

IN THE MATTER OF
INGENUITIES CORPORATION OF AMERICA, GOLDBERG,
SQUIRE, LESSER AND COHEN, INC., AND T. P.
McCUTCHEON AND BROTHER, INC.

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

Docket 4593. Complaint, Sept. 22, 1941—Decision, Mar. 13, 1942

Where a corporation, engaged in licensing a patent for the construction of neckties and the use, in connection therewith, of the registered trade-mark "Silkallo" (also licensed in combinations such as, particularly, "Duo-Silk-Allo"), which (1) paid an agreed percentage of licensees' cost of advertising the ties and furnished them with counter-cards and labels, on all of which it caused to be displayed the phrase "Duo-Silk-Allo," (2) designated approved firms for embossing said trade-marks on ties, and (3) charged royalties for neckties made and embossed under its licenses—

- (a) Represented that the neckties involved were silk through use of phrase "Duo-Silk-Allo" and other similar phrases; and failed to make it a condition precedent to the issuance of a license that licensee agree to use such phrases only on and in connection with products made entirely from silk, and to determine whether ties were entirely thus made, and to revoke licenses of those selling, shipping, labeling, embossing or advertising such products not thus made; and

Where two of its corporate licensees—

- (b) Embossed, or caused to be embossed, with words "Duo-Silk-Allo" and sold, thus embossed, rayon and rayon-and-silk ties, with woolen interlining; and
(c) Failed, in case of one of said licensees, to disclose rayon content of its products, and in other so to do except through placing on ties involved detachable paper labels reading "Silk and Rayon," and to designate each constituent fiber of such ties in order of its predominance by weight, beginning with the largest single one;

The facts being that many of the ties concerned, including those sold by other of its said licensees and similarly advertised, labeled, embossed and sold, were, except for woolen interlining, composed entirely or predominantly of rayon which, when made to simulate silk, is practically indistinguishable by the purchasing public from the genuine and long preferred product of the cocoon of the silkworm; and

Where said corporate licensor—

- (d) Placed in the hands of its said two corporate licensees aforesaid methods of misrepresenting their respective ties, and participated in the misrepresentation thereof; and

Where said licensor and its licensees—

- (e) Failed to disclose and to cause to be disclosed the fact that said products were composed in whole or in part of rayon, except as above set forth;

With tendency and capacity to mislead purchasers and prospective purchasers of said neckties into the mistaken belief that such representations were true

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and that rayon used therein was silk, thereby inducing them to purchase substantial numbers of said ties:

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

Mr. Donovan Divet for the Commission.

Munn, Liddy, Glaccum & Kane and *Mr. Murray Rosof*, of New York City, 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 Ingenuities Corporation of America, a corporation and Goldberg, Squire, Lesser & Cohen, Inc., a corporation and T. P. McCutcheon & Brother, Inc., a corporation, hereinafter referred to as the respondents, have 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, Ingenuities Corporation of America, is a corporation, organized and existing under and by virtue of the laws of the State of New York and having its principal place of business at 745 Fifth Avenue, in the city of New York, State of New York.

Respondent, Goldberg, Squire, Lesser & Cohen, Inc., is a corporation, organized and existing under and by virtue of the laws of the State of New York and having its principal place of business at 3 East Twenty-eighth Street, in the city of New York, State of New York.

Respondent, T. P. McCutcheon & Brothers, Inc., is a corporation, organized and existing under and by virtue of the laws of the State of Pennsylvania and having its principal place of business at 1216 Arch Street, in the city of Philadelphia, State of Pennsylvania.

