

IN THE MATTER OF
CHARLES H. BACON COMPANY AND SCOTT-BARTELS
COMPANY, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914, AND OF SEC.
3 OF TITLE I OF AN ACT OF CONGRESS APPROVED JUNE 16, 1933¹

Docket 2087. Complaint, Feb. 21, 1935²—Decision, Feb. 24, 1939

Where a corporation engaged in manufacture and sale of hosiery, and a second company engaged as exclusive selling agent thereof in soliciting and procuring orders for such hosiery and, as thus engaged, in substantial competition in commerce among the various States and in the District of Columbia with others engaged in sale and distribution of hosiery, including many who do not represent, brand, label, advertise, or describe their said product falsely or deceptively, and do not represent that it contains more silk than is in fact present—

Made use of words "PURE THREAD SILK" in labels, brands, or stamps on their said product, together with such words as "Reinforced with Rayon" or "Reinforced with Artificial Silk" or "Twisted with Rayon," and thereby and otherwise caused said hosiery to be represented, advertised, described, sold, and distributed in the trade and to the consuming public in various States and in said District as containing genuine and pure silk as the principal or major constituent therein, and in a proportion or quantity larger than that of rayon, facts being the tops, heels, soles, and toes of such hosiery, with appearance and feel of silk, were composed wholly of cotton, and other parts thereof were composed of approximately 93 percent rayon, with which was mixed from 3 to 7 percent silk, amounting to 2 percent of the hose by weight;

With the result that they thereby placed in the hands of dealers means or instrument of deception and fraud whereby such dealers were enabled, aided, and assisted in misleading and deceiving members of purchasing public as to contents of said hosiery and quality, value, grade, and substance thereof, and with effect of misleading and deceiving members of purchasing public into erroneous and mistaken belief that such false and misleading statements and representations were true, and that such product contained pure or genuine silk in a larger proportion than was in fact present therein, and in a larger proportion than rayon content thereof, and of causing members of such public, because of such erroneous and mistaken belief, to purchase quantities thereof, and of thereby diverting unfairly trade to them from their competitors in commerce who truthfully advertise and represent their respective hosiery and materials contained therein; to the injury of competition in commerce:

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

Before *Mr. Robert S. Hall*, trial examiner.

Mr. James M. Hammond for the Commission.

Frantz, McConnell & Seymour, of Knoxville, Tenn., for respondents.

¹ Count II of complaint, alleging violation of National Industrial Recovery Act, dismissed.

² Amended and supplemental.

AMENDED AND SUPPLEMENTAL 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 Charles H. Bacon Co., a corporation, and Scott-Bartels Co., a corporation, hereinafter referred to as respondents, have been and are using unfair methods of competition in commerce, as "commerce" is defined in said act of Congress, in violation of said act and in violation of the act of Congress approved June 16, 1933, known as the "National Industrial Recovery Act," and it appearing to said Commission that a proceeding by it in respect thereof would be to the interest of the public, hereby issues its complaint stating its charges in that respect as follows:

Count 1

PARAGRAPH 1. Respondent Charles H. Bacon Co. is a corporation organized and existing under the laws of the State of Delaware, having its principal office and place of business at Lenoir City in the State of Tennessee, and operating hosiery mills or manufacturing plants located in the State of Tennessee at Lenoir City, Morristown, Greenville, and Loudon. Respondent Scott-Bartels Co., Inc., is a corporation organized and existing under the laws of the State of Delaware, having its office and principal place of business in the city and State of New York. Respondent Charles H. Bacon Co. is, and at all times hereinafter mentioned has been engaged in the business of manufacturing hosiery for men, women, and children and in selling and distributing said products from its mills and places of business in the State of Tennessee to consumers and to wholesale and retail dealers in the several States and Territories of the United States and in the District of Columbia. Respondent Scott-Bartels Co., Inc., is and at all times hereinafter mentioned has been the selling agent of respondent Charles H. Bacon Co., and is and has been engaged in the business of soliciting and procuring purchase orders for said hosiery from, and in promoting and effectuating the sale and distribution of said merchandise in interstate commerce to, wholesale and retail dealers and other purchasers throughout the United States.

