

Syllabus

IN THE MATTER OF

ASSOCIATED MERCHANDISING CORP., OWENS STAPLE-
TIED BRUSH CO., ABRAHAM & STRAUS, INC., ET AL.

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

Docket 4719. Complaint, Mar. 3, 1942—Decision, Apr. 24, 1947

In a proceeding in which it appeared that bristles for use in the making of tooth brushes were, prior to their importation into the United States, subjected to a bleaching solution of chemicals, rinsed, and dried, and thus made sterile at the time, but were not thereafter sterilized, and that during subsequent incorporation into tooth brushes and packaging no methods were used to maintain the bristles in a sterile condition, the Commission took notice of the scientifically well-known and thoroughly established fact that under conditions such as those stated an article such as tooth-brush bristles will not remain sterile and free of pathogenic bacteria.

When an article such as a tooth brush is branded or described as "sterilized" at the time of its sale, the public understanding is that such article has been subjected to a process that destroyed all pathogenic bacteria and that such sterile condition has been maintained.

Where (1) a corporate service organization, owned and controlled by 21 corporations engaged in the operation of retail department stores in various American cities; (2) a corporation engaged, among other things, in the manufacture, packaging, and sale of tooth brushes; and (3) said department stores;

Following a plan directed to the marketing by said stores of tooth brushes under a distinctive name or brand; the action of their committee in selecting such a name or brand and a design for and the wording to appear on the package or carton in which the tooth brushes would be marketed; the selection by their said service organization of aforesaid corporate manufacturer to make such tooth brushes, etc., and agreement therewith, so to do, and to sell the same exclusively to such member stores, under such brand and in such carton; and the manufacture, accordingly, of such tooth brushes—

Made use, in accordance with and as the result of aforesaid plan, agreement, arrangements, and acts, of the word "sterilized" on the handles of said brushes and in the cartons enclosing the same, through use of such words and representations as "Guaranteed Sterilized," and, later, the words "Bristles sterilized before packaging and sealed in cellophane for your protection," along with the brand, for a time, "P & S—Purity and Safety," later changed to "P & S—Private Seal"; and offered, distributed, and sold such tooth brushes, thus stamped, containered, labeled, and branded;

Notwithstanding the fact that, while the bristles of said products were made sterile prior to importation, no methods were used thereafter to maintain them in a sterile condition, and said products, accordingly, were not, when offered for sale and sold to the public, sterile and free from pathogenic bacteria;

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With capacity and tendency to mislead and deceive members of the purchasing public in the aforesaid respects and thereby to cause them to purchase a substantial number of the articles in question :

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.

Mr. Robt. N. McMillen for the Commission.

Weil, Gotshal & Manges, of New York City, for Associated Merchandising Corp.; Abraham & Straus, Inc.; L. S. Ayres & Co.; Bloomingdale Bros., Inc.; The Herzfeld-Phillipson Co.; Bullocks' Inc.; Burdine's, Inc.; The Emporium-Capwell Corp.; The Dayton Co.; Wm. Filene's Sons Co.; B. Forman Co.; Joseph Horne Co.; Hutzler Bros. Co.; The F. & R. Lazarus & Co.; The Rike-Kumler Co.; Stix, Baer & Fuller Co.; Strawbridge & Clothier; The John Shillito Co.; R. H. White Co.; William Taylor Son & Co.; and Thalheimer Bros., Inc.

Williams, Eversman & Morgan, of Toledo, Ohio, for Owens Staple-Tied Brush Co.

Beaumont, Smith & Harris, of Detroit, Mich., for J. L. Hudson Co.

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 the Associated Merchandising Corporation, a corporation, and the other corporations named in the caption hereof, all hereinafter referred to as 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, Associated Merchandising Corp., hereinafter referred to as respondent service corporation, is a corporation organized and existing under the laws of the State of New Jersey, with its offices and principal place of business located at 1440 Broadway, New York City. It was organized some time prior to February 1938, by the other respondents named in the caption hereof, except the Owens Staple-Tied Brush Co., and during all the time since its organization has been, and is now, owned and controlled by them and has acted and is acting as a service organization solely for them.

