

IN THE MATTER OF

EUCOZONE LABORATORIES, INC., AND UNIVERSAL
EUCOZONE OF AMERICA, INC.¹COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914*Docket 3478. Complaint, July 9, 1938—Decision, Mar. 19, 1941*

Where a corporation engaged as predecessor in interest to successor concern which, with its consent, was joined in instant proceedings and undertook to be bound by proceedings therein and by such order as might be entered, engaged in manufacture, under patent formula, of its "Eucozone" product in liquid, capsule, ointment, and nose drop form, and in competitive interstate sale and distribution thereof to, chiefly, wholesale druggists and chain stores; in its advertising in various newspapers and periodicals published throughout the United States—

- (a) Represented that its said "Eucozone" was an ozonide of eucalyptol, "a new strikingly efficient antiseptic, equal in germicidal strength to pure carbolic acid" against types of micro-organisms causing body surface infections and symptoms usually incident to described diseases and conditions, and that the antiseptic action thereof was due to the active oxygen released by use of its special patented formula, whereby oil of eucalyptus was broken down into vapor and brought under temperatures and pressures whereby it absorbed the ozone and in turn released active oxygen;

Facts being said preparation had no properties other than these possessed by oil of eucalyptus and was not an ozonide of eucalyptol nor a holder or carrier of active or nascent oxygen, and was not a germicide; and therapeutic properties thereof were limited to those of a mild antiseptic and counter-irritant, which would not kill streptococcus or other dangerous germs which cause infections of the nose and throat; and

- (b) Represented, more specifically, that said product reached "right down to the tissues of the injured areas liberating active oxygen, thus destroying harmful germs," and was "Remarkable, too, for sore throats," destroying "streptococcus and a number of other dangerous germs," and was "Ideally suited for throat infections," and that in capsules it was "used for a wide variety of internal purposes—including colds, bronchitis, strep throat, etc.," and that such capsules acted "as a general internal antiseptic by supplying active oxygen to the blood stream;"

¹ The Commission by order dated July 16, 1940 (1) joined Universal Eucozone of America, Inc., as additional party respondent; (2) provided that testimony and other evidence be considered as though they had been originally taken subsequent to such joining; and (3) allowed said named respondent 20 days within which to request holding of hearings to rebut testimony theretofore taken in support of the allegations of the complaint and 60 days within which to file brief in opposition to allegations of the complaint; it appearing that said Universal Eucozone of America, Inc., was successor in interest to respondent Eucozone Laboratories, Inc., and was willing to enter its appearance and to be bound by evidence already adduced against the respondent Eucozone Laboratories, Inc., in so far as it affected the various products involved.

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- (c) Represented that in nose drops it aided "in relieving the discomforts of colds, catarrh, sinus infection, hay fever, rose fever, etc.," and that as a rub it was "for cases of localized congestions and inflammations—particularly of head, throat, chest, back, and joints," which stimulated and increased "circulation in affected areas;" and
- (d) Represented that in ointment form it was "recommended in cases of athlete's foot, itch, carbuncles, and wet or dry skin irritations. Recommended in cases of itching, burning, piles, etc;"

Facts being that, as aforesaid, it was not a carrier of oxygen which would kill dangerous germs, etc., nor an internal antiseptic, which would supply active oxygen to blood stream, nor, taken in form of capsules, would it have any therapeutic effect in treatment of colds and other ailments set forth, nor would it have any such value in form of nose drops for colds, catarrh, and other conditions claimed or discomforts associated therewith, in excess of that afforded by mild counter-irritant, and would not be effective in destroying micro-organisms responsible for athlete's foot and other conditions claimed, but, by reason of its irritant action, would make such conditions worse, and, for same reason, did not have any beneficial effect as a rectal ointment in case of itching and burning piles; it could not be regarded as nonpoisonous and, if taken in excessive doses, might be injurious;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such false representations were true, and of causing it, because of said erroneous belief, to purchase said product, whereby trade was diverted unfairly to it from its competitors who truthfully advertise their respective products:

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.