PAR. 2. Throughout the course and conduct of their business respondents have been and still are offering for sale, selling, and distributing the said hosiery, manufactured by respondent Charles H. Bacon Co., to their customers and to purchasers generally in direct active competition with many persons, firms, and other corporations also engaged in the business of selling and distributing hosiery for men, women, and children in commerce in, between, and among the

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several States and territories of the United States and the District of Columbia; and in such sale and distribution respondents have been and are engaged in commerce as "commerce" is defined in said act of Congress, and have caused and continue to cause said hosiery manufactured by respondent Charles H. Bacon Co., as and when sold by them, to be shipped, transported, and delivered in commerce from shipping points in the State of Tennessee and elsewhere into or through States other than the State or States in which such respective shipments originated, and into or through the Territories and the District of Columbia, to the respective purchasers of such hosiery in such other States, the Territories and in said District.

PAR. 3. In the course and conduct of their said business and during a period of more than 3 years last past, respondents have caused and continued to cause their said hosiery to be stamped, branded, and labeled with, and to be marketed, sold, and distributed under, certain brands, labels, or stamps relating to the silk content of said hosiery. Five representative specimens of said labels, brands, or stamps so used by respondents read as follows:

PURE THREAD SILK

Reinforced With Rayon
Made in U. S. A.

PURE THREAD SILK

Reinforced with Rayon

PURE THREAD SILK

Reinforced With Rayon
240 Needle

PURE THREAD SILK

Reinforced with Artificial Silk

X68

PURE THREAD SILK

Twisted With Rayon
240 Needle
"Split-Foot" Half Hose

RAYON AND PURE THREAD SILK

Extra	Durene	Extra
Wear	Lic. 491	Wear
Toe	Sole-Heel	Heel
Snubber	Top-Toe	Snubber

PAR. 4. Said labels, stamps, and brands are and have been used by respondents upon and in connection with said hosiery with the purpose and intention of having such merchandise displayed, offered for sale, sold, and marketed and distributed in the hosiery trade and to the consuming public under said brands, stamps, and labels. Pursuant to respondents' said purpose and intention and by reason of said use of such labels, brands, and stamps, the said hosiery is and has been displayed, offered for sale, sold, and distributed under the same by respondents' dealer-purchasers and by dealers generally in the regular course of trade to the consuming public.

PAR. 5. By means of such stamps, brands, and labels and by other forms of representations respondents cause and have caused said hosiery to be represented, advertised, and described directly and indirectly and to be marketed in the trade and to the consuming public as hosiery containing genuine and pure silk as one of the principal or major constituents of said hosiery and as being present in an appreciable, substantial, and effective quantity or proportion and as containing pure or genuine silk in a proportion or quantity as large as, or larger than, the proportion or quantity of rayon or so-called artificial silk which is present.

PAR. 6. Respondents' said hosiery, branded, stamped, labeled, and represented as aforesaid, is composed largely of cotton and rayon, or so-called artificial silk, which are the principal or major constituents of said hose and are present in the following approximate proportions by weight of the hose, to wit: Cotton 73 percent, rayon or so-called artificial silk 25 percent. The tops, heels, soles, and toes of such hose are composed wholly of cotton, and the other parts of said hose are composed largely and principally of rayon or so-called artificial silk with which is mixed such silk content as may be present in said hosiery.

PAR. 7. Such hose is not composed of nor does it contain pure silk, silk, or genuine silk, as a principal or major constituent or part; and such silk, genuine silk, or pure silk as is or may be present in said hose is less than 5 percent of the hose by weight, to wit: 2 percent of the hose by weight, and is of such small quantity or proportion as to be inappreciable, ineffective, or insubstantial. The said hose and the bulk or body thereof give and have the appearance of silk.

PAR. 8. The aforesaid labels, brands, stamps, and representations and each of them, as used by respondent as hereinbefore set forth are false, misleading, and deceptive; and they and each of them have and had the capacity, tendency, and effect (a) of misleading and deceiving the purchasing and consuming public into the erroneous

belief that said hosiery contains pure or genuine silk in larger proportion than is in fact present, and that such hosiery is composed of or contains pure or genuine silk in the quantity or proportion which is as large as the proportion of rayon in said hosiery and is sufficiently large in quantity or proportion so as to be substantial, appreciable, and effective, and that pure or genuine silk constitutes one of the principal or major proportions or contents of said hose; (b) of causing purchasers to purchase said hosiery and to do so in or because of such erroneous beliefs; and (c) of causing dealers to resell, and of aiding and assisting dealers in reselling, said hosiery to other dealers and to the consuming public under such false, misleading and deceptive stamps, brands, labels, and representations.

