

Complaint

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IN THE MATTER OF  
COLONIAL 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 3239. Complaint, Oct. 8, 1937—Decision, Apr. 22, 1938*

Where a corporation engaged in manufacture of silk, rayon, and other fabrics, and in sale thereof to garment manufacturers and other customers in the various States and in the District of Columbia—

Supplied to garment manufacturers, in connection with sale and delivery of certain of its products, labels and tags containing legend "this garment is made of SATIN AMOROSA PURE DYE With Crown Rayon Yarn", and cloth labels carrying words "Amora Crepe Pure Dye of Celanese Yarn", and advertised its said products in newspapers and other periodicals having interstate circulation as "Satin Amorosa," notwithstanding fact products in question were not, as thus represented to such trade and public, composed of silk, product of the cocoon of the silk worm, but of materials other than silk;

With capacity and tendency to mislead and deceive substantial portion of purchasing public, through use of such words as "Satin," "Pure Dye," and "Crepe," long and still associated in public mind with fabric made, through various weaves, from cocoon of silk worm, commonly known and understood by public generally as silk, and, as such, long esteemed for preeminent qualities of silk products, i. e., those made from cocoon of silk worm as above set forth, and to cause purchase by them of aforesaid products as result of such erroneous belief, engendered as above set forth, and with result that trade was thus diverted unfairly to said corporation and its customers, from competitors and customers thereof who do not use such or similar misrepresentations in connection with sale of their respective products in commerce among the various States:

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

*Mr. George W. Williams* for the Commission.

*Weil, Gotshal & Manges*, 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 Colonial 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, 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, Colonial Mills, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 469 Seventh Avenue in the city of New York, in said State. It is now, and for many years last past has been, engaged in the business of manufacturing silk, rayon, and other fabrics. It sells, and has sold and distributed, such goods to garment manufacturers and other customers located in the various States of the United States and in the District of Columbia. It causes, and during the time above mentioned has caused, its said goods, when sold, to be shipped from its place of business in New York City to the purchasers thereof located in the various States of the United States other than the State of New York. There is now, and has been at all times mentioned herein, a constant current of trade and commerce by said respondent in said goods, so sold by it, between and among the various States of the United States. Respondent is now, and at all times herein mentioned has been, in substantial competition with other corporations and with persons, firms, and partnerships engaged in the sale and distribution of silk, rayon, and other fabrics in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of its business as described in paragraph 1 herein, respondent, in soliciting the sale of and selling certain of its products to garment manufacturers, supplied its said customers with labels and tags which said customers did, and do, attach to the garments manufactured by them from said products. The said labels and tags bear the following language:

This garment is made of

SATIN AMOROSA

PURE DYE

With Crown Rayon Yarn

The words "Satin Amorosa Pure Dye" were, and are, printed in large, conspicuous, white letters on a dark, fanciful background, while the words "With Crown Rayon Yarn" were and are, printed below in much smaller and less conspicuous type. The said respondent also furnished its customers with cloth labels to be sewn, and which were sewn, by such customers to garments made by them from fabrics purchased from respondent. These cloth labels carried the following words:

Amora

Crepe

Pure Dye

of Celanese Yarn

In soliciting the sale of, and selling, said products, respondent caused, and now causes, advertising matter to be inserted in newspapers and other periodicals having an interstate circulation, wherein such products of respondents were, and are, described and referred to as "Satin Amorosa."

The foregoing statements and representations made by the respondent, as in this paragraph set out, serve as representations to members of the purchasing public and to garment manufacturers that such products so advertised and offered for sale were, and are, silk products. The representations hereinabove set forth are, and were, grossly false and misleading in that said products so represented, designated and referred to are not, and were not, composed of silk, the product of the cocoon of the silkworm, but are, and were, composed of materials other than silk.

PAR. 3. The word "silk" for many years last past has had, and still has, in the mind of the garment manufacturers and consuming public generally a definite and specific meaning, to wit, the product of the cocoon of the silkworm. Silk products for many years have held, and still hold, great public esteem and confidence for their preeminent qualities. Silk fibre has long been woven into a variety of fabrics. A variety of distinctive terms has been applied to the fabrics resulting from different types of weaving of silk fibre. Dress goods and other items of wearing apparel designated, described and referred to as "satin," "pure dye" and "crepe" have been for a long time, and at the present time still are, associated in the public mind with the fabric made from the cocoon of the silkworm, commonly known and understood by the public generally as "silk."

