

Complaint

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IN THE MATTER OF

CLARO LABORATORIES, INC., AND JOSEPH FERDINAND
CLARO PRZYBYSZ, ALSO KNOWN AS JOSEPH FERDI-
NAND CLARO, AND FRANCES PRZYBYSZCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3663. Complaint, Dec. 14, 1938—Decision, Mar. 25, 1941*

Where a corporation and two individuals, who owned, operated, and controlled same, engaged in manufacture of their "Claro Hair Remover" liquid preparation and in competitive interstate sale and distribution thereof—Represented, directly and by implication, that their said product would permanently remove superfluous hair, and that it was safe and non-irritating, through such statements, in publications of general circulation and on counter display cards distributed chiefly to beauty shops, as "Ladies! A New Discovery! Positively banishes unsightly hair on face or body in three or four minutes. * * * nonirritating * * *," etc., and "Banishes Unsightly Hair Claro Liquid Depilatory New—Smart—Safe;"

Facts being said product, by virtue of barium sulphide and potassium hydroxide content, would dissolve that part of hair above the skin with which it came in contact, but would not affect roots thereof nor retard growth or permanently remove superfluous hair, and instead of being safe or non-irritating, would irritate the skin and was likely to cause severe dermatitis and chemical burns;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such false advertisements were true, and of thereby inducing it to purchase their said preparation, whereby trade was diverted unfairly to them from competitors who truthfully advertised their respective preparations and effectiveness thereof:

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.

Before *Mr. Edward E. Reardon*, trial examiner.

Mr. John M. Russell for the Commission.

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 Claro Laboratories, Inc., a corporation, and Joseph Ferdinand Claro Przybysz, also known as Joseph Ferdinand Claro, and Frances Przybysz, individuals, hereinafter referred to as respondents, have violated the

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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. Claro Laboratories, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Indiana, and respondents Joseph Ferdinand Claro Przybysz, also known as Joseph Ferdinand Claro, and Frances Przybysz, individuals, are president and secretary, respectively, thereof. The individual respondents have dominant control of the advertising policies and business activities of said corporate respondent, and all of said respondents have cooperated each with the other and have acted in concert in doing the acts and things alleged hereinafter. Respondents' office and principal place of business is located at 530 West Indiana Avenue, South Bend, Ind.

PAR. 2. Respondents now are, and for more than 1 year last past have been, engaged in the manufacture, sale, and distribution of a certain preparation in liquid form for the removal of surplus hair known as Claro Hair Remover. Respondents cause said product, when sold, to be transported from their place of business in the State of Indiana to purchasers thereof located in other 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 said product in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their said business, respondents are now, and at all times herein referred to have been, in substantial competition with other corporations and individuals and with partnerships and firms likewise engaged in the sale and distribution in said commerce of similar preparations for the removal of surplus hair. There are among respondents' competitors many who sell and distribute to the purchasing public like depilatory preparations who in no way misrepresent the nature or properties of the respective products sold and distributed by them and their effectiveness when used.

PAR. 4. In the course and conduct of said business and for the purpose of inducing the purchase of said Claro Hair Remover by members of the purchasing public, respondents have caused advertisements to be inserted in magazines and other periodicals in general circulation throughout the United States and have had printed labels, display cards, and other literature with statements therein concerning

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the nature and properties of their said product and its effectiveness when used, in or on all of which the name of said corporate respondent has been prominently and conspicuously displayed. This printed literature, together with bottles of said product with said labels thereon, respondents have sent to beauty parlors, drug stores, and other places located in many of said states. Among and typical of the statements made in the aforesaid printed literature, display cards, and other advertisements, are the following:

Positively banishes unsightly hair on face, arms and legs in a few moments
* * * It is mild, pleasant * * * LIQUID called "CLARO" * * * Ask
for it in beauty shops and drug stores. * * * we guarantee to please you
* * * Claro Laboratories.

BANISHES UNSIGHTLY HAIR

CLARO

LIQUID DEPILATORY

CLARO * * * The Perfect HAIR REMOVER * * * Safe * * * Non-Irritating.

PAR. 5. All of said statements in paragraph 4 hereof, together with similar statements appearing in respondents' printed literature, display cards, and other advertisements, purport to be descriptive of respondents' product and of its effectiveness when used. In all of their said printed literature, display cards, and other advertisements, respondents directly or by inference, through the statements or representations herein set out and other statements of similar import and effect, represent that their said product will permanently remove superfluous hair from the human body; that their said product is safe and non-irritating; and that they guarantee their said claims therefor.