PAR. 9. In using the labels, brands, and stamps referred to in paragraph 3 hereof in the sale and distribution of said hosiery to dealers, respondents thereby have placed and are continuing to place in the hands of dealers, a means and instrument of deception and fraud whereby such dealers are enabled, aided, and assisted (a) to mislead and deceive purchasers as to contents of said hose and the quality, value, grade, and substance thereof, and (b) to induce and cause the consuming and purchasing public to purchase said hosiery in or because of the erroneous belief or inference that the said brands, labels, and stamps thereon are true in fact, and that the said hosiery contains pure silk or genuine silk in a proportion greater than is in fact present in such hosiery or in a proportion which is as large as the proportion of rayon which is in fact present in such hose.

PAR. 10. Among the competitors of respondents are manufacturers, dealers, and distributors of hosiery for men, women, and children who sell and distribute such hose to the purchasing and consuming public throughout the United States in competition with respondents' said hose and who do not, in connection therewith or otherwise, represent, brand, label, advertise, or describe their hosiery falsely or deceptively or as containing more silk than is in fact present in their said merchandise.

PAR. 11. The use by respondents of the false, misleading, and deceptive acts and representations hereinbefore set forth constitutes practices or methods of competition which are unfair and which tend to and do (a) prejudice and injure the public, (b) unfairly divert trade from and otherwise prejudice and injure respondents' competitors, (c) operate as a restraint upon and a detriment to the freedom of fair and legitimate competition in the hosiery business; and they and each of them constitute unfair methods of competition in commerce within the intent and meaning and in violation of Sec-

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tion 5 of aforesaid 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.

Count 2

PARAGRAPH 1. The allegations and averments of paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of count 1 hereinabove set forth are adopted and incorporated herein by reference as allegations and averments of count 2 and are hereby charged and alleged as part of count 2 as fully and as completely as though the several allegations and averments of said paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of count 1 were here repeated verbatim.

PAR. 2. Pursuant to and to effectuate the provisions of title I of the National Industrial Recovery Act approved June 16, 1933, a Code of Fair Competition for the Hosiery Industry has been formulated and thereafter accepted, adopted, approved, and issued by the President of the United States by Executive order signed and issued August 26, 1933. In and under said code it is provided that upon such acceptance by the President the provisions of said code shall be the standard of fair competition for the said hosiery industry. It is further provided in and by said code, among other things, as follows:

Article VIII—Fair Trade Practice

To assure fair competition in the Industry and proper practices in the merchandising of hosiery, the following fair trade practice provisions are made a part of the Code and binding on all hosiery manufacturers:

* * * * *

11. *Misbranding and improper marking.*—To sell hosiery marked or brauded falsely with the effect of misleading or deceiving purchasers or the ultimate consumer with respect to price, quantity, quality, gauge, grade, substance, or value of the merchandise is unfair trade practice.

12. *Misrepresentation of materials.*—(a) If any definite section or sections of the hose be made of a material entirely different from that of the bulk or body of the stocking, when such material gives the appearance of silk, the hose must be stamped with the names of both materials.

(b) No material or content shall be stamped on any hose unless it represents at least five per cent (5%) of the hose by weight. When two or more contents exist, if any content is stamped on the hose, all contents constituting five per cent (5%) or more of the weight of the hose shall be stamped and in the order of major content.

The said code and the said provisions thereof have gone into effect on the second Monday following August 26, 1933, the date of said Executive order and of the approval of such code by the President; and at all times since said second Monday the said code, including

the aforesaid provisions thereof, have been and they still are in full force and effect. The respondents are and have been members of said hosiery industry and are and have been subject to said code and said provisions thereof at all times since said code has gone into effect as aforesaid.

PAR. 3. In the aforesaid sale and distribution of said hosiery under the stamps, brands, and labels hereinabove described and referred to and at all times since the aforesaid effective date of said code, respondents have sold and distributed and continue to sell and distribute, in and affecting interstate commerce throughout the United States, said hosiery while marked or branded falsely with the effect of misleading or deceiving purchasers or the ultimate consumer with respect to quality, grade, substance, or value of said hosiery, which acts and practices of respondent constitute and have constituted unfair trade practices and are and have been in violation of aforesaid standard of fair competition and of the provisions of said code, to wit: Section or paragraph numbered 11 of article VIII of said code (hereinabove quoted).