Before *Mr. Arthur F. Thomas*, trial examiner.

Mr. Merle P. Lyon for the Commission.

Sabath & Sabath, of Chicago, Ill., and *Mr. Charles E. Gallup*, of Detroit, Mich., for respondents.

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 Eucozone Laboratories, Inc., hereinafter referred to as respondent, has violated the provisions of the 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 is a corporation organized, existing, and doing business under the laws of the State of Michigan, with its principal office and place of business at 429 Wayne Street, in

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the city of Detroit, in said State. It is now, and for more than 1 year last past has been engaged in the business of manufacturing and selling, in constant course of trade and commerce between and among the various states of the United States and in the District of Columbia an alleged proprietary remedy, known as "Eucozone," the formula for which is described as "Eucalyptus Oil Ozonated," under United States Patent 1,585,602, of May 18, 1926, which patent was issued to one Alexander S. Ramage, upon application filed April 6, 1923. This preparation is sold by respondent for intended use in the alleviation, remedy and treatment of sore throats, throat infections, colds, bronchitis, streptococcic throat, catarrh, sinus infections, and various other diseases and conditions.

In the course and conduct of its said business, it causes said product when sold to be transported from the State of Michigan into and through various other States of the United States to the purchasers thereof, namely, wholesale druggists and chain stores located in States of the United States other than the State of Michigan, and in the District of Columbia; and in the conduct of its said business, respondent is, and has been at all times mentioned herein, in substantial competition with other corporations and with individuals, partnerships, and firms likewise engaged in the sale of alleged proprietary remedies, drugs, medicines, antiseptics, and formulae intended for use and application in the alleviation, prevention and treatment of sore throats, throat infections, colds, bronchitis, streptococcic throat, catarrh, sinus infections, and various other diseases and conditions.

PAR. 2. In the course and conduct of its business as aforesaid, by advertisements in various magazines, newspapers, and other periodicals, and by radio broadcasts, respondent publishes throughout the United States certain advertising claims with respect to its said alleged proprietary remedy, for the purpose of inducing the sale thereof in interstate commerce. In such advertising claims, respondent has represented and represents that its said product is an ozonide of eucalyptol, with a substantial portion of oxygen-liberating substance, which is antiseptic in a diluted condition and of equal germicidal strength to pure carbolic acid against the types of micro-organisms capable of causing body surface infections constituting the symptoms usually incident to the foregoing described diseases and conditions of the human body. Respondent also has represented and represents that the antiseptic action of such product is due to its eucalyptol content; that it is safe for children to use, and that it

constitutes a competent remedy and adequate treatment for the alleviation of the following symptoms, diseases and conditions, to wit:

* * * Sore throats, throat infections, colds, bronchitis, streptococcal throat, catarrh, sinus infections, hay fever, rose fever, irritated and congested tissues, localized congestion of head, throat, chest, back and joints, athlete's foot, itch, carbuncles, wet or dry skin irritations, itching or burning piles.

Included among such advertising claims aforesaid, and to the same purpose and effect, respondent has published the following claims:

EUCOZONE, a new strikingly efficient antiseptic equal in germicidal strength to pure carbolic acid and yet sufficiently non-toxic and non-irritating that it is given for internal use in limited doses.

Remarkable, too, for sore throats, EUCOZONE destroys streptococcus and a number of other dangerous germs. Ideally suited for throat infection.

EUCOZONE IN NOSE DROPS: These nose drops aid in relieving the discomforts of colds, catarrh, sinus infections, hay fever, rose fever, etc.

EUCOZONE IN RUB: For cases of localized congestion and inflammations—particularly of head, throat, chest, back and joints. Stimulates and increases circulation in affected areas.

EUCOZONE IN RECTAL OINTMENT: Recommended in cases of itching, burning piles, etc.

300 times as effective as ordinary germicides! That's EUCOZONE.

