

Complaint

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IN THE MATTER OF
DIAMOND KNITTING 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 3877. Complaint, Aug. 26, 1939—Decision, Nov. 28, 1939

Where a corporation engaged in manufacture of various articles of knitted wearing apparel, and in sale and distribution thereof to retailers in various States and in the District of Columbia—

Falsely represented, on labels attached to its products, constituent fibers or materials of which they were composed, and thus represented certain products as composed entirely of unweighted silk, product of cocoon of silkworm, through attaching thereto cloth tag or label bearing words "Genuine * * * All Silk," with diamond interposed, notwithstanding fact products in question were not, as aforesaid, and as understood by purchasing and consuming public from word "silk," unqualified, composed entirely of silk, long highly esteemed product of cocoon of silkworm, and not weighted or subjected to metallic bath containing metallic salts or other weighting substance;

With tendency and capacity to mislead and deceive retail dealers and substantial portion of purchasing public into erroneous and mistaken belief that said products were composed wholly of unweighted silk, and with result, by reason of such belief, that a number of retailers and members of purchasing public bought substantial volume of its products and trade was diverted unfairly to it from its competitors engaged in sale and distribution of various articles of knitted silk wearing apparel in commerce, and who do not falsely represent the constituent fibers of which their products are composed:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and competitors, and constituted unfair methods of competition in commerce and unfair and deceptive acts and practices therein.

Mr. George W. Williams for the Commission.

Mr. Samuel A. Blank, of Philadelphia, Pa., for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said act, the Federal Trade Commission having reason to believe that Diamond Knitting Mills, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the 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, Diamond Knitting Mills, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Pennsylvania with its office and principal place of business located at Seventh and Green Streets, city of Philadelphia, State of Pennsylvania.

PAR. 2. Respondent, Diamond Knitting Mills, Inc., is, and for several years last past has been, engaged in the manufacture and in the sale and distribution of various articles of knitted wearing apparel. Respondent sells its products to retail dealers located in the various States of the United States and in the District of Columbia, and causes said products, when sold by it, to be transported from its place of business in Philadelphia, Pa., to the purchasers thereof located in other States of the United States and in the District of Columbia.

Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. Respondent is 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 individuals, firms and partnerships engaged in selling and distributing various articles of knitted wearing apparel in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of its business, the respondent has engaged in the practice of falsely representing the constituent fiber or material of which the various products sold and distributed by it are made, by means of false representations on labels attached to its products. Among and typical of such acts and practices, respondent represents certain of its products as being composed entirely of unweighted silk, the product of the cocoon of the silk-worm, which has not been subjected to the process of a metallic bath, when in fact said products are composed entirely of weighted silk. As an example of this practice, the respondent attaches to various of its products a permanent cloth tag or label which bears the following words:

Genuine * * * All Silk

and also contained thereon in a diamond the words

Diamond Knit

the said diamond being inserted between the words "Genuine" and "All Silk."

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By the use of the words "silk" and "all silk" on tags, labels, and by other means, to designate or describe its various products, the respondent represents that said products are composed entirely of unweighted silk, when in truth and in fact said products are composed entirely of weighted silk, which is silk which has been subjected to the process of a metallic bath and contains metallic salts or other weighting substance.

PAR. 5. The word "silk" for many years has had and still has in the minds of the purchasing 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. The unqualified word "silk" has in the minds of the purchasing and consuming public the definite and specific meaning of unweighted silk or silk which has not been subjected to the process of a metallic bath.

PAR. 6. The use by the respondent of the aforesaid practice of designating or describing its products as being "silk" or "all silk" has had, and now has, the tendency and capacity to mislead and deceive retail dealers and a substantial portion of the purchasing public into the erroneous and mistaken belief that said products are composed wholly of unweighted silk. On account of this erroneous and mistaken belief, a number of retail dealers and members of the purchasing public have purchased a substantial volume of respondent's products, with the result that trade has been diverted unfairly to the respondent from its competitors who are also engaged in the sale and distribution of various articles of knitted silk wearing apparel in commerce among and between the various States of the United States and who do not falsely represent the constituent fibers of which their products are composed. As a consequence thereof, injury has been done, 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. 7. The aforesaid acts and practices of the respondent as herein alleged are all to the prejudice and injury of the public and of respondent's competitors and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on the 26th day of August 1939,