PAR. 4. In marking, labeling, and stamping their said hosiery and in marketing the same in and affecting interstate commerce throughout the United States as, and under the conditions and circumstances, hereinabove alleged, respondents have violated and continue to violate said standard of fair competition and the provisions of said code, to wit: Paragraphs marked (a) and (b) of section or paragraph numbered 12 of article VIII of said code (hereinabove quoted) in that the said hose as and when sold and distributed by respondents as aforesaid contained the name of a material or content stamped upon such hose which material or content represents less than 5 percent of the hose by weight; and further in that two or more contents exist in said hose and said content is and has been stamped upon said hose, but all contents constituting 5 percent or more of the weight of the hose is not and has not been stamped upon such hose in the order of major content, which acts and practices constitute unfair trade practices.

PAR. 5. The above alleged acts and practices of the respondents, in the stamping, branding, and labeling of their hose and in the sale and distribution thereof in and affecting interstate commerce throughout the United States as hereinabove alleged, are and have been methods of competition in and affecting interstate commerce which are unfair, injurious, and detrimental to competitors and the public and are and have been unfair methods of competition under, and are and have been in violation of, said National Industrial Recovery Act

and the Federal Trade Commission Act as amended, to wit: Section 5 of the 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 the Federal Trade Commission Act, the Federal Trade Commission on the 21st day of February 1935, issued and subsequently served its amended and supplemental complaint in this proceeding upon said respondents, Charles H. Bacon Co. and Scott-Bartels Co., Inc., charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. On the 24th day of August 1935, the respondents, by their counsel, Frantz, McConnell, and Seymour, filed their answer in this proceeding. Thereafter, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by the respondents by their counsel, Frantz, McConnell, and Seymour, and W. T. Kelley, chief counsel for the Federal Trade Commission, subject to the approval of the Commission, may be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the amended and supplemental complaint, or in opposition thereto, and that the said Commission may proceed upon said statement of facts to make its report, stating its findings as to the facts and its conclusion based thereon and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs. Thereafter, this proceeding regularly came on for final hearing before the Commission on said amended and supplemental complaint, answer, and stipulation, said stipulation having been approved, accepted, and filed, 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 its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Charles H. Bacon Co., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware and having its principal office and place of business at Lenoir City in the State of Tennessee and operating hosiery mills or manufacturing plants at Lenoir City and Loudon in the State of Tennessee.

The respondent, Scott-Bartels Co., Inc., was a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware and having its office and principal place of business in the city of New York, State of New York. Respondent, Scott-Bartels Co., Inc., since the filing of the amended and supplemental complaint in this proceeding, has, by amendment to its charter, changed its corporate name to Bacon-Scott Co., Inc. The Scott-Bartels Co., Inc., and the Bacon-Scott Co., Inc., are one and the same corporation except for this change in name. .

PAR. 2. Respondent, Charles H. Bacon Co. is, and at all times mentioned herein has been, engaged in the business of manufacturing, selling, and distributing hosiery. Said respondent sells said hosiery to consumers and to wholesale and retail dealers situated in various States of the United States and in the District of Columbia and causes the said hosiery, when sold by it, to be transported from its said mills in the State of Tennessee to the purchasers thereof at their respective points of location in various States of the United States other than the State of Tennessee and in the District of Columbia.

Respondent, Scott-Bartels Co., Inc., now the Bacon-Scott Co., Inc., is, and at all times mentioned herein has been, the exclusive selling agent of respondent, Charles H. Bacon Co., and is now, and at all times mentioned herein has been, engaged in the business of soliciting and procuring orders for said hosiery and in promoting and effectuating the sale and distribution of said hosiery to consumers and wholesale and retail dealers situated in various States of the United States and in the District of Columbia.

Respondents maintain, and at all times mentioned herein have maintained, a course of trade in commerce in said hosiery among and between the various States of the United States and the District of Columbia.

PAR. 3. Respondents are engaged in substantial competition in commerce among and between the various States of the United States and in the District of Columbia with other corporations and with partnerships, firms, and individuals selling and distributing hosiery. Among such competitors in said commerce are many who do not represent, brand, label, advertise, or describe their hosiery falsely or deceptively and who do not represent that their hosiery contains more silk than is in fact present in such hosiery.