Yes! It's safe even for baby!

Head colds—tonsillitis—bronchitis—are running wild in Detroit. But people who use the great scientific discovery, Eu-Co-Zone, are finding QUICK, SATISFACTORY and SAFE relief.

Eu-Co-Zone penetrates deeply with pure, germ killing *active oxygen* and is safe for children to use.

That ideal purifier * * * for preventing and relieving head colds, throat infections, bronchitis, influenza and asthma.

New quick cold killer.

EUCOZONE is eucalyptol combined with ozone by an exclusive patented process, forming an ozonide of eucalyptol.

EUCOZONE clears the head—soothes the throat—eases the chest—quiets the aches—and pulls down the fever with a speed that's amazing.

PAR. 3. The foregoing representations by respondent published and made are false and misleading in that said Eucozone is not and does not constitute a competent remedy nor adequate treatment for the alleviation of the aforesaid symptoms, diseases, and conditions; in that said Eucozone is not an ozonide of eucalyptol, has but very little oxidizing substance, is not equal in germicidal strength to pure carbolic acid against the types of micro-organisms capable of causing infections on the surface of the body, and, while it has some germicidal properties, it will not kill all types of germs; in that it is not highly penetrative, does not liberate active oxygen, does not destroy streptococcus and other harmful germs, is not 300 times as effective

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as ordinary germicides, is not a "quick" cold killer or a cold killer at all; in that it does not stimulate and increase circulation in human tissues, and does not afford quick, satisfactory, and safe relief for head colds, tonsilitis, or bronchitis. It will not prevent head colds, throat infections, bronchitis, influenza, and asthma. It will not "clear the head," "soothe the throat," "ease the chest," "quiet the aches" or "pull down the fever with a speed that's amazing." It is not safe for children to use by reason that it is composed in part of oil of eucalyptus which is chiefly eucalyptol.

PAR. 4. There are among the competitors of respondent, as referred to in paragraph 1 hereof, other corporations and firms, individuals and partnerships engaged in the sale of remedies, drugs, medicines, antiseptics and formulae in interstate commerce who do not engage in the practice or method of making false and misleading claims with reference to the therapeutic value thereof.

PAR. 5. The foregoing false and misleading representations of respondent above set out have the capacity and tendency to mislead and deceive the immediate purchasers thereof, namely, the wholesale druggists and chain stores to whom respondent sells its said product, and also have the capacity and tendency to place in the hands of such immediate purchasers the means of deceiving the ultimate consumers of said product, to whom such wholesale druggists and chain stores in turn sell said product, into the beliefs that Eucozone is and constitutes a competent remedy and adequate treatment for the alleviation of the above-named symptoms, diseases and conditions, and that the specific representations concerning the results to be obtained from its use are true, and cause the said purchasers and ultimate consumers to purchase respondent's product in preference to the products of respondent's competitors who do not resort to such false and deceptive practices and methods, thereby tending to divert trade from respondent's competitors to respondent and causing substantial injury to competition in interstate commerce.

PAR. 6. The aforesaid acts and practices of the respondent as herein alleged 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on July 9, 1938, issued and served its complaint in this proceeding upon respondent, Eucozone Laboratories,

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 Merle P. Lyon, attorney for the Commission, before Arthur F. Thomas, an examiner of the Commission theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. The respondent was represented by Sabath and Sabath, 33 North LaSalle Street, Chicago, Ill., but no testimony or other evidence was introduced by the respondent in opposition to the allegations of the complaint. Thereafter, on June 19, 1940, the attorneys for the respondent advised the Commission that the respondent Eucozone Laboratories, Inc., had been dissolved, and that a new corporation, Universal Eucozone of America, Inc., had succeeded to the rights of the Eucozone Laboratories, Inc., to manufacture and distribute Eucozone products in the United States, and offered to have this new corporation bound by the proceedings and by any order the Federal Trade Commission might enter. Acting upon said offer, the Commission entered an order dated July 16, 1940, making Universal Eucozone of America, Inc., an additional party respondent for all purposes and further ordered that the testimony theretofore taken be considered to the same extent as if it had been taken subsequent to the joining of Universal Eucozone of America, Inc., as party respondent.

Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint, the answer thereto, testimony and other evidence, and brief in support of the complaint, respondents not having filed brief and oral argument not having been requested; 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 original respondent, Eucozone Laboratories, Inc., was a corporation organized in the year 1936 under the laws of the State of Michigan, formerly doing business with its principal office and place of business at 429 Wayne Street, in the city of Detroit, Mich. On September 15, 1939, said respondent filed with the Corporation and Securities Commission of the State of Michigan, Lansing,

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Mich., a certificate of dissolution of said corporation, pursuant to an amendment to its articles of incorporation fixing the term to expire July 15, 1939. During the years 1936 and 1937 said respondent advertised extensively in magazines and periodicals of national circulation, including several medical journals and some newspapers, but no advertising was done subsequent to the year 1937. In March of 1937 a resolution was passed by said respondent's board of directors discontinuing the business and stopping all advertising expenditures, and nothing was done by said respondent in the way of manufacture and sale of its products since July 9, 1938. Its total volume of sales during the period of its active corporate existence was only about \$4,000. Said respondent manufactured its product "Eucozone" in several forms, a liquid, ointment, and nose drops, under a formula described as "Eucalyptus Oil Ozonated" under United States Patent 1,585,602 issued on May 18, 1926, to one Alexander S. Ramage. This preparation was sold by said respondent for use in the alleviation, remedy, and treatment of sore throats, throat infections, colds, bronchitis, streptococcic throat, catarrh, sinus infections, and various other diseases and conditions.

In the course and conduct of its said business, said respondent, Eucozone Laboratories, Inc., a corporation, caused said product, when sold, to be transported from its place of business in the State of Michigan to purchasers thereof, chiefly wholesale druggists and chain stores located in various other States of the United States and in the District of Columbia. In the conduct of its said business, respondent was in substantial competition with other corporations, and with individuals, firms and partnerships likewise engaged in the sale and distribution in commerce among and between the various States of the United States of proprietary remedies, drugs, and medicines, such as iodine, mercurochrome, peroxide, sodium perborate, Vick's Vaporub, Vick's Nose Drops, and other products generally intended for the alleviation, prevention, and treatment of the various diseases and bodily conditions hereinbefore set out.

The respondent Universal Eucozone of America, Inc., is a corporation organized, existing, and doing business under the laws of the State of Michigan, with its principal office and place of business in the city of Detroit, Mich., and is a successor in interest to Eucozone Laboratories, Inc.

PAR. 2. In the course and conduct of its business as aforesaid, respondent Eucozone Laboratories, Inc., a corporation, by advertisements in various magazines, newspapers, and other periodicals, published throughout the United States certain advertising claims with

respect to its alleged proprietary remedy "Eucozone," for the purpose of inducing the sale thereof in commerce. In such advertising claims, said respondent represented that its said product is an ozonide of eucalyptol, with a substantial portion of oxygen-liberating substance, that it is antiseptic in a diluted condition and of equal germicidal strength to pure carbolic acid against the types of micro-organisms capable of causing body surface infections constituting the symptoms usually incident to the foregoing described diseases and conditions of the human body. Said respondent also represented that the antiseptic action of its product is due to the active oxygen released by the use of its special patented formula, whereby oil of eucalyptus is broken down into vapor and brought under temperatures and pressures whereby it absorbs the ozone and in turn releases active oxygen.

Among the claims published by said respondent as aforesaid, and typical thereof, are the following:

Eucozone, a new strikingly efficient antiseptic equal in germicidal strength to pure carbolic acid, yet sufficiently non-toxic and non-irritating that it is given for internal use in limited doses.

