

IN THE MATTER OF
BELL & 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 2859. Complaint, June 30, 1936—Decision, Dec. 10, 1940

Where a corporation engaged in manufacture, interstate sale and distribution of its "Bell-Ans" medicinal preparation for various digestive disorders, in substantial competition with others engaged in sale and distribution, in commerce as aforesaid, of other medicinal preparations designed to counteract indigestion and various digestive disorders; in extensively advertising its said product through newspapers of general circulation and advertisements in street and subway cars—

- (a) Represented that its said "Bell-Ans" was a cure or remedy for indigestion and constituted a competent and effective treatment therefor, and would correct sour stomach and other digestive disturbances due to acid conditions, facts being it was not a cure or remedy for indigestion and had no beneficial therapeutic value in treatment thereof, in excess of furnishing temporary relief when such disorder was due to gastric hyperacidity, and it would not correct sour stomach or digestive disturbances due to acid condition or have any value in the treatment of such conditions, in excess of furnishing temporary relief as above noted;
- (b) Represented that use of its said "Bell-Ans" would afford permanent relief from various symptoms of digestive disorders, such as flatulence, vertigo, dizziness, weakness, vomiting, nausea, and other distress, sour stomach, pain, sick headache, heartburn, and biliousness, and also from the discomforts associated with overeating, drinking, smoking, and irregular meals, facts being use of said "Bell-Ans" would not afford permanent relief from various symptoms of digestive disorders as above enumerated, and such product had no beneficial therapeutic value in treatment thereof, in excess of furnishing temporary relief when they were due to gastric hyperacidity; and
- (c) Represented that said preparation was a cure or remedy for condition described as "acid urine," facts being such condition was not due to excess acid, but to deficiency thereof, and use of preparation in question would have no value in treatment thereof;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that said representations were true, and of thereby inducing said public, because of such erroneous belief, to purchase its said preparation, and with result that trade was diverted to it from its competitor manufacturers, retailers or distributors of other preparations for treatment of digestive disorders, and who truthfully advertise their said products and effectiveness and therapeutic value thereof:

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

Before *Mr. William C. Reeves, Mr. W. W. Sheppard, and Mr. Edward E. Reardon*, trial examiners.

Mr. Reuben J. Martin and Mr. Charles S. Cox for the Commission.
Clark, Sickels & Barton, 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 Bell & Co., Inc., has been and is using unfair methods of competition in commerce as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereto would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPHS 1. The respondent, Bell & Co., Inc., is a corporation organized under the laws of the State of New Jersey with its principal office and place of business located at Orangeburg, within the State of New York. Said respondent is now and for more than 1 year last past has been engaged in the manufacture and sale of a proprietary remedy for indigestion called "Bell-Ans" and the distribution thereof between and among the various States of the United States. It causes said "Bell-Ans" when sold by it to be transported to the purchasers thereof located in the State of New York and various States of the United States other than the State or States in which said shipments originated. There is now and has been for a long time, to wit, more than 1 year last past, a constant current in trade and commerce by respondent in said "Bell-Ans" between and among the various States of the United States.

In the course and conduct of its said business, said respondent is now and for a long time, to wit, more than 1 year last past, has been in substantial competition in commerce between and among the various States of the United States with various other corporations, partnerships, firms, and individuals engaged in the interstate sale and distribution of other medical preparations designed to counteract indigestion and the symptoms thereof.

PAR. 2. The preparation "Bell-Ans" sold and distributed by said respondent contains among other ingredients sodium bicarbonate and is put up in tablet form.

PAR. 3. Said respondent, in the course and conduct of its said business as hereinbefore set out in paragraph 1, has been and now is engaged in extensive advertisement of its said product as a means

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of furthering and aiding in the interstate sale and distribution of said "Bell-Ans," and as media of advertising it has been and now is using newspapers and advertisements in street cars and subway cars.

Said respondent in its said advertisements of the products known as "Bell-Ans" manufactured and sold by it has made and is now making various false, deceptive and misleading statements concerning said product. Among the said statements which said respondent has used and is now using in its advertisements in newspapers and on street car cards and in its circulars distributed with its said product are the following:

Now I Eat

Hot Dogs

Upset Stomach Goes

in Jiffy with Bell-ans

BELL-ANS

For Indigestion

6 Bell-Ans

Hot Water

Sure Relief

BELL-ANS For Indigestion Due to Excess Acid.

BELL-ANS is a combination of willow charcoal, sodium bicarbonate U. S. P., carminatives and pharmacopeial flavoring oils. It contains nothing else and is absolutely harmless.