issued and served its complaint in this proceeding upon respondent, Diamond Knitting Mills, Inc., a corporation, charging it with the use of unfair methods of competition in commerce and unfair and deceptive acts and practices, in commerce in violation of the provisions of said act. On the 19th day of September 1939, the respondent filed its answer, in which answer it admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and the answer thereto, and the Commission, having duly considered the matter 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, Diamond Knitting Mills, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania, with its office and place of business located at Seventh and Green Streets, city of Philadelphia, State of Pennsylvania.

PAR. 2. The respondent, Diamond Knitting Mills, Inc., is, and for several years last past has been, engaged in the manufacture and in the sale and distribution of various articles of knitted wearing apparel. Respondent sells its products to retail dealers located in the various States of the United States and in the District of Columbia, and causes said products, when sold by it, to be transported from its place of business in Philadelphia, Pa., to purchasers thereof located in other States of the United States and in the District of Columbia.

The respondent maintains, and at all times mentioned herein has maintained, a course of trade in said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. Respondent is 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 individuals, firms and partnerships engaged in selling and distributing various articles of knitted wearing apparel in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of its business, the respondent has engaged in the practice of falsely representing the constituent fiber or material of which the various products sold and distributed

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by it are made, by means of false representations on labels attached to its products. Among and typical of such acts and practices, respondent represents certain of its products as being composed entirely of unweighted silk, the product of the cocoon of the silkworm, which has not been subjected to the process of a metallic bath, when in fact said products are composed entirely of weighted silk. As an example of this practice, the respondent attaches to various of its products a permanent cloth tag or label which bears the following words:

Genuine * * * All Silk

and also contained thereon in a diamond the words

Diamond Knit

the said diamond being inserted between the words "Genuine" and "All Silk."

By the use of the words "silk" and "all silk" on tags, labels, and by other means, to designate or describe its various products, the respondent represents that said products are composed entirely of unweighted silk, when in truth and in fact said products are composed entirely of weighted silk, which is silk which has been subjected to the process of a metallic bath and contains metallic salts or other weighting substance.

PAR. 5. The word "silk" for many years has had and still has in the minds of the purchasing 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. The unqualified word "silk" has in the minds of the purchasing and consuming public the definite and specific meaning of unweighted silk or silk which has not been subjected to the process of a metallic bath.

PAR. 6. The use by the respondent of the aforesaid practice of designating and describing its products as being "silk" or "all silk" has had, and now has, the tendency and capacity to mislead and deceive retail dealers and a substantial portion of the purchasing public into the erroneous and mistaken belief that said products are composed wholly of unweighted silk. On account of this erroneous and mistaken belief, a number of retail dealers and members of the purchasing public have purchased a substantial volume of respondent's products, with the result that trade has been diverted unfairly to the respondent from its competitors who are also engaged in the sale and distribution of various articles of knitted silk wearing apparel in commerce among and between the various States of the United States

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and who do not falsely represent the constituent fibers of which their products are composed.

CONCLUSION

The aforesaid acts and practices of the respondent, as herein found, are all to the prejudice and injury of the public and of respondent's competitors and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices 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 of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Diamond Knitting Mills, Inc., a corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of its merchandise in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the term "all silk" or the unqualified word "silk" or any other term of similar import and meaning to designate, describe, or in any way refer to any fabric or merchandise not made wholly from unweighted silk, the product of the cocoon of the silkworm.

2. Representing through failure to disclose the presence and percentage of weighted silk contained in any fabric or other merchandise and the percentage of weighting in such weighted silk, or through any other means or device, or in any manner, that fabrics or other merchandise composed in whole or in part of weighted silk are composed of unweighted silk; provided, however, that the word "silk" may be used to refer to the silk content of such fabric or other merchandise when the disclosures herein enumerated are clearly and conspicuously made in connection with the use of such term.

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3. Representing in any manner that the products sold by respondent are made of a material, fiber or yarn other than that of which such products are actually made.

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.