PAR. 4. In the course and conduct of their said business and for the purpose of inducing the purchase of their hosiery, respondents have caused their hosiery to be stamped, branded, and labeled with, and to be sold and distributed in commerce between and among the vari-

ous States of the United States and in the District of Columbia bearing certain brands, labels or stamps purporting to relate to and be descriptive of the silk content of said hosiery. Among and typical of the labels, brands, or stamps, so used and disseminated, by respondents are the following:

PURE THREAD SILK
Reinforced With Rayon
Made in U. S. A.

PURE THREAD SILK
Reinforced With Rayon

PURE THREAD SILK
Reinforced With Rayon
240 Needle

PURE THREAD SILK
Reinforced With Artificial Silk

X68
PURE THREAD SILK
Twisted with Rayon
240 Needle
"Split-Foot" Half Hose

PAR. 5. Said labels, stamps, and brands are, and have been, used by respondents upon and in connection with said hosiery for the purpose and intention of having such hosiery displayed, offered for sale, sold, marketed, and distributed in the hosiery trade and to the consuming public under said brands, stamps, and labels. Pursuant to respondents said purpose and intention and by reason of said use of such labels, brands, and stamps the said hosiery is, and has been displayed, offered for sale, sold, and distributed among and between the various States of the United States and in the District of Columbia to the consuming public by respondents' dealer purchasers and by dealers generally in the regular course of trade.

PAR. 6. By means of such stamps, brands, and labels and by other forms of representations, respondents cause and have caused said hosiery to be represented, advertised, described, sold, and distributed in the trade and to the consuming public situated in various States of

the United States and the District of Columbia as containing genuine and pure silk as the principal or major constituent therein and as containing pure or genuine silk in a proportion or quantity larger than the proportion or quantity of rayon present in such hosiery.

PAR. 7. Respondents' said hosiery branded, stamped, labeled, and represented as aforesaid has the appearance and feel of silk but is composed largely of cotton and rayon which are the principal or major constituents of said hosiery. The materials present in said hosiery are in the following approximate proportions by weight, to wit: Cotton, 73 percent; rayon, 25 percent; and silk, 2 percent. The tops, heels, soles, and toes of such hosiery are composed wholly of cotton and the other parts of such hosiery are composed of approximately 93 percent rayon with which is mixed from 3 to 7 percent silk.

PAR. 8. The hosiery of respondents, sold and distributed as aforesaid, is not composed of nor does it contain pure silk or genuine silk as the principal or major constituent. Such silk as is or may be present in said hosiery is less than 5 percent of the hose by weight, to wit: Two percent of the hose by weight.

PAR. 9. Through the use of the aforesaid labels, brands, and stamps, and the sale and distribution of said hosiery to dealers, respondents have thereby placed and are continuing to place in the hands of dealers a means or instrument of deception and fraud whereby such dealers are enabled, aided, and assisted in misleading and deceiving members of the purchasing public as to the contents of said hosiery and the quality, value, grade, and substance thereof.

PAR. 10. The use by the respondents of the foregoing false and misleading statements and representations on said labels, brands, and stamps, disseminated as aforesaid, with respect to said hosiery, has had, and now has, the capacity and tendency to, and does, mislead and deceive members of the purchasing public into the erroneous and mistaken belief that such false and misleading statements and representations are true and that said hosiery contains pure or genuine silk in a larger proportion than is in fact present in such hosiery and that such hosiery is composed of or contains pure or genuine silk in a quantity or proportion larger than the proportion of rayon contained in said hosiery and causes members of the purchasing public, because of said erroneous and mistaken belief, to purchase quantities of respondents' said hosiery.

As a result, trade has been diverted unfairly to the respondents from their competitors in said commerce who truthfully advertise and represent their respective hosiery and the materials contained in such hosiery. In consequence thereof, injury has been, and is now being,

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done by respondents to competition in commerce among and between the various States of the United States and in the District of Columbia.

CONCLUSION

The aforesaid acts and practices of respondents, as herein found, are all to the prejudice and injury of the public and of respondents' competitors, and constitute unfair methods of competition within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST ¹

This proceeding having been heard by the Federal Trade Commission upon the amended and supplemental complaint of the Commission, the answer of the respondents, and a stipulation as to the facts entered into between the respondents herein and W. T. Kelley, chief counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon the respondents herein findings as to the facts and conclusion based thereon, and an order disposing of the proceeding, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Charles H. Bacon Co. and Bacon-Scott Co., Inc., formerly Scott-Bartels Co., Inc., their officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of hosiery in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing in any manner whatsoever that the hosiery manufactured or sold by them, or any of them, contains "silk" or "pure thread silk," the product of the cocoon of the silkworm, in greater quantity, percentage or degree than is actually the case.