PAR. 2. Respondent, Ingenuities Corporation of America, Inc., is now, and for more than 2 years last past has been, engaged in the business of licensing the use of a certain patent for the construction of neckties and the use in connection with neckties of a registered trade mark "Silkallo," the use of which the said respondent licenses in combination with other words and with hyphens particularly as "Duo-Silk-Allo." The said respondent issues said licenses to manufacturers of neckties located in various States of the United States and in accordance with the provisions of the agreements under which

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said licenses are issued and in the course and conduct of its said business pays an agreed percentage of the cost of the advertising of said neckties by the individual licensees. In the course and conduct of its said business said respondent also furnishes said licensees with counter cards advertising neckties manufactured and labeled in accordance with said licenses, and also supplies them in some cases with labels to be used on said neckties, and also designates embossing firms which emboss the said trade mark on the said neckties upon which neckties respondent receives royalties as hereinafter alleged. Respondent controls the activities of said designated embossing firms to such an extent that such embossing firms refuse to emboss neckties except under conditions not objected to by said respondent. The embossing on said neckties, the said labels, the said advertisements and the said counter cards all display the phrase "Duo-Silk-Allo." In accordance with the provisions of said licensing agreements and in the course and conduct of its said business, said respondent charges and receives a certain royalty for the neckties manufactured and embossed under said licenses.

The said neckties after being embossed by one of the said designated embossing firms as heretofore alleged, are returned to the licensees from the places of business of said embossing firms to said licensees located in States other than those in which said embossing firms are located; said counter cards and the said labels supplied by said respondent are shipped by said respondent from its principal place of business in the State of New York to said licensees in States other than New York and are by said licensees shipped from their respective places of business to persons and firms located in States other than the State in which said licensees are respectively located and from which they make said shipments; the said advertisements paid for in part by said respondent as heretofore alleged are published in newspapers and magazines which are distributed in the various States of the United States; the said neckties after being embossed by one of said designated embossing firms and returned to said licensees as aforesaid are transported with the embossing from the respective places of business of said licensees to purchasers located in States other than those from which shipment was made.

PAR. 3. In the course and conduct of its said business and for the purpose of promoting the sale of its said licenses and of the neckties manufactured under said licenses, the said respondent, Ingenuities Corporation of America, in connection with its respective licensees has engaged in the practice of falsely representing the constituent fabric or material of certain of the neckties manufactured by its said licensees by means of false representations appearing in said labels,

countercards, embossed neckties and advertisements in newspapers and magazines and by failing to disclose and to require the disclosure of the rayon content of said neckties and has placed in the hands of other persons and companies a means of so misrepresenting said products.

PAR. 4. Among the said neckties manufactured by the licensees of said respondent, Ingenuities Corporation of America. and shipped, embossed, labeled, and advertised as heretofore alleged, are many which contain no silk, but which are made entirely of rayon with woolen interlining and others which are made partly of silk and partly of rayon with a woolen interlining. In the advertising, labeling and embossing of said neckties, respondent, Ingenuities Corporation of America, has used and has permitted its licensees to use the phrase "Duo-Silk-Allo," or other phrases of similar import or meaning and has failed to make it a condition precedent to the issuance of a license to use the phrase "Duo-Silk-Allo," or other phrases of similar import or meaning, that said licensees agree to use such phrases only on and in connection with neckties made entirely from silk, and has failed to determine whether said neckties are made entirely of silk and has failed to revoke licenses when the neckties so sold, shipped, labeled, embossed, or advertised as aforesaid were not made entirely of silk. By using and by permitting the use of the phrase "Duo-Silk-Allo" and other phrases of similar import or meaning not herein specifically set forth, the respondent has made and caused to be made the representation that said neckties are composed entirely of silk and has placed in the hands of its licensees a means of making said representation.

Among the said licensees of respondent, Ingenuities Corporation of America, are the respondents Goldberg, Squire, Lesser & Cohen, Inc., a corporation and T. P. McCutcheon & Brother, Inc., a corporation, each of which said respondents under a license to use said patent, has manufactured or caused to be manufactured certain neckties composed in some cases of rayon with a woolen interlining and in other cases of rayon and silk with a woolen interlining, which neckties each of said respondents has embossed or caused to be embossed with the words "Duo-Silk-Allo" under a license from said respondent, Ingenuities Corporation of America, and which neckties so embossed said respondent licensees have sold in "commerce" as commerce is defined in the Federal Trade Commission Act. The respondent, T. P. McCutcheon & Brother, Inc., in selling its said neckties as aforesaid has entirely failed to disclose the rayon content thereof; the respondent Goldberg, Squire, Lesser & Cohen, Inc., has failed to disclose the rayon content of its said neckties except by placing thereon

