurable consumptive patients to respondent; and that Emile Carpentier is a medical doctor and practitioner.

PAR. 4. Each and all of the false and misleading statements and representations used by the respondent in designating and describing his compound and the effectiveness of said compound for curing, treating, or relieving the diseases, ailments, afflictions, and conditions of the human body herein named, were and are calculated to, and had, and now have, the tendency and capacity to mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that all of said representations are true and that said compound will in truth accomplish the results claimed.

Further as a direct consequence of the mistaken and erroneous beliefs induced by the acts and representations of the respondent hereinabove detailed, a number of the consuming public have purchased a substantial volume of respondent's compound, with the result that trade has been unfairly diverted to respondent from competitors likewise engaged in the business of distributing and selling similar products or other products designed, intended, and sold for use in the cure, relief, or treatment of the various diseases, ailments, and afflictions, and conditions named herein, and who truthfully represent the effectiveness of their respective products. As a result thereof, injury has been and is now being done by respondent to competition in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 5. The aforesaid acts and practices of the respondent are all to the prejudice of the public and of respondent's competitors and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of an Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

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 March 10, 1937, issued, and on March 12, 1937, served its complaint in this proceeding upon respondent Emile Carpentier, an individual, charging him 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 respondent's answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by S. Brogdyne Teu, II, attorney for the Commission, and in opposition to the allegations of the complaint by Emile Carpentier, before John W. Norwood, an examiner of the Commission, theretofore duly designated by it; and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter the proceeding came on for final hearing before the Commission on the said complaint, the answer thereto, testimony and other evidence, briefs in support of the complaint and in opposition thereto, oral argument not having been requested; 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, Emile Carpentier, trading as Dr. Emile Carpentier, is an individual. His principal office and place of business are at 68 Chestnut Street, Hillsdale, Bergen County, N. J. He is engaged in the manufacture, sale, and distribution of a product called "T. B. Compound," a proprietary preparation advertised and sold as a cure for tuberculosis of the lungs, larynx, bones, intestines, kidneys, and brains, and as a cure for chronic bronchitis, colitis, chronic gastritis, and ulcerated duodenum, stomach, and intestines.

PAR. 2. Respondent's said product is compounded and packaged at his place of business in Hillsdale, Bergen County, N. J., and sold and distributed to individual purchasers and to members of the medical

profession. When orders are received for respondent's said product he causes it to be shipped by railway express from his place of business at Hillsdale, Bergen County, N. J., to the purchasers thereof located at various points in the various States of the United States other than the State of New Jersey. Since the date the respondent began the compounding of his said product he has maintained a course of trade in said product in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. At all times since respondent entered into said business he has been in substantial competition with other individuals, partnerships, and corporations engaged in the sale and distribution, or in the manufacture, sale, and distribution of preparations designed and sold as treatments for relieving the pain incident to or for building up the resistance of the patient to such diseases and afflictions of the human body as those for which respondent recommends his said compound as being a cure in commerce among and between the several States of the United States and in the District of Columbia.

PAR. 4. The respondent advertises his said product in newspapers having a general interstate circulation, and by posters at expositions. Respondent has also advertised and now advertises his product by means of circulars mailed to purchasers and prospective purchasers throughout the country. He also advertises his product by means of a label on each package of his T. B. Compound bearing the legend "PASS THIS ON!" as follows:

Ample verifications have proved absolute cures in from 6 weeks to 6 months' time. In all of the diseases involving tuberculosis of the lungs, the larynx, the bones, the intestines, the kidneys, or the brains. Chronic bronchitis, which means congested lungs, colitis, chronic gastritis, ulcerated duodenum, stomach or intestines. Intestinal tuberculosis of 9 years standing was completely cured in six weeks in 1927. A case of hasty consumption was cured in six weeks in 1928.

Respondent, in addition to advertising his compound as set out above, has advertised and now advertises his T. B. Compound by advertising leaflets. The following is representative of the statements and claims as to the therapeutic and curative values of respondent's compound, made by him in said advertising leaflets:

Tuberculosis is cured since 1927 by the Specific which is on sale by its discoverer, Dr. Emile Carpentier, Naturopathic Doctor. He does not diagnose nor need he ever see the patients to treat them. They must take two level teaspoons of his T. B. Compound each day. He was publicly and judicially acquitted of Fraud in 1935 in the U. S. Federal Court in spite of continuous persecutions and prosecutions for many years by the American Medical Association and the American Tuberculosis Association. Barred from the mail, then arrested and put under \$2,000 bond for committing the crime of curing the White Plague.

The following representations appeared in a current circular or broadside which respondent sends out to purchasers and prospective purchasers:

EUREKA!