PAR. 6. The statements and representations made by the respondents with respect to the nature, properties and effect of said product, when used, are grossly exaggerated, false, and misleading. In truth and in fact, said Claro Hair Remover, when used, will not permanently remove hair from the human body. It is not safe and non-irritating to all persons. Respondents do not guarantee any of the claims they make concerning their said product.

PAR. 7. The true facts are that said product will not permanently remove any hair, but will only remove or destroy existent hair. It will cause the hair thereafter growing out to be more coarse and some authorities state it will cause more hair to grow out. Any chemical depilatory containing a sulphite in sufficient quantity to dissolve and burn hair as does Claro Hair Remover will also irritate

or burn some delicate skins, since both hair and skin are made of practically the same chemical components.

PAR. 8. Each and all of the false and misleading representations and implications made by the respondents in describing their said product and its effectiveness when used, as hereinabove set out, have had and have a tendency and capacity to and do mislead and deceive a substantial portion of the purchasing public into the erroneous belief that all of said representations and implications are true. As a direct result of this erroneous and mistaken belief, a number of the consuming public have purchased a substantial volume of respondents' product, with the result that trade in said commerce has been diverted unfairly to respondents from competitors likewise engaged in the business of selling and distributing similar depilatory products, or other products designed and sold for use in removing surplus hair in said commerce, who truthfully advertise their respective products and the effectiveness thereof when used. As a result thereof, injury has been done and is now being done by respondents to competitors in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 9. The aforesaid acts and practices of the respondents, as herein alleged, are all to the prejudice of the public and of respondents' competitors and constitute unfair methods of competition 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 December 14, A. D., 1938, issued and subsequently served its complaint in this proceeding upon the respondents, Claro Laboratories, Inc., a corporation, and Joseph Ferdinand Claro Przybysz, also known as Joseph Ferdinand Claro, Frances Przybysz, individuals, charging them 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. After the issuance of said complaint and the filing of respondents' answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by John M. Russell, attorney for the Commission, before Edward E. Reardon, an examiner of the Commission theretofore duly designated by it (no evidence having been offered by the respondents), 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 be-

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fore the Commission on said complaint, the answer thereto, testimony and other evidence (no brief having been filed on behalf of the respondents 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. Claro Laboratories, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Indiana, with its principal place of business located at 530 West Indiana Avenue, South Bend, Ind. The respondents Joseph Ferdinand Claro Przybysz, also known as Joseph Ferdinand Claro, and Frances Przybysz are individuals and own, operate, and control the corporate respondent Claro Laboratories, Inc.

PAR 2. Respondents now are, and for more than 1 year last past have been, engaged in the manufacture, sale, and distribution of a certain preparation in liquid form for the removal of surplus hair known as Claro Hair Remover. Respondents cause said preparation, when sold, to be transported from their place of business in the State of Indiana to purchasers thereof located in various other 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 said preparation in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their said business, respondents are now, and at all times mentioned herein have been, in substantial competition with other corporations and individuals and with partnerships and firms engaged in the sale and distribution in commerce among and between the various States of the United States and in the District of Columbia of preparations for the removal of surplus hair. There are among such competitors of the respondents many who sell and distribute to the purchasing public depilatory preparations who in no way misrepresent the nature or properties of the respective preparations sold and distributed by them and their effectiveness when used.

PAR. 4. The Commission finds that in the course and conduct of their business and for the purpose of inducing the purchase of their said preparation, the respondents have caused various statements and

representations relative to said preparation to be inserted in advertisements in publications having a general circulation in the various States of the United States. Among and typical of such statements and representations appearing in such advertisements is the following:

LADIES! A NEW DISCOVERY!

Positively banishes unsightly hair on face or body in three or four minutes. Easily applied. Its mild, pleasant, fragrant and nonirritating LIQUID called "CLARO"—a marvelous product. Leaves skin sweet and clean, satin-smooth, perfectly lovely to touch. Costs only 50¢. Ask for it in beauty shops and drug stores. Or mail 50¢ in coin direct and receive our DeLuxe package postpaid, or send no money; pay postman a few cents postage on arrival.

CLARO LABORATORIES, DEPT. 51,
SOUTH BEND, IND.