PAR. 2. Respondent, Owens Staple-Tied Brush Co., hereinafter referred to as respondent manufacturing company, is a corporation organized and existing under the laws of the State of Ohio, with its offices and principal place of business at 901 Buckingham Street,

Toledo, Ohio. It is, and at least since February 1938, has been, engaged in the manufacturing, packaging, and sale of brushes, including tooth brushes, which when sold, and as a part of the sale, it has shipped from its said place of business to the purchasers thereof located in various States of the United States.

PAR. 3. The remaining respondents named in the caption hereof, hereinafter referred to as respondent associated stores, are corporations organized, and their respective places of business are located as follows:

Abraham & Straus, Inc., a corporation, organized and existing under the laws of the State of New York, with its office and principal place of business at Brooklyn, New York; L. S. Ayres & Co., a corporation, organized and existing under the laws of the State of Indiana, with its office and principal place of business at Indianapolis, Ind.; Bloomingdale Bros., Inc., a corporation, organized and existing under the laws of the State of New York, with its office and principal place of business at New York, N. Y.; The Herzfeld-Phillipson Co., a corporation, organized and existing under the laws of the State of Wisconsin, with its office and principal place of business at Milwaukee, Wis.; Bullock's, Inc., a corporation, organized and existing under the laws of the State of Delaware, with its office and principal place of business at Los Angeles, Calif.; Burdine's, Inc., a corporation, organized and existing under the laws of the State of Florida, with its office and principal place of business at Miami, Fla.; The Emporium-Capwell Corp., a corporation, organized and existing under the laws of the State of California, with its office and principal place of business at San Francisco, Calif.; The Dayton Co., a corporation, organized and existing under the laws of the State of Minnesota, with its office and principal place of business at Minneapolis, Minn.; Wm. Filene's Sons Co., organized and existing under the laws of the State of Mass., with its office and principal place of business at Boston, Mass.; B. Forman Co., a corporation, organized and existing under the laws of the State of New York, with its office and principal place of business at New York, N. Y.; Joseph Horne Co., a corporation, organized and existing under the laws of the State of Pennsylvania, with its office and principal place of business at Pittsburgh, Pa.; J. L. Hudson Co., a corporation, organized and existing under the laws of the State of Michigan, with its office and principal place of business at Detroit, Mich.; Hutzler Brothers Co., a corporation, organized and existing under the laws of the State of Maryland, with its office and principal place of business at Baltimore, Md.; The F. & R. Lazarus & Co., a corporation, organized and existing under the laws of the State of Ohio, with its office and principal place

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of business at Columbus, Ohio; The Rike-Kumler Co., a corporation, organized and existing under the laws of the State of Ohio, with its office and principal place of business at Dayton, Ohio; Stix, Baer & Fuller Co., a corporation, organized and existing under the laws of the State of Missouri, with its office and principal place of business at St. Louis, Mo.; Strawbridge & Clothier, a corporation, organized and existing under the laws of the State of Pennsylvania, with its office and principal place of business at Philadelphia, Pa.; The John Shillito Co., a corporation, organized and existing under the laws of the State of Ohio, with its office and principal place of business at Cincinnati, Ohio; R. H. White Co., a corporation, organized and existing under the laws of the State of Massachusetts, with its office and principal place of business at Boston, Mass.; William Taylor Son & Co., a corporation, organized and existing under the laws of the State of Ohio, with its office and principal place of business at Cleveland, Ohio; and Thalheimer Brothers, Inc., a corporation, organized and existing under the laws of the State of Virginia, with its office and principal place of business at Richmond, Va.

Respondent associated stores are retail department stores selling, among other things, tooth brushes. A substantial part of such sales are to purchasers located outside the respective States of these respondents pursuant to which sales and as a part thereof these respondents ship the brushes to such purchasers at their respective locations.

All of said respondents acted in concert and in cooperation each with the other in doing the acts and things hereinafter alleged.

PAR. 4. Some time prior to February 1938, respondent associated stores, desiring to market tooth brushes under a distinctive name or brand, jointly entered into an arrangement with respondent service corporation whereby the latter would assist them in executing their desire under the following plan. A committee set up by respondent associated stores would select a name or brand by which said tooth brushes would be identified and under which they would be sold; they would adopt a design for and the wording to appear upon the package or carton in which the tooth brushes would be marketed; would arrange with respondent service corporation to seek out and recommend a desirable concern to manufacture the brushes, and cause the respondent service corporation to execute the design for the package or carton as outlined by the said committee. The respondent service corporation would seek out and recommend to the respondent associated stores a suitable concern to be the exclusive manufacturer of said tooth brushes, who would sell the same exclusively to the associated stores under said brand and in said carton.

The plan above outlined was put into operation and respondents have acted jointly in carrying it out.

PAR. 5. Pursuant to the plan alleged, the respondent associated stores selected and agreed upon a committee to act for them, that committee adopted a brand, "P & S—Purity and Safety," later changed to "P & S—Private Seal," adopted a design for the carton in which such tooth brushes were to be packed and marketed and the wording to appear thereon, and caused the respondent service corporation to seek out a suitable manufacturer, which it would recommend to them. Thereafter, respondent service corporation recommended to the associated stores that the respondent manufacturing company be selected as the manufacturer of such tooth brushes, and the respondent associated stores, by vote, adopted such recommendation.

An arrangement or contract was entered into with the respondent manufacturing company to manufacture, package, and sell the tooth brushes exclusively to respondent associated stores upon their individual orders for same.

Respondent manufacturing company has manufactured and packaged such tooth brushes and has sold and delivered them to the respondent associated stores upon their individual order, shipping the brushes from its place of business in Ohio to the purchasers in the various States of their location. Respondent associated stores have sold and are selling such brushes to the public, packaged in the cartons designed by the committee representing the respondent associated stores as aforesaid.

PAR. 6. Beginning some time prior to February 1938, and continuing down to the present time, for various periods and on various cartons in which such tooth brushes were marketed, there have appeared the words and representations "P & S—Sterilized tooth brush guaranteed." "Guaranteed P & S—Purity and Safety—Sterilized"; "Genuine P & S—Private Seal Bristle"; "P & S—Purity and Safety—Guaranteed—Sterilized—Sterilized before packaging and sealed in cellophane for your protection"; and "Bristle Sterilized." And throughout all said period there has been stamped upon the handle of each brush the word "sterilized."

PAR. 7. By the use of such words and representations on the cartons, and the word "sterilized" on the handles of the brushes, respondents represent and have represented that said brushes have been subjected to some process whereby all disease germs and bacteria have been destroyed and that said brushes when they reached the consumer were free of such disease germs and bacteria and were sterile within the ordinary meaning of that term.

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PAR. 8. In truth and in fact, said brushes have not been subjected to any process for the destruction of disease germs or bacteria, have not been sterilized within the ordinary meaning of that term, and were not sterilized nor pure nor safe, as such terms would be understood by the public under such circumstances.

PAR. 9. The representations, acts, and practices of the respondents as hereinbefore set forth have had and have the capacity and tendency to deceive and have deceived the purchasing public into believing that said tooth brushes had been subjected to some sterilization process and were sterile and free from disease germs and bacteria, and to cause and have caused the public to purchase a substantial number of said tooth brushes in reliance on said belief.

PAR. 10. The acts and practices of the respondents as aforesaid, are prejudicial to the public and constitute the use by respondents of 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 March 3, 1942, issued and subsequently served its complaint in this proceeding upon the respondents named in the caption hereof, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the respondents filed their answers, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by counsel for the respondents and Richard P. Whiteley, then assistant chief counsel for the Federal Trade Commission, subject to the approval of the Commission, may be taken as the facts in this proceeding in lieu of testimony in support of the charges stated in the complaint or in opposition thereto, and that the Commission may proceed upon said statement of facts to make its report, stating its findings as to the facts, including inferences which it may draw from the facts, and its conclusion based thereon. Thereafter, this proceeding regularly came on for final hearing before the Commission on said complaint, answers, and stipulations, said stipulation having been approved, accepted, and filed (briefs not having been filed 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. (a) Respondent, Associated Merchandising Corporation, is a corporation organized and existing under the laws of the State of New York, with its office and principal place of business at 1440 Broadway, New York, N. Y. Upon its organization in February 1939, it succeeded to the business of a New Jersey corporation of the same name which was organized prior to February 1938. Said respondent is, and its predecessor corporation during its existence was, owned and controlled by the respondents named in subparagraph (c) of this paragraph and acted as a service organization solely for such respondents.

(b) Respondent, Owens Staple-Tied Brush Co., is a corporation organized and existing under the laws of the State of Ohio. It is, and at least since February 1938 has been, engaged in the manufacture, packaging, and sale of brushes, including tooth brushes.

(c) The respondents named in this subparagraph are retail department stores engaged in the sale of various kinds of merchandise, including tooth brushes. These respondents are frequently hereinafter collectively referred to as "respondent associated stores."

1. Respondent, Abraham & Straus, Inc., is a corporation organized and existing under the laws of the State of New York, with its office and principal place of business in Brooklyn, N. Y.

2. Respondent, L. S. Ayres & Co., is a corporation organized and existing under the laws of the State of Indiana, with its office and principal place of business in Indianapolis, Ind.

3. Respondent, Bloomingdale Bros., Inc., is a corporation organized and existing under the laws of the State of New York, with its office and principal place of business in New York, N. Y.

4. Respondent, The Herzfeld-Phillipson Co., is a corporation organized and existing under the laws of the State of Wisconsin, with its office and principal place of business in Milwaukee, Wis.

5. Respondent, Bullock's, Inc., is a corporation organized and existing under the laws of the State of Delaware, with its office and principal place of business in Los Angeles, Calif.

6. Respondent, Burdine's, Inc., is a corporation organized and existing under the laws of the State of Florida, with its office and principal place of business in Miami, Fla.

7. Respondent, The Emporium-Capwell Corp., is a corporation organized and existing under the laws of the State of California, with its office and principal place of business in San Francisco, Calif.

8. Respondent, The Dayton Co., is a corporation organized and existing under the laws of the State of Minnesota, with its office and principal place of business in Minneapolis, Minn.

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9. Respondent, Wm. Filene's Sons Co., is a corporation organized and existing under the laws of the State of Massachusetts, with its office and principal place of business in Boston, Mass.

10. Respondent, B. Forman Co., is a corporation organized and existing under the laws of the State of New York, with its office and principal place of business in New York, N. Y.

11. Respondent, Joseph Horne Co., is a corporation organized and existing under the laws of the State of Pennsylvania, with its office and principal place of business in Pittsburgh, Pa.

12. Respondent, J. L. Hudson Co., is a corporation organized and existing under the laws of the State of Michigan, with its office and principal place of business in Detroit, Mich.

13. Respondent, Hutzler Brothers Co., is a corporation organized and existing under the laws of the State of Maryland, with its office and principal place of business in Baltimore, Md.

14. Respondent, The F. & R. Lazarus & Co., is a corporation organized and existing under the laws of the State of Ohio, with its office and principal place of business in Columbus, Ohio.

15. Respondent, The Rike-Kumler Co., is a corporation organized and existing under the laws of the State of Ohio, with its office and principal place of business in Dayton, Ohio.

16. Respondent, Stix, Baer & Fuller Co., is a corporation organized and existing under the laws of the State of Missouri, with its office and principal place of business in St. Louis, Mo.

17. Respondent, Strawbridge & Clothier, is a corporation organized and existing under the laws of the State of Pennsylvania, with its office and principal place of business in Philadelphia, Pa.

18. Respondent, The John Shillito Co., is a corporation organized and existing under the laws of the State of Ohio, with its office and principal place of business in Cincinnati, Ohio.

19. Respondent, R. H. White Co., is a corporation organized and existing under the laws of the State of Massachusetts, with its office and principal place of business in Boston, Mass.

20. Respondent, William Taylor Son & Co., is a corporation organized and existing under the laws of the State of Ohio, with its office and principal place of business in Cleveland, Ohio.

21. Respondent, Thalheimer Bros., Inc., is a corporation organized and existing under the laws of the State of Virginia, with its office and principal place of business in Richmond, Va.

PAR. 2. Respondent, Owens Staple-Tied Brush Co., pursuant to orders for tooth brushes received from each of the respondents named in subparagraph (c) of paragraph 1 hereof, has transported such

tooth brushes, or caused them to be transported, from its place of business in Ohio to the purchasers thereof at their various points of location in other States of the United States, and each of said respondent associated stores has transported or caused to be transported a portion of the tooth brushes purchased as aforesaid from their respective points of location to purchasers thereof in States other than the State in which such seller is located. The several respondents maintain, and have maintained, a course of trade in tooth brushes in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. Some time prior to February 1938 respondent associated stores, desiring to market tooth brushes under a distinctive name or brand, jointly entered into an agreement with their service organization, Associated Merchandising Corp., whereby said corporation would assist them in executing the following plan: A committee created by respondent associated stores would select a name or brand by which said tooth brushes would be identified and under which they would be sold, would adopt a design for and the wording to appear on the package or carton in which the tooth brushes would be marketed, would cause Associated Merchandising Corp. to execute the design and wording for the package or carton as outlined by said committee, and would arrange with Associated Merchandising Corp. to seek out and recommend a suitable concern to be the exclusive manufacturer of such tooth brushes and who would sell such tooth brushes exclusively to respondent associated stores under such brand and in such carton.

PAR. 4. Pursuant to the aforesaid plan, respondent associated stores selected and agreed upon a committee to act for them, and said committee adopted a brand, "P & S—Purity and Safety," which was later changed to "P & S—Private Seal," and also adopted a design for the carton in which such tooth brushes were to be packed and marketed, as well as the wording to be used on such carton. Said committee caused the Associated Merchandising Corp. to seek out a suitable manufacturer which it would recommend, and thereafter said Associated Merchandising Corp. recommended to respondent associated stores that the Owens Staple-Tied Brush Co. be selected to manufacture the tooth brushes desired, and this recommendation was adopted by vote of respondent associated stores. An arrangement or contract was then entered into with the Owens Staple-Tied Brush Co. to manufacture, package, and sell such tooth brushes, so labeled, exclusively to respondent associated stores upon their individual orders. Pursuant to this arrangement or contract, the Owens Staple-Tied Brush Co. has manufactured and packaged such tooth brushes and has sold and delivered

them to respondent associated stores upon their individual orders. Respondent associated stores have sold such brushes to the public packaged in cartons designed by their committee as aforesaid.

PAR. 5. From about February 1938 to about June 1940 the cartons in which such tooth brushes were packaged and sold carried the words and representation "Guaranteed Sterilized." From August 1940 to about March 3, 1942 (the date of the issuance of the complaint herein), or for a few days thereafter, the cartons containing such tooth brushes bore the words "Bristles sterilized before packaging and sealed in cellophane for your protection." From about September 1938 until some time in November 1940, after representatives of the Associated Merchandising Corp. were interviewed by a representative of the Federal Trade Commission in the course of the investigation of this matter, the word "Sterilized" was stamped on the handles of said tooth brushes. During a part of the time mentioned above, the tooth brush cartons bore the brand "P & S—Purity and Safety," and during the latter part of such time the brand appearing thereon was changed to "P & S—Private Seal." The several respondents have cooperated with one another and acted in concert to the extent and in the manner stated in paragraphs 3, 4, and 5 hereof.

PAR. 6. The bristles used in the tooth brushes sold and distributed as aforesaid were, prior to their importation into the United States from abroad, subjected to a bleaching solution of chemicals, rinsed, and dried, and were thus made sterile at the time. Such bristles were not thereafter sterilized, and during subsequent manufacturing operations to which such bristles were subjected in being incorporated into tooth brushes and in the packaging thereof no methods were used to maintain the bristles in a sterile condition. The Commission takes notice of the scientifically well-known and thoroughly established fact that under conditions such as those heretofore stated an article such as tooth-brush bristles will not remain sterile and free of pathogenic bacteria and, therefore, finds that respondents' tooth brushes were not, when offered for sale and sold to the public, sterile and free of pathogenic bacteria.

PAR. 7. When an article such as a tooth brush is branded or described as "sterilized" at the time of its sale, the public understanding is that such article has been subjected to a process that destroyed all pathogenic bacteria and that such sterile condition has been maintained.

PAR. 8. The aforesaid acts and practices of respondents have had, and have, the capacity and tendency to mislead and deceive members of the purchasing public into the belief that said tooth brushes were sterile and free from pathogenic bacteria, and to cause members of the

public to purchase a substantial number of said tooth brushes in reliance upon such belief.

CONCLUSION

The acts and practices of respondents, as herein found, are to the prejudice and injury 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, answers of respondents, and a stipulation as to the facts entered into between the respondents herein and Richard P. Whiteley, then assistant chief counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure the Commission may proceed upon said statement of facts to make its report stating its findings as to the facts, including inferences which it may draw from the facts, and its conclusion based thereon, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the Federal Trade Commission Act:

It is ordered, That the corporate respondents, Associated Merchandising Corp., Owens Staple-Tied Brush Co., Abraham & Straus, Inc., L. S. Ayres & Co., Bloomingdale Bros., Inc., The Herzfeld-Phillipson Co., Bullock's, Inc., Burdine's, Inc., The Emporium-Capwell Corp., The Dayton Co., Wm. Filene's Sons Co., B. Forman Co., Joseph Horne Co., J. L. Hudson Co., Hutzler Brothers Co., The F. & R. Lazarus & Co., The Rike-Kumler Co., Stix, Baer & Fuller Co., Strawbridge & Clothier, The John Shillito Co., R. H. White Co., William Taylor Son & Co., and Thalheimer Bros., Inc., 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 tooth brushes in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Using the word "sterilized" to designate or describe tooth brushes which are not in fact sterile; or otherwise representing, directly or by implication, that tooth brushes which are not sterile are sterile.

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.

IN THE MATTER OF
DAVID D. DONIGER & CO.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914, AND OF AN ACT APPROVED OCT. 14, 1940

Docket 5157. Complaint, May 8, 1944—Decision, Apr. 24, 1947

Where a corporation engaged in the manufacture and interstate sale and distribution of sportswear, including sweaters, sport coats and other garments, of which only a very small percentage, clearly described as such were imported, and which corporation, known familiarly to the trade and public as the McGregor Co., sold its products under the trademark "McGregor," and featured the Scotch theme in its wholesale showroom through various depictions and otherwise—

- (a) Made use of such obviously British or Scotch sounding trade names as "Scotchshire," "Ryder Vest Scot," "Yorkshire Quad," and "Shetlane," to designate and identify sweaters made by it in the United States;

With tendency and capacity to mislead and deceive purchasers and prospective purchasers as to the actual country of origin of said products;

- (b) Made use also of trade names which carried some British or Scotch connotation or association and included such terms as "Bonnie Lamb," "Heather Vee," "Lochmoor," and "Tweedmoor" to designate and identify such products; and

- (c) Made use in connection with its said domestic products, of pictures, designs and symbols connoting and suggesting British or Scotch origin, and including a green and red plaid, usually displayed on its letterheads, labels, tags, billheads, boxes, wrappers, catalogs, and other forms of advertising matter, and also, in some instances, of a fanciful design in the nature of a coat of arms, and included also in advertising a picture of a Scottish knight or warrior dressed in kilts of scotch plaid and bearing a shield and sword;

With tendency and capacity, lacking clear and conspicuous disclosure of the actual country of origin, in connection with such trade names, pictures, designs, and symbols, to mislead purchasers and prospective purchasers in said respect;

- (d) Offered and sold certain garments which resembled in texture and appearance those made from silk and long esteemed as such, without disclosing, in words familiar to the purchasing public, that they were composed in whole, or in part, of rayon;

With capacity and tendency to mislead a substantial portion of the purchasing public as to the fiber content thereof, and to mislead and deceive wholesale and retail purchasers thereof, and with the result of thereby placing in the hands of purchasers of its products for resale a means and instrumentality whereby they might mislead the purchasing public with respect thereto:

Held, That such acts and practices, under the circumstances set forth, constituted unfair and deceptive acts and practices in commerce; and

Where said corporation, engaged in the introduction and manufacture for introduction into commerce, and in the sale, transportation and distribution of products composed in whole, or in part, of wool, reprocessed wool, or reused