PAR. 4. There are among the competitors of respondent mentioned in paragraph 1 herein corporations, individuals, partnerships and firms engaged in the manufacture and sale of silk, rayon and other fabrics who do not misrepresent the kind of goods manufactured and offered for sale by them.

PAR. 5. The use by respondent of the representations set forth herein have had, and now have, the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such representations are, and were, true and to cause them to purchase said products as a result of such erroneous beliefs engendered as above set forth. The use by respondent of the representations aforesaid has unfairly diverted, and does unfairly divert, trade in said commerce to the respondent from its said competitors, and thereby substantial injury is being, and has been done, by respondent to competition in commerce among and between the various States of the United States.

PAR. 6. The above alleged acts and practices of respondent, as hereinabove alleged, are all to the prejudice of the public and respondent's said 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 the Federal Trade Commission Act, the Federal Trade Commission, on October 8, 1937, issued, and subsequently served its complaint in this proceeding upon respondent, Colonial Mills, Inc., charging it 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, the Commission by order entered herein, granted respondent's motion for permission to withdraw said answer, and to substitute in lieu thereof an answer admitting all the material allegations of the complaint to be true, and waiving the taking of further evidence and all other intervening procedure, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission, on the said complaint and the substitute answer, 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, Colonial Mills, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 469 Seventh Avenue, in the city of New York and State of New York. It is now, and for many years last past has been, engaged in the business of manufacturing silk, rayon, and other fabrics. It sells, and has sold and distributed, such fabrics to garment manufacturers and other customers located in the various States of the United States and in the District of Columbia. It causes, and during the time above mentioned has caused, its said fabrics, when sold, to be shipped from its place of business in New York to the purchasers thereof located in the various States of the United States other than the State of New York. There is now, and has been at all times mentioned herein, a course of trade and

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commerce by said respondent in said fabrics, so sold by it, between and among the various States of the United States. Respondent is now, and at all times mentioned herein has been, in substantial competition with other corporations and with other persons, and firms and partnerships, engaged in the sale and distribution of silk, rayon, and other fabrics in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. Respondent, in selling and delivering certain of its products to garment manufacturers, in the course and conduct of its business as described in paragraph 1 herein, has supplied its said customers with certain labels and tags which said customers attach to the garments manufactured by them from said products. The said labels and tags bear the following language:

This garment is made of

SATIN AMOROSA

PURE DYE

With Crown Rayon Yarn

The words "Satin Amorosa" and "Pure Dye" were, and are, printed in large, conspicuous, white letters on a dark, fanciful background, while the words "With Crown Rayon Yarn" were, and are, printed in much smaller type. The said respondent also furnished its customers with cloth labels to be sewn, and which were sewn, to garments made by such customers from fabrics purchased from the respondent. These cloth labels carried the following words:

Amora

Crepe

Pure Dye

of Celanese Yarn

In soliciting the sale of, and selling, said products, respondent caused, and now causes, advertising matter to be inserted in newspapers and other periodicals having an interstate circulation, wherein such products of respondent were, and are, described and referred to as "Satin Amorosa."

The foregoing statements and representations made by the respondent, as in this paragraph set out, serve as representations to members of the purchasing public and to garment manufacturers that such products so advertised and offered for sale are and were silk products. The representations hereinabove set forth are false and misleading in that said products so represented, designated and referred to are not, and were not, composed of silk, the product of the cocoon of the silkworm, but are, and were, composed of materials other than silk.

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PAR. 3. The word "silk" for many years last past has had, and still has, in the minds of the garment manufacturers and consuming public generally a definite and specific meaning, to wit, the product of the cocoon of the silkworm. Silk products for many years have held, and still hold, great public esteem and confidence for their preeminent qualities. Silk fibre has long been woven into a variety of fabrics. A variety of distinctive terms has been applied to the fabrics resulting from different types of weaving of silk fibre. Dress goods and other items of wearing apparel designated, described and referred to as "satin," "pure dye," and "crepe" have been for a long time, and at the present time still are, associated in the public mind with the fabric made from the cocoon of the silkworm commonly known and understood by the public generally as "silk."