Victims of Tuberculosis can verify the astonishing results achieved with the herbs, roots and other ingredients which are used in the T. B. Compound of Mr. Emile Carpentier of Hillsdale, Bergen County, N. J.

Physicians of New York and New Jersey send critical and incurable consumptive patients to take his medicine. Ample verifications have conclusively proven its value in open court where 50 past victims presented themselves as evidence in the First District Court of Bergen County at Englewood, N. J., on Oct. 22, 1929. The patients stay at home and take two teaspoons of this compound each day to obtain proper results.

By means of the foregoing statements the respondent represents to purchasers and prospective purchasers, that his T. B. Compound is an effective cure for all types and forms of tuberculosis, and for chronic bronchitis, colitis, chronic gastritis, and ulcerated duodenum, stomach, and intestines, whether caused by or associated with a tubercular condition or any other affliction or condition of the human body.

PAR. 5. A qualitative analysis of respondent's T. B. Compound was made by a government agency. This analysis showed the respondent's compound to contain:

Total solids:

(5 hrs. at 100° C.)	84.94%
Water (Xylene method)	18.8 %
Ash (Chiefly magnesium, carbonate and sulphate with traces of iron, calcium and chloride)	.41%
Acidity of steam distillate as acetic acid	.77%
Chloroform soluble material	42.45%
Saponification value of chloroform soluble material (U. S. P. XI for lard=195-203)	201.2 %
Iodine value of chloroform soluble material (U. S. P. XI for lard=46-70)	52.1 %
Reducing sugars before inversion as invert sugar	30.52%
Reducing sugars after inversion as invert sugar	31.10%

A reading at 87° C. on an inverted half normal solution of the same gave only 0.5° V. At 25° C., the solution was levorotatory. This shows the absence of glucose and indicates that either simple syrup or honey was used.

The product is a semi-solid preparation consisting chiefly of lard and a syrupy liquid. There is a small amount of acetic acid present and some unidentified plant material. The syrup was originally either simple syrup (sucrose and water) or honey, but because of the action of the acetic acid now consists chiefly of invert sugar.

Small amounts of bark or pithy material are present.

PAR. 6. Uncontroverted medical testimony is to the effect that there is no known cure for tuberculosis.

PAR. 7. It is found that respondent's T. B. Compound has no curative, remedial, or therapeutic value in the treatment of the various types of tuberculosis or the various causes thereof and has no beneficial value whatever in the treatment of such conditions and ailments. It is further found that said T. B. Compound will not cure or in any way be beneficial in the treatment of chronic bronchitis, colitis, chronic gastritis, and ulcerated duodenum, stomach, and intestines, whether caused by or associated with a tubercular condition or any other affliction or condition of the human body.

PAR. 8. Upon the testimony and other evidence in the record it is found that the representations as to the therapeutic and curative values of respondent's T. B. Compound are untrue; that no one has been cured of tuberculosis by its use; that physicians have not successfully prescribed it in the treatment of patients with tuberculosis or other diseases for which the respondent claims his product a cure, and that respondent's compound is not an original or secret discovery. The ingredients of his compound have long been known. It is also found that by the use of respondent's compound persons afflicted with tuberculosis may delay the securing of essential medical care and hospitalization so long that there is no possibility of arresting the disease.

Respondent's product is sold direct to purchasers who can and do attempt self medication without the proper and necessary advice as to their condition and proper treatment therefor. This oftentimes results in the condition of the patient reaching a point where it is beyond the aid of medical treatment.

PAR. 9. Respondent is not a medical doctor, he has never had any medical training; never served an internship in any hospital or been connected with the medical profession in any way other than as an orderly in hospitals. Respondent maintains no office or place where the condition of purchasers and prospective purchasers of his compound may be determined.

The use by respondent of the representations set forth above in his advertising literature has had, and now has, the capacity and tendency to, and does mislead and deceive a substantial part of the purchasing public into the false and erroneous belief that said representations are true and that said T. B. Compound is a cure for all types of tuberculosis and the causes thereof, chronic bronchitis, colitis, chronic gastritis, and ulcerated duodenum, stomach, and intestines, whether caused by or associated with a tubercular condition or any other affliction or condition of the human body.

Acting under the above mistaken and erroneous beliefs induced by the false and exaggerated statements and representations by the respondent as above referred to, the public has purchased a substantial volume of the respondent's said product. As a result trade has been

unfairly diverted to respondent from his competitors likewise engaged in the manufacture, sale, and distribution of treatments intended to be used and used for relieving the pains incident to the diseases and afflictions of the human body for which respondent recommends his compound, or for building up the resistance of the patients to such diseases and afflictions, who truthfully represent the extent of the therapeutic value of their respective products.