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a detachable paper label reading "Silk and Rayon," and has failed to designate each constituent fiber of said neckties in the order of its predominance by weight beginning with the largest single constituent. The respondent, Ingenuities Corporation of America, has received a royalty on each of the neckties so manufactured, embossed and sold by the two other respondents and in the ways and by the methods heretofore alleged has placed in the hands of each of said two respondent licensees a method of misrepresenting their respective neckties and has participated in the misrepresentation thereof.

PAR. 5. The said representations of the respondents as heretofore alleged are false and misleading. In truth and in fact many of the neckties sold by each of said respondent licensees, as well as many of the neckties of other licensees of respondent licensor similarly advertised, labeled, embossed and sold in "commerce" as commerce is defined in the Federal Trade Commission Act, are composed of rayon with a woolen interlining, or of rayon and silk with a woolen interlining and with the rayon predominating.

PAR. 6. The word "silk" for many years last past 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, public esteem for their preeminent qualities and because of such reputation there is a substantial demand on the part of the purchasing public for such products. Rayon is the name of a chemically manufactured fiber or fabric which may be manufactured so as to simulate silk and when so manufactured has the appearance and feel of silk and is practically indistinguishable by the purchasing public from silk. By reason of these qualities rayon, when manufactured to simulate silk, and not designated as rayon, is readily believed to be and is accepted by the purchasing public as being silk, the product of the cocoon of the silkworm. All of the rayon contained in the aforesaid neckties labeled "Duo-Silk-Allo" is manufactured so as to simulate silk and has the appearance and feel of silk. In the sale and in the offering for sale of said neckties the respondents have failed to disclose and have failed to cause to be disclosed by labels or in any other manner except as heretofore alleged the fact that said neckties were composed in whole or in part of rayon.

PAR. 7. The use by the respondents of the aforesaid methods and representations and the failure to disclose and to cause to be disclosed the rayon content of said neckties has had and has the tendency and capacity to mislead purchasers and prospective purchasers of said neckties into the erroneous and mistaken belief that such repre-

sentations are true and that the rayon fabric and fiber used in the makeup of said neckties is silk and to induce them to purchase substantial numbers of said neckties.

PAR. 8. The aforesaid acts and practices of the respondents as herein alleged are all to the prejudice of the public and constitute 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 September 22, 1941, issued, and on September 23, 1941, served its complaint in this proceeding upon respondents Ingenuities Corporation of America, a corporation, Goldberg, Squire, Lesser & Cohen, Inc., a corporation, and T. P. McCutcheon & Brother, Inc., a corporation, charging them with the use of 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' answers, the Commission by orders entered herein granted respondents' motions for permission to withdraw said answers and to substitute therefor answers admitting all the material allegations of fact set forth in said complaint, and waiving all intervening procedure and further hearing as to said facts, which substitute answers were duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint and substitute answers, 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. Respondent, Ingenuities Corporation of America, is a corporation, organized and existing under and by virtue of the laws of the State of New York and having its principal place of business at 745 Fifth Avenue, in the city of New York, State of New York.

Respondent, Goldberg, Squire, Lesser & Cohen, Inc., is a corporation, organized and existing under and by virtue of the laws of the State of New York and having its principal place of business at 3 East Twenty-eighth Street, in the city of New York, State of New York.

Respondent, T. P. McCutcheon & Brother, Inc., is a corporation, organized and existing under and by virtue of the laws of the State of

Pennsylvania and having its principal place of business at 1216 Arch Street, in the city of Philadelphia, State of Pennsylvania.