It quickly and pleasantly relieves flatulence, vertigo, dizziness, weakness, vomiting, nausea and other distress when caused by too much acid.

For correcting sour stomach, pain, * * * sick headache * * * etc. due to acid.

* * * for quickly and harmlessly relieving even the most severe and painful cases (of acid or sour stomach) there is nothing like BELL-ANS when promptly and properly taken.

For severe and Acute Indigestion, Colic, etc., caused by hyperacidity, take Six (6) BELL-ANS crushed and stirred into a glass of Hot water and repeat every 10 minutes.

For Sick-Headache, Heartburn, Sour Stomach, Nausea, Billiousness, Vomiting, Dizziness, etc. due to acid, etc.

For Obstinate or Chronic Indigestion, Gas, etc.

* * * gives prompt and grateful relief in the colics, sour stomachs, and other digestive disturbances so often due to over-acid conditions from which the young frequently suffer.

For Acid Urine (frequent calls), Overeating and Drinking, Smoking and Irregular Meals.

Whereas in truth and in fact "Bells-Ans" is not a cure for indigestion and will not in truth and in fact remove the symptoms of indigestion nor relieve indigestion nor correct sour stomach or other digestive disturbances due to acid conditions, and is not harmless.

Respondent in its said advertising has and is creating upon the public the impression and the belief that "Bell-Ans" has beneficial therapeutic effects, and will relieve and cure digestive disturbances due to acid conditions and will relieve and cure indigestion, whereas in truth and in fact said "Bell-Ans" will not relieve or cure digestive disturbances and will not relieve or cure indigestion. Said respondent also in its said advertising has and is creating upon the public an impression that "Bell-Ans" is absolutely harmless, whereas in truth and in fact said preparation is not harmless but its said use may produce serious results.

PAR. 4. The use by the said respondent, Bell & Co., Inc., of the foregoing false, deceptive and misleading representations alleged to be used by said respondent in paragraph 3 hereof, have had and do now have the capacity and tendency to mislead and deceive and do now mislead and deceive the public into the erroneous and untrue belief that "Bell-Ans" is in truth and in fact a harmless preparation which will relieve and cure indigestion and other digestive disturbances due to acid conditions, and has thereby induced and does now induce the consuming public and especially that portion of the public suffering from indigestion, acting in said erroneous belief, to purchase "Bell-Ans" in preference to other digestive remedies offered for sale by manufacturers, retail dealers and distributors. As a result of such false, deceptive, and misleading representations on the part of said respondent trade is diverted to respondent from such manufacturers, retail dealers, or distributors of other digestive remedies, and thereby injury has been done and is being done by respondent.

PAR. 5. Said false, deceptive, and misleading representations of said respondent contained in its advertisements have resulted in injury to respondent's competitors and to retail dealers and in prejudice to the buying public and constitute unfair methods of competition in commerce within the intent and meaning of section 5 of an act of Congress approved September 26, 1914, and 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 June 30, 1936, issued and subse-

quently served its complaint in this proceeding upon respondent, Bell & Co., Inc., a corporation, 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 thereto, testimony and other evidence in support of the allegations of said complaint were introduced by attorneys for the Commission, and in opposition to the allegations of the complaint by Arthur L. Barton, attorney for the respondent, before examiners 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 regularly 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, and oral arguments of counsel; 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, Bell & Co., Inc., is a corporation organized under the laws of the State of New Jersey, with its principal office and place of business located at Orangeburg, within the State of New York.

PAR. 2. Said respondent is now, and for more than 5 years last past has been, engaged in the manufacture and in the sale and distribution in commerce among and between the various States of the United States of a medicinal preparation designed "Bell-Ans," which has been offered for sale and sold as a treatment for various digestive disorders. Respondent causes said product, when sold by it, to be transported from its place of business in the State of New York to purchasers thereof located in various other States of the United States. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said product, "Bell-Ans," among and between the various States of the United States.

PAR. 3. In the course and conduct of its said business, said respondent is now and for more than 5 years last past has been in substantial competition in commerce among and between the various States of the United States with various other corporations, partnerships, firms, and individuals engaged in the sale and distribution in commerce among and between the various States of the United States

of other medicinal preparations designed to counteract indigestion and various digestive disorders.

PAR. 4. In the course and conduct of its aforesaid business, respondent has engaged in extensive advertisement of its said product "Bell-Ans" as a means of furthering and aiding in the sale and distribution thereof, and as media of such advertising it has employed newspapers of general circulation and advertisements carried in street cars and subway cars.