CONCLUSION

The aforesaid acts and practices of the respondent Emile Carpentier, an individual, trading as Dr. Emile Carpentier, are to the prejudice and injury of the public and of respondent's competitors, 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."

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 John W. Norwood, 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, oral argument not having been requested, and the Commission having made its findings as to the facts and its conclusion that respondent 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, Emile Carpentier, an individual, trading as Dr. Emile Carpentier, or trading under any other name, or through any corporate or other device, his representatives, agents, and employees, in connection with the offering for sale, sale, and distribution of a medicinal product now designated as "T. B. Compound," or any other medicinal product containing substantially the same ingredients or possessing substantially the same properties, sold under that name or any other name in interstate commerce or in the District of Columbia, do forthwith cease and desist from directly or indirectly:

1. Representing that said product has any curative, remedial, or therapeutic value, or is in any way beneficial in the treatment of tuberculosis of the lungs, larynx, intestines, kidneys, brains, or tuberculosis of any other part or parts of the human body.

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2. Representing that said product has any curative, remedial, or therapeutic value, or is in any way beneficial in the treatment of chronic bronchitis, colitis, chronic gastritis, and ulcerated duodenum, or of diseases and maladies of the stomach and intestines, or of any other similar or allied condition or conditions of the human body.

3. Representing that said product contains any oriental herbs of any nature or description whatsoever.

4. Representing that physicians have prescribed said product for patients suffering from any tubercular conditions, or that physicians have sent critical and incurable consumptive patients to the said Emile Carpentier to take said product.

5. Representing that "Consumption" or tuberculosis in any form is cured by Emile Carpentier.

6. Representing through the use of the term medical doctor, or doctor of medicine, or any abbreviation thereof or any other professional designation of like or similar import that Emile Carpentier is a physician or doctor.

7. Representing that any one has been cured of tuberculosis in from 6 to 8 weeks, or any other period of time, by use of respondent's compound.

It is further ordered, That the respondent shall, within 60 days after service upon him 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 this order.

Syllabus

IN THE MATTER OF

RUSSEKS FIFTH AVENUE, INC., AND FASHION FIRSTS, INC.

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

Docket 3226. Complaint, Sept. 14, 1937—Decision, Feb. 12, 1938

Where a corporation, stock of which was owned by, and widely distributed to, general public, and which was engaged in advertisement, distribution, and sale of furs, coats, suits, dresses, hats, and other wearing apparel; and its corporate advertising agency, under common control, and engaged in designing, modeling, advertising, and fostering sale exclusively of such products as were offered by said first-named corporation in cooperation with others, and in publishing periodical "Fashion Firsts," sold to first corporation as principal subscriber and to other retail dealers throughout the United States for distribution to their patrons under aforesaid title and with imprint thereon of particular retailer, and depictions of live models of furs, coats, dresses, hats, and other articles of wearing apparel selected by such agency from group of manufacturers who, in cooperation with, and at instance and request of, said first-named corporation and itself manufacture, sell, and distribute said merchandise exclusively to it and other retail dealer subscribers to said "Fashion Firsts," with exclusive right in their respective localities to sell merchandise therein depicted; in soliciting sale and in sale and distribution of garments and wearing apparel sold by said first corporation, and of aforesaid "Fashion Firsts" magazine, and cooperating together and with others—

Represented and implied that the garments and wearing apparel described and advertised in said magazines were designed, fabricated, tailored, and made in England through use in magazine in question of pictorial representations of the British Royal Coat of Arms and depictions of the Royal Hussars and of rural and other parts of the British Isles, together with illustrations of garments and other wearing apparel thus offered, and designated and described by distinctively English names, together with statements referring to some part of the aforesaid Isles, such as "Buckingham," "What would a collection of English coats be without a highbuttoning reefer?"; "York House," "Knize has made one (a coat) for Fashion Firsts in a new hairy Scottish woolen" and other references and names of similar tenor and implication, along with frequent references to England and English taste, styling, garments, and places, and thereby indicated to retail dealers and to consuming public, and especially to persons of English blood or origin and to other purchasers with preference for goods manufactured or tailored in England, that the garments and other wearing apparel designated, described, and represented as aforesaid were designed, made and tailored in England upon authority of the Royal Warrant Holders Association or members thereof or by the British Government or members of the British royal family;

Notwithstanding fact neither said first named corporation nor its corporate advertising agency were members of said Association and neither the British Government nor said Association or any member of said family or of said Association having right to use said Royal Coat of Arms had ever granted or