PAR. 2. Respondent, Ingenuities Corporation of America, Inc., is now, and for more than 2 years last past has been, engaged in the business of licensing the use of a certain patent for the construction of neckties and the use in connection with neckties of a registered trademark "Silkallo," the use of which the said respondent licenses in combination with other words and with hyphens particularly as "Duo-Silk-Allo." The said respondent issues said licenses to manufacturers of neckties located in various States of the United States and in accordance with the provisions of the agreements under which said licenses are issued and in the course and conduct of its said business pays an agreed percentage of the cost of the advertising of said neckties by the individual licensees. In the course and conduct of its said business, said respondent also furnishes said licensees with counter-cards advertising neckties manufactured and labeled in accordance with said licenses, and also supplies them, in some cases, with labels to be used on said neckties, and also designates embossing firms which emboss the said trade-mark on the said neckties upon which neckties respondent receives royalties as hereinafter found. Respondent controls the activities of said designated embossing firms to such an extent that such embossing firms refuse to emboss neckties except under conditions not objected to by said respondent. The embossing on said neckties, the said labels, the said advertisements and the said counter-cards all display the phrase "Duo-Silk-Allo." In accordance with the provisions of said licensing agreements, and in the course and conduct of its said business, said respondent charges and receives a certain royalty for the neckties manufactured and embossed under said licenses.

The said neckties after being embossed by one of the said designated embossing firms, as heretofore found, are returned to the licensees from the places of business of said embossing firms to said licensees located in States other than those in which said embossing firms are located; said counter-cards and the said labels supplied by said respondent are shipped by said respondent from its principal place of business in the State of New York to said licensees in States other than New York and are by said licensees shipped from their respective places of business to persons and firms located in States other than the State in which said licensees are respectively located, and from which they make said shipments; the said advertisements paid for in part by said respondent as heretofore found are distributed in the various States of the United States; the said neckties after being embossed by one of said designated embossing firms and returned to said licensees as aforesaid are trans-

ported with the embossing from the respective places of business of said licensees to purchasers located in States other than those from which shipment was made.

PAR. 3. In the course and conduct of its said business, and for the purpose of promoting the sale of its said licenses and of the neckties manufactured under said licenses, the said respondent, Ingenuities Corporation of America, in connection with its respective licensees has engaged in the practice of falsely representing the constituent fabric or material of certain of the neckties manufactured by its said licensees by means of false representations appearing in said labels, counter cards, embossed neckties and advertisements in newspapers and magazines and by failing to disclose and to require the disclosure of the rayon content of said neckties and has placed in the hands of other persons and companies a means of so misrepresenting said products.

PAR. 4. Among the said neckties manufactured by the licensees of said respondent, Ingenuities Corporation of America, and shipped, embossed, labeled and advertised as heretofore found, are many which contain no silk, but which are made entirely of rayon with woolen interlining and others which are made partly of silk and partly of rayon with a woolen interlining. In the advertising, labeling and embossing of said neckties, respondent, Ingenuities Corporation of America, has used and has permitted its licensees to use the phrase "Duo-Silk-Allo," or other phrases of similar import or meaning and has failed to make it a condition precedent to the issuance of a license to use the phrase "Duo-Silk-Allo," or other phrases of similar import or meaning, that said licensees agree to use such phrases only on and in connection with neckties made entirely from silk, and has failed to determine whether said neckties are made entirely of silk and has failed to revoke licenses when the neckties so sold, shipped, labeled, embossed, or advertised as aforesaid were not made entirely of silk. By using and by permitting the use of the phrase "Duo-Silk-Allo" and other phrases of similar import or meaning not herein specifically set forth, the respondent has made and caused to be made the representation that said neckties are composed entirely of silk and has placed in the hands of its licensees a means of making said representation.