Said respondent in advertising its said product "Bell-Ans" has made various false, deceptive, and misleading statements concerning said product. Among and typical of the said statements which respondent has used in advertisements in newspapers and in its circulars distributed with its said product are the following:

1. Statements in newspaper advertising—

	Now I Eat CABBAGE Upset Stomach Goes in Jiffy with Bell-Ans.	
Bell-Ans For Indigestion		(Picture of bottle with 6 tablets being emptied into a glass of water) 6 Bell-Ans Hot Water Sure Relief.

Other advertisements were disseminated by the respondent in newspapers and other periodicals which advertisements were identical with the above quoted advertisement with the exception that the word "Cabbage" was replaced by one of the following words: Cucumbers, Hot Dogs, or Welsh Rabbit.

2. Statements in circulars—

BELL-ANS
For Indigestion
Due to excess acid

BELL-ANS is a combination of willow charcoal, sodium bicarbonate U. S. P., carminatives and pharmacopelial flavoring oils. It contains nothing else and is absolutely harmless.

BELL-ANS is perfectly harmless and pleasant to take and may be taken with no injurious or objectionable results by anyone of any age or condition of health having indigestion due to hyperacidity. It quickly and pleasantly relieves flatulence, vertigo, dizziness, weakness, vomiting, nausea and other distress when caused by too much acid. It aids the digestion of food and tends to restore the stomach to a normal condition of acidity. For correcting sour stomach, pain, heartburn, sick headache, gas, bloating, etc., due to acid, the usefulness of BELL-ANS is widely known. Too much heavy, greasy or rich food should be avoided by those with a tendency to acid or sour stomach, but for quickly and harmlessly relieving even the most severe and painful cases there is nothing like BELL-ANS when promptly and properly taken.

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BELL-ANS may be taken in any convenient way, with or without water and in any desired quantity; but Doctors have proved that for quickest and best results Six (6) Tablets should be crushed and stirred into a glass of HOT water, so HOT it must be sipped.

For Severe and Acute Indigestion, Colic, etc., caused by hyperacidity, take six (6) BELL-ANS crushed and stirred into a glass of HOT water and repeat every 10 minutes.

For Sick Headache, Heartburn, Sour Stomach, Nausea, Bilioussness, Vomiting, Dizziness, etc., due to acid, take six (6) BELL-ANS Tablets crushed and stirred into a glass of HOT water and repeat the dose every 30 minutes as necessary.

For Obstinate or Chronic Indigestion, Gas, etc., caused by excess acid, take six (6) BELL-ANS in a little HOT Water regularly and persistently one-half hour after each meal for several weeks.

For Infants and young children, crush and stir six (6) BELL-ANS Tablets in a small glass of HOT water and give a teaspoonful, every few minutes as required. This is pleasant and harmless and gives prompt and grateful relief in the colics, sour stomachs, and other digestive disturbances so often due to over-acid conditions from which the young frequently suffer.

For Hyperacidity, Acid Urine (frequent calls), Overeating and Drinking, Smoking and Irregular Meals. Take six (6) BELL-ANS in HOT water upon arising, one-half hour after noon and evening meals and at bed-time. This is a harmless and effective treatment that may be continued for any necessary length of time with beneficial results.

No hesitancy need be felt about giving BELL-ANS to infants and young children or feeble old persons as there is no one of any age or condition of health having acidity to whom it would be in the slightest degree injurious or objectionable.

PAR. 5. Through the use of the advertising statements herein set forth and others similar thereto not specifically set out herein, respondent represents that its product "Bell-Ans" is a cure or remedy for indigestion and constitutes a competent and effective treatment therefor; that it will correct sour stomach and other digestive disturbances due to acid conditions and is a cure or remedy for the condition described as "acid urine."

In the same manner respondent also represents that the use of its preparation "Bell-Ans" will afford permanent relief from various symptoms of digestive disorders such as flatulence, vertigo, dizziness, weakness, vomiting, nausea and other distress, sour stomach, pain, sick headache, heartburn, and biliousness, and also from the discomforts associated with overeating, drinking, smoking, and irregular meals.

PAR. 6. Based upon the testimony of medical experts the Commission finds that respondent's preparation "Bell-Ans" is not a cure or remedy for indigestion and has no beneficial therapeutic value in the treatment thereof in excess of furnishing temporary relief when such disorder is due to gastric hyperacidity by neutralizing the hydrochloric acid in the stomach and intestines and thereby causing

a release of the gas pressure on various muscles of the stomach and intestines. Said product will not correct sour stomach or digestive disturbances due to acid condition or have any value in the treatment of such conditions in excess of furnishing temporary relief when such disorders are due to gastric hyperacidity. "Acid urine" is not due to an excess acid condition but to a deficiency of acid and the use of said preparation would have no value in the treatment of such condition.