2. Advertising, offering for sale, or selling, hosiery composed in whole or in part of rayon without clearly disclosing the fact that such hosiery is composed of rayon, and when such hosiery is composed in part of rayon and in part of other fibers or materials, such fibers or

¹ Count II of complaint, alleging violation of National Industrial Recovery Act, dismissed by following order of Commission, as of June 13, 1935:

This matter having been considered by the Commission upon its own motion in view of the decision of the Supreme Court of the United States rendered May 27, 1935, in the case of *Schechter Poultry Corporation, et al. v. United States* [295 U. S. 495]; and the Commission being advised in the premises.

It is now ordered, That the charges in the complaint in this proceeding of violation of the National Industrial Recovery Act and of the Code of Fair Competition for the Hosiery Industry be, and the same are hereby dismissed.

materials, including the rayon, shall be named in the order of their predominance by weight, beginning with the largest single constituent, provided that if any particular fiber in said hosiery is not present in a substantial amount by weight, the percentage in which such fiber is present shall then be specifically disclosed.

3. Using the words "silk" or "pure thread silk," or words of similar import and meaning, to describe, designate, or refer to hosiery which is not composed wholly of silk, the product of the cocoon of the silkworm; except that in the case of hosiery composed in part of silk and in part of materials other than silk, such words may be used as descriptive of the silk content if there are used in immediate connection and conjunction with the word "silk," in letters of at least equal size and conspicuousness, words truthfully describing and designating each constituent fiber or material thereof in the order of its predominance by weight, beginning with the largest single constituent, and provided that if any particular fiber in said hosiery is not present in a substantial amount by weight, the percentage in which such fiber is present shall then be specifically disclosed.

4. Using the term "pure thread silk reinforced with rayon" to describe, designate, or refer to any hosiery other than that in which the chief constituent is pure thread silk, the product of the cocoon of the silkworm, combined solely with rayon.

This order shall not be construed as approving the use of the unqualified words "silk" or "pure thread silk" to designate, describe, or refer to weighted silk.

It is further ordered, That the respondents shall, within 60 days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

Syllabus

IN THE MATTER OF
THE SPONGE INSTITUTE, ITS OFFICERS AND MEMBERS,
AND FLORIDA SPONGE PACKERS ASSOCIATION, ITS
OFFICERS AND MEMBERS

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

Docket 3025. Complaint, Dec. 29, 1936—Decision, Feb. 24, 1939

Where two trade organizations and the respective officers and members thereof, variously engaged in sale and distribution of sponges, namely—

I. An "institute" of wholesale sponge distributors; officers of said Institute; and members thereof, who—

(1) Were engaged in selling at wholesale and retail, to wholesale and retail dealers, sponges which they purchased in substantial amount from packers located mostly in Florida, and including packer members of the packer association below set forth;

(2) Were, but for matters and things below set out, in competition with one another in price and otherwise in the course and conduct of their respective businesses, and were in competition with others likewise engaged in purchase of sponges from packers thereof and in resale of such products in territory served by such Institute members; and

(3) With, their Institute, defined as the only legitimate and legal channel of distribution from packer to wholesale distributor, to wholesaler, to retailer, and designated as bona fide sponge houses business concerns who constituted legitimate packers and wholesalers in such channels, and, as irregular and illegitimate, other channels of trade, and as illegitimate any dealer acquiring sponges through such so-called illegitimate channels; and

II. An association of sponge packers, with principal places of business at Tarpon Springs, Fla., and through which, or sponge exchange there located, 72 percent in quantity and 60 percent in value of the total United States catch of sponges was sold in 1 year, with course of trade in such Florida sponges, under normal conditions, from producer or fisherman through said exchange to packer, to wholesale distributor, to wholesalers and retailers; certain officers of said association; and members thereof, who—

(1) But for the matters and things below set out, were in competition with each other in price and otherwise in sale and distribution of sponges to wholesale dealers and distributors in territory served by such packer members, and were in such competition with others engaged in such sale and distribution; and

(2) Solicited and sold, along with other packers, and prior to certain time, sponges to wholesale distributors, and direct to wholesalers and retailers throughout the United States, including such sales by such members of sponges direct to such wholesalers and retailers as also purchased such products from wholesale distributors—