Among the said licensees of respondent, Ingenuities Corporation of America, are the respondents, Goldberg, Squire, Lesser & Cohen, Inc., a corporation, and T. P. McCutcheon & Brother, Inc., a corporation, each of which said respondents, under a license to use said patent, has manufactured or caused to be manufactured certain neck-

ties composed in some cases of rayon with a woolen interlining and in other cases of rayon with silk with a woolen interlining, which neckties each of said respondents has embossed or caused to be embossed with the words "Duo-Silk-Allo" under a license from said respondent, Ingeniuties Corporation of America, and which neckties so embossed said respondent licensees have sold in commerce, as "commerce" is defined in the Federal Trade Commission Act. The respondent T. P. McCutcheon & Brother, Inc., in selling its said neckties as aforesaid has entirely failed to disclose the rayon content thereof; the respondent, Goldberg, Squire, Lesser & Cohen, Inc., has failed to disclose the rayon content of its said neckties except by placing thereon a detachable paper label reading "Silk and Rayon," and has failed to designate each constituent fiber of said neckties in the order of its predominance by weight beginning with the largest single constituent. The respondent, Ingeniuties Corporation of America, has received a royalty on each of the neckties so manufactured, embossed and sold by the two other respondents, and in the ways and by the methods heretofore found, has placed in the hands of each of said two respondent licensees a method of misrepresenting their respective neckties and has participated in the misrepresentation thereof.

PAR. 5. The said representations of the respondents as heretofore found are false and misleading. In truth and in fact many of the neckties sold by each of said respondent licensees, as well as many of the neckties of other licensees of respondent licensor similarly advertised, labeled, embossed and sold in commerce, as "commerce" is defined in the Federal Trade Commission Act, are composed of rayon with a woolen interlining, or of rayon and silk with a woolen interlining, and with the rayon predominating.

PAR. 6. The word "silk" for many years last past 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 public esteem for their preeminent qualities and because of such reputation there is a substantial demand on the part of the purchasing public for such products. Rayon is the name of a chemically manufactured fiber or fabric which may be manufactured so as to simulate silk and when so manufactured has the appearance and feel of silk and is practically indistinguishable by the purchasing public from silk. By reason of these qualities rayon, when manufactured to simulate silk, and not designated as rayon, is readily believed to be and is accepted by the purchasing public as being silk, the product of

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the cocoon of the silkworm. All of the rayon contained in the aforesaid neckties labeled "Duo-Silk-Allo" is manufactured so as to simulate silk and has the appearance and feel of silk. In the sale and in the offering for sale of said neckties, the respondents have failed to disclose and have failed to cause to be disclosed by labels or in any other manner except as heretofore found the fact that said neckties were composed in whole or in part of rayon.

PAR. 7. The use by the respondents of the aforesaid methods and representations and the failure to disclose and to cause to be disclosed the rayon content of said neckties has had, and has, the tendency and capacity to mislead purchasers and prospective purchasers of said neckties into the erroneous and mistaken belief that such representations are true and that the rayon fabric and fiber used in the makeup of said neckties is silk and to induce them to purchase substantial numbers of said neckties.

CONCLUSION

The aforesaid acts and practices of the respondents as herein found are all to the prejudice of the public and constitute 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 answers of the respondents, in which answers respondents admit all of the material allegations of fact set forth in said complaint, and state that they waive 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 respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent Ingenuities Corporation of America, a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the use of or the licensing of the use of the trade mark "Silkallo" or the use of any other word or words of similar import or meaning indicative of silk for use in designating neckties, fabrics or any other similar products offered for sale, sold or distributed in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using or authorizing the use of the unqualified term "silk" or any other term or terms of similar import or meaning indicative of

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silk to describe or designate any fabric or product which is not composed wholly of silk, the product of the cocoon of the silkworm; provided, however, that in the case of a fabric or product composed in part of silk and in part of materials other than silk such term or terms may be used as descriptive of the silk content if there are used in immediate connection or conjunction therewith in letters of at least equal size and conspicuousness words truthfully describing and designating each constituent fiber thereof.

2. Using or authorizing the use of the term "Duo-Silk-Allo" or any other term of similar import or meaning to describe, designate or refer to any fabric or product which is not composed wholly of silk, the product of the cocoon of the silkworm.