Eucozone is a holder and carrier of an extremely powerful antiseptic agent—active oxygen—which it releases only in the presence of moisture. Highly penetrative, Eucozone reaches right down to the tissues of the injured areas liberating active oxygen, thus destroying harmful germs.

Remarkable, too, for sore throats. Eucozone destroys streptococcus and a number of other dangerous germs. Ideally suited for throat infections.

Eucozone In Capsules: Used for a wide variety of internal purposes—including colds, bronchitis, strep throat, etc. Capsules act as a general internal antiseptic by supplying active oxygen to the blood stream.

Eucozone in Nose Drops:—These nose drops aid in relieving the discomforts of colds, catarrh, sinus infection, hay fever, rose fever, etc.

Eucozone in Rub: For cases of localized congestions and inflammations—particularly of head, throat, chest, back and joints. Stimulates and increases circulation in affected areas.

Eucozone in Ointment: Recommended in cases of athlete's foot, itch, carbuncles and wet or dry skin irritations. Recommended in cases of itching, burning, piles, etc.

Eucozone, a New Strikingly Efficient Antiseptic. Liberates nascent or active oxygen. Eucozone is eucalyptol combined with ozone by an exclusive patented process—forming an ozonide of eucalyptol.

PAR. 3. The foregoing representations of said respondent Eucozone Laboratories, Inc., as well as others of similar import and effect, are false and misleading. Eucozone is not a competent remedy or an adequate treatment for the alleviation of the aforesaid symptoms, diseases and conditions. Based upon the testimony of two chemists who made various tests of Eucozone, the Commission finds that this

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preparation has no properties other than those possessed by oil of eucalyptus, and is not an ozonide of eucalyptol, it is not a holder or a carrier of active or nascent oxygen, and will not release or liberate oxygen in the presence of moisture or under any other conditions. The Commission further finds that the product Eucozone is not a germicide but that its therapeutic properties are limited to those of a mild antiseptic and counter-irritant. It will not kill streptococcus or other dangerous germs which cause infections of the nose and throat. This product, when taken internally, is not an internal antiseptic and will not supply active oxygen to the blood stream. The ingestion of this preparation in the form of capsules as recommended in the advertising would have no therapeutic effect in the treatment of colds, bronchitis, streptococcus infections of the throat, or other conditions. Said preparation, when used in the form of nose drops, has no therapeutic value in the treatment of colds, catarrh, sinus infection, rose fever, hay fever, or the discomforts associated therewith, in excess of that afforded by a mild counter-irritant, and may be distinctly objectionable in case of an inflamed and congested mucus membrane. The use of this preparation as a rub would be effective for localized congestions and inflammations only to the extent afforded by a mild irritant. Eucozone has no value in the treatment of athlete's foot, as it is not effective in destroying the micro-organisms causing such condition, and for such conditions as itch, carbuncles, or wet or dry skin irritations, its irritant action would make such conditions worse, for the same reason it does not have any beneficial effect as a rectal ointment in case of itching and burning piles. This preparation cannot be regarded as nonpoisonous and if taken in excessive doses may be injurious.

PAR. 4. The use by the respondent, Eucozone Laboratories, Inc., of the foregoing false, deceptive, and misleading statements, representations and advertisements with respect to the therapeutic value of this preparation, "Eucozone," has had the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false statements, representations, and advertisements are true and to cause a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondent's preparation. As a result trade has been diverted unfairly to the respondent Eucozone Laboratories, Inc., from its competitors who are also engaged in the sale and distribution in commerce between and among the various States of the United States and in the District of Columbia of preparations for use in the treatment of ailments, diseases and conditions for which

said respondent recommended its preparation who truthfully advertise the therapeutic value of their respective preparations.

CONCLUSION

The aforesaid acts and practices of the respondent Eucozone Laboratories, Inc., a corporation, 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 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 Eucozone Laboratories, Inc., a corporation, testimony and other evidence taken before Arthur F. Thomas, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint, and brief in support of the allegations of the complaint, and the record herein, and the Commission having made its findings as to facts and its conclusion that said respondent Eucozone Laboratories, Inc., has violated the provisions of the Federal Trade Commission Act and that respondent Universal Eucozone of America, Inc., is the successor in interest of respondent Eucozone Laboratories, Inc.