The Commission further finds that the use of respondent's preparation "Bell-Ans" will not afford permanent relief from various symptoms of digestive disorders, such as flatulence, vertigo, dizziness, weakness, vomiting, nausea, sour stomach, pain, sick headache, heartburn, biliousness, and discomforts from overeating and drinking, smoking and irregular meals, and has no beneficial therapeutic value in the treatment of the said disorders in excess of furnishing temporary relief when such disorders are due to gastric hyperacidity.

PAR. 7. The use by respondent of the aforesaid false, deceptive, and misleading representations has had, and now has, the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said representations are true, and has thereby induced the purchasing public, because of such erroneous belief, to purchase respondent's preparation. As a result of such false, deceptive, and misleading representations on the part of said respondent, trade has been diverted to respondent from its competitors consisting of those manufacturers, retail dealers or distributors of other preparations for the treatment of digestive disorders, who truthfully advertise their said products and the effectiveness and therapeutic value thereof when used.

CONCLUSION

The aforesaid acts and practices of the respondent, as herein found, 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 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, the answer of respondent, testimony and other evidence taken before examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, briefs filed therein, and oral arguments by Charles S. Cox, counsel for the Commission,

and by Arthur L. Barton, counsel for the respondent, 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 Bell & Company, Inc., its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of its preparation known as "Bell-Ans," or any other preparation of substantially similar composition or possessing substantially similar properties whether sold under the same name or under any other name, in commerce as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or indirectly.

1. That said preparation is a cure or remedy for indigestion or that it has any therapeutic value in the treatment thereof in excess of furnishing temporary relief when such condition is due to gastric hyperacidity.

2. That said preparation is a cure or remedy for symptoms of digestive disorders such as flatulence, vertigo, dizziness, weakness, vomiting, sour stomach, pain, heartburn, nausea, sick headache, biliousness or discomforts from overeating, drinking, and irregular meals, or that it is a competent treatment for such conditions in excess of furnishing temporary relief when such conditions are symptomatic of gastric hyperacidity.

3. That said preparation will correct sour stomach or digestive disturbances due to acid condition or has any value in the treatment thereof in excess of furnishing temporary relief when such disorders are due to gastric hyperacidity.

4. That said preparation constitutes a cure or remedy for the condition known as "acid urine" or possesses any therapeutic value in the treatment thereof.

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

MOREHOUSE MANUFACTURING COMPANY, TRADING AS
THE SHAVING POWDER COMPANY

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

Docket 3721. Complaint, Feb. 23, 1939—Decision, Dec. 11, 1940

Where a corporation engaged in manufacture of its "Magic Shaving Powder" for hair removal and in interstate sale thereof; in advertisements of its said product which it disseminated and caused to be disseminated through insertion in newspapers having general circulation among the colored race and distributed in commerce among the various States, and through other means in commerce, and otherwise, and which were intended and likely to induce purchase of its said product—

- (a) Represented directly and by inference that said "Magic Shaving Powder" was a new method of removing hair and that a person could shave without a razor and that its use was harmless;

Facts being said product was a depilatory which accomplished results by dissolving hair rather than by cutting as in shaving, and was not a new method for removing hair and was not harmless in all cases, but, by virtue of presence therein, as solvents and active ingredients, of barium sulphide and calcium hydroxide might, under customary and usual conditions, be harmful to skin and underlying structures of people having tender skin, and, more particularly, those of the white race, and in such cases result in temporary rash or dermatitis, and also, by reason of presence of said ingredients, might result in injury to eyes of the careless user; and

- (b) Failed to include in its said advertisements cautionary statements to the effect that said powder should not be used by those having tender skin and should not be allowed to get into eyes of user thereof;

With capacity and tendency to mislead and deceive a substantial portion of purchasing public into erroneous and mistaken belief that such statements, representations, and advertisements were true and that its said product was a new method of removing hair and was not a depilatory, and that its use was unqualifiedly harmless and of causing portions of said public because of such belief, thus engendered, to purchase its said preparation:

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

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

Mr. Reuben J. Martin and *Mr. Morton Nesmith* for the Commission.
Adams, Douglas & Brennan, of Savannah, Ga., 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