It is further ordered, That the respondents, Goldberg, Squire, Lesser & Cohen, Inc., a corporation, and T. P. McCutcheon & Brother, Inc., a corporation, their officers, representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of neckties and other similar merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the unqualified term "silk," or any other term or terms of similar import or meaning indicative of silk, to describe or designate any fabric or product which is not composed wholly of silk, the product of the cocoon of the silkworm: *Provided, however,* That in the case of a fabric or product composed in part of silk and in part of materials other than silk, such term or similar terms may be used as descriptive of the silk content, if there are used in immediate connection and conjunction therewith in letters of at least equal size and conspicuousness words truthfully describing and designating each constituent fiber thereof.

2. Using the term "Duo-Silk-Allo," or any other term of similar import or meaning, on labels or otherwise to describe, designate or refer to any fabric or product which is not composed wholly of silk, the product of the cocoon of the silkworm.

3. Advertising, offering for sale, or selling neckties or other products composed in whole or in part of rayon without clearly disclosing the fact that such fabrics or products are composed of rayon, and when such fabrics or products are composed in part of rayon and in part of other fibers or materials, such fibers or materials, including rayon, shall be named in letters of equal size and conspicuousness by words truthfully describing and designating each constituent fiber and material thereof; and such disclosure of the fiber content of such

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fabrics or products shall be made by accurately designating and naming each constituent fiber thereof in the order of its predominance by weight, beginning with the largest single constituent.

It is further ordered, That the respondents shall within 60 days after the 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.

IN THE MATTER OF
CORN PRODUCTS REFINING CO. AND CORN PRODUCTS
SALES CO., INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SUBSECTIONS (a) AND (e) OF SEC. 2, AND OF SEC. 3 OF AN ACT OF CON-
GRESS APPROVED OCT. 15, 1914, AS AMENDED BY ACT OF JUNE 19, 1936

Docket 3633. Complaint, Mar. 25, 1939¹—Decision, Mar. 16, 1942

Where a corporation which (1) constituted a large and important processor and refiner of corn and manufacturer of products and byproducts of such processing and refining; (2) owned and operated corn grinding and refining plants in Illinois, Missouri, and New Jersey, with facilities for the production of many products and byproducts of corn, including all known corn starch products for both household and industrial use, and including starch, glucose or corn sirup, corn sugar, corn oil, glucose feed, corn oil cake, corn oil meal and other products, and selling, in addition, many branded products including its Kingsford and Duryea starches, Karo sirup, Mazola oil, Argo corn starch, Argo gloss starch, Kre-mel desserts, Linit, and Cerelose; (3) owned and operated can, carton and printing plants for the production of containers for many of the packaged products; and (4) distributed the products so manufactured to purchasers in New York and Illinois, and through its wholly owned subsidiary, to purchasers elsewhere; In competition with seven other concerns; manufacturers and distributors, together with its said subsidiary;

In selling their glucose or corn sirup, used principally in the manufacture of candy and the mixing of table sirup, to purchasers, of whom many were candy manufacturers, competitively engaged in the sale of candy to various customers, including wholesalers, chain stores and retailers—

- (a) Discriminated in price unlawfully through concurrently selling glucose of like grade and quality to different purchasers at differing delivered prices which were calculated upon the basis of the price in Chicago plus the railroad tariff rate from Chicago to the destination of the purchaser, irrespective of whether shipments were made from their Chicago plant or, as was their usual practice, from their Kansas City plant; and thereby, depending upon purchaser's location, included in or excluded from, particular delivered price, artificial, or actual freight, as case might be;
- (b) Discriminated in price unlawfully through concurrently selling glucose of like grade and quality to different purchasers at differing prices which were created through their practice of adding to the railroad tank car price additional sums, depending upon the type of container in which the glucose was delivered, ranging from \$1.08 over tank car prices for 5-gallon kegs to 2 cents on tank trucks in which delivery was made by customer's equipment and 10 cents where delivered by their own equipment; and
- (c) Discriminated in price through concurrently selling glucose of like grade and quality to different purchasers at differing prices through allowing some purchasers, under their order "booking" system, a period of days after a price increase had been announced within which to purchase glucose

¹ Amended.