PAR. 4. There are among the competitors of respondent mentioned in paragraph 1 herein, corporations, individuals, partnerships, and firms engaged in the manufacture and sale of rayon and other fabrics who do not misrepresent the kind of goods manufactured and offered for sale by them.

PAR. 5. The use by respondent of the representations set forth herein has had, and now has, the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such representations are true, and to cause them to purchase said products as a result of such erroneous beliefs engendered as above set forth. Through respondent's use of the aforesaid misrepresentations in the manner set forth, trade has been diverted unfairly to respondent and its customers from its competitors and their respective customers who do not use the same or similar misrepresentations in connection with the sale of their respective products in commerce between and among the various States of the United States.

## CONCLUSION

The aforesaid acts and practices of the respondent company, Colonial Mills, Inc., are to the injury and prejudice of the public and of respondent's competitors, and constitute unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

## ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer filed herein on March 11, 1938, by respondent admitting all the material allegations of the complaint to be true and waiving the taking of

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further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

*It is ordered*, That the respondent, Colonial Mills, Inc., its officers, representatives, agents, and employees, in connection with the offering for sale, sale and distribution of fabrics in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Using, assisting, or cooperating in the using of the words "satin," or "crepe" or any other words or combination of words of similar import or meaning to describe or designate any fabric or product which is not composed wholly of silk, the product of the cocoon of the silkworm unless, when said words "satin" or "crepe," or similar words or terms are used to denote the type of weave or construction of the fabric, there is used in immediate connection and conjunction therewith, in letters of equal size or conspicuousness, a word or words accurately naming or describing the fiber, material, or materials from which said fabric or product is actually made; and provided, that such disclosure of the fiber or material content thereof shall be made by accurately designating each constituent fiber or material thereof, in the order of its predominance by weight, beginning with the largest single constituent;

2. Using, assisting, or cooperating in the using of the words "Pure Dye," or any other word or words of similar import or meaning, to describe or designate fabrics or products which are not composed wholly of silk, the product of the cocoon of the silkworm.

*It is further ordered*, That the respondent 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 this order.

## Complaint

## IN THE MATTER OF

## UNIVERSAL HANDKERCHIEF MFG. 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 3270. Complaint, Nov. 22, 1937—Decision, Apr. 23, 1938*

Where a corporation engaged in sale and distribution of packaged handkerchiefs to jobbers—

- (a) Displayed on letterheads, cartons, invoices, order blanks, and other printed matter circulated through the various states to customers and prospective customers, corporate or trade name containing letters "Mfg.," and represented thereby that it was the manufacturer of the products sold by it, and in certain of said advertising that it was the "largest manufacturer of packaged handkerchiefs in the United States," and "World's largest makers of one quality handkerchiefs," with factories in certain New Jersey cities;

Facts being it neither owned a factory nor operated nor controlled any factories making handkerchiefs, but purchased cloth from various cotton textile factories and delivered same to certain manufacturers, who made said cloth into handkerchiefs in accordance with its specifications as to spinning, cutting, number of stitches making hem, and dampening, and delivered finished articles to it for packaging in its own place of business and for resale as above set forth; and

- (b) Falsely represented that handkerchiefs sold by it were laundered before packaging for resale, or were "laundered soft" or "laundered soft finish";

With capacity and tendency to mislead and deceive a substantial portion of purchasing public into erroneous belief that said representations were true and with result that substantial number of such public purchased considerable volume of its said articles as and for purchases made directly from the manufacturer thereof, preferred by substantial portion of wholesale and retail buyers as offering, in their belief, closer prices, better quality, and other advantages not had by dealing through jobber, packager, selling agency, middleman, or otherwise, and trade was unfairly diverted to it from competitors likewise engaged in sale and distribution of handkerchiefs, and who truthfully advertised and represented nature and character of their business;

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

*Mr. Joseph C. Fehr* for the Commission.

*Foster & Sorin*, 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 Uni-