In addition to advertisements appearing in various publications, the respondents have also distributed counter display cards to purchasers of their preparation located in various States of the United States, consisting chiefly of beauty shops. Such display cards contain the following representation:

Banishes Unsightly Hair

CLARO

Liquid Depilatory

New—Smart—Safe

PAR. 5. The Commission finds that through the use of the statements hereinabove set forth, and others similar thereto not specifically set out herein, the respondents represent, directly and by implication, that their preparation, Claro Hair Remover, will permanently remove superfluous hair from the human body and that said preparation is safe and non-irritating.

PAR. 6. The Commission further finds that the foregoing statements and representations made by the respondents with respect to the nature, properties, and effect of said preparation are grossly exaggerated, false and misleading. Respondents' preparation, Claro Hair Remover, is composed of the following ingredients: potassium hydroxide, approximately 1 percent; barium sulphide, 4 percent; strantium sulphide, trace; safrol; and water, approximately 94 percent. By reason of the existence of barium sulphide and potassium hydroxide in respondents' preparation, this preparation will dissolve that portion of the hair above the skin with which it comes in contact but will not affect the roots of the hair or retard the growth of hair and will not permanently remove superfluous hair from the

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human body. Respondents' preparation is not safe or non-irritating for the reason that under the conditions of use said preparation will irritate the skin and is likely to cause severe dermatitis and chemical burns.

PAR. 7. The Commission further finds that the use by the respondents of the foregoing false, deceptive, and misleading statements and 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 such false statements, representations, and advertisements are true, and induces a portion of the purchasing public, because of such erroneous and mistaken belief, to purchase respondents' preparation. As a direct result, trade has been diverted unfairly to the respondents from competitors engaged in the sale and distribution of depilatory preparations in commerce among and between the various States of the United States who truthfully advertise their respective preparations and the effectiveness thereof when used.

CONCLUSION

The aforesaid acts and practices of the respondents as herein found are all to the prejudice and injury of the public and of respondents' 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, the answer of the respondents, testimony and other evidence taken before Edward E. Reardon, an examiner of the Commission theretofore duly designated by it, in support of the allegations of the said complaint, and brief in support of the complaint filed herein, and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Claro Laboratories, Inc., a corporation, and its officers, and Joseph Ferdinand Claro Przybysz, also known as Joseph Ferdinand Claro, Frances Przybysz, individuals, and their respective 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 now known as Claro

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Hair Remover, or any other preparation composed of substantially similar ingredients 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 by implication, that respondent's preparation constitutes a safe or nonirritating means of removal of superfluous hair from the human body, or that it will permanently remove such hair or retard its growth.

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.

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IN THE MATTER OF
ELECTRICAL LABORATORIES 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 3707. Complaint, Feb. 13, 1939—Decision, Mar. 25, 1941

Where a corporation engaged in manufacture of aerial eliminators, antennae, and other electrical and mechanical devices and parts for radio receiving sets, and in competitive interstate sale and distribution thereof—

Made such statements and representations, in advertisements in newspapers, periodicals, and pamphlets circulated throughout the United States, of a device labeled and referred to by it as "Walco Aerial Eliminator" and "Dynamic Antenna," as "Throw Away Your Aerial! Amazing \$1 device does away with it Entirely! Special Tuning Feature Improves Selectivity, Tone. * * * Gives volume and distance equal to outdoor aerial with far Better Selectivity. * * * Ends all dangers of lightning, storms, short circuits. No more clicks and noise from wind and rain";

Facts being such device did not improve selectivity and tone of radio sets, or under all circumstances give volume and distance equal to outdoor aeriels, did not give better selectivity, dependent in fact, upon design, quality, and other factors, and did not end all dangers of lightning, storms and short circuits, but only to extent that such dangers might be due to maintenance of outdoor aerial, and, further, did not eliminate clicks and noises from wind and rain, except as they might be due to physical movement of outside aerial resulting from wind, rain or other atmospheric disturbances;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that all of said representations were true, and result that numerous members of consuming public purchased a substantial volume of its said products, and trade was unfairly diverted to it from competitors selling and distributing similar devices; to their injury:

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.

Before *Mr. John P. Bramhall*, trial examiner.

Mr. Carrel F. Rhodes and *Mr. R. A. McQuat* for the Commission.

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 Electrical Laboratories Company, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said act, and it appearing