It is ordered, That the respondent Eucozone Laboratories, Inc., a corporation, and Universal Eucozone of America, Inc., a corporation, successor in interest to Eucozone Laboratories, Inc., and their respective officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of their preparation designated "Eucozone," or any product 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:

1. That said preparation is an ozonide of eucalyptol or that it has the capacity to or does release active or nascent oxygen in the presence of moisture or under any other conditions.

2. That said preparation possesses any therapeutic properties or elements other than that possessed by ordinary oil of eucalyptus or eucalyptol.

3. That said preparation is a germicide or that it has any therapeutic properties in excess of those of a mild antiseptic and counter-irritant.

4. That said preparation is an internal antiseptic or that it will supply oxygen to the blood stream.

5. That said preparation has any therapeutic value in the treatment of colds, catarrh, sinus infection, rose fever, hay fever, or in the treatment of localized congestion or discomforts associated with such conditions in excess of that afforded by a mild antiseptic and counter-irritant.

6. That said preparation is a cure or remedy for athlete's foot or has any therapeutic value in the treatment of such condition in excess of that afforded by a mild antiseptic.

7. That said preparation has any therapeutic value in the treatment of itch, carbuncles, wet or dry skin irritations, or itching or burning piles.

8. That said preparation is nonpoisonous, nontoxic or nonirritating, or that it is suitable or safe for internal use.

It is further ordered, That said 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

ROSEMARIE LEWIS, TRADING AS CERTANE COMPANY
AND CERTANE 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 3486. Complaint, July 12, 1938—Decision, Mar. 19, 1941*

Where an individual engaged in the manufacture and competitive interstate sale and distribution of certain medicinal preparations for so-called feminine hygiene use and for use in preventing conception, pregnancy, and female diseases, and also in sale of certain syringes, applicators, "Douches," "douche shields," "Dia-Caps," and "Dia-Domes" for use in connection therewith; by means of advertisements disseminated among prospective purchasers by mail, by insertion in newspapers and magazines, and by distribution of books, pamphlets, and other advertising literature—

- (a) Represented that her various preparations and appliances, if used as directed by her and as illustrated in diagrams in her advertising, were safe, competent, and effective preventives against conception and would prevent pregnancy, and would correct suppressed or delayed menstruation;
- (b) Represented that her said preparations were composed in whole or in part of ingredients which were effective, among other things, in insuring health and youth to wives and mothers, and kept the body perfectly clean and sanitary and mind free from worry and anxiety, and that use thereof prevented disease, caused rapid elimination of bacteria, and acted as a preventive of female irregularities; and
- (c) Represented that her said preparations were antiseptic and effective as prophylactics, and healed the delicate membranes of vaginal tract and formed competent and effective treatments for subnormal or unhealthy conditions of the uterus or vagina, nervousness, pain, discomfort, and mental depression;

Facts being that her said preparations, while having some degree of effectiveness, were not competent preventives of conception or pregnancy, would not prevent female irregularities, had no therapeutic value in treatment of subnormal or unhealthy conditions of the uterus or vagina or of symptoms resulting therefrom, and would not prevent diseased conditions claimed, use thereof would not be effective in insuring health, but instead might be detrimental thereto, and particularly so in case of her "Douche Powder" with "Douche Bag," use of which, as directed, might cause salpingitis or even peritonitis, and her said "Dia-Caps" or "Dia-Domes," commonly known as diaphragms, would, without special instructions, and fitting, afford little or no protection against conception or pregnancy;

With tendency and capacity to mislead and deceive substantial portion of purchasing public into the erroneous belief that such representations were true, and to induce it, by reason thereof, to purchase her said preparations and appliances, whereby trade was diverted unfairly from her competitors to her: