

IN THE MATTER OF
DETROIT REX PRODUCTS COMPANY

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

Docket 4674. Complaint, Jan. 21, 1942—Decision, Dec. 30, 1948

As respects the question as to whether or not two particular solvents used in synthetic solvent dry-cleaning and degreasing machines, may be properly characterized as more toxic, poisonous, or dangerous than certain others thus used, it appearing that all are poisonous and toxic to some extent and are dangerous to life and health if allowed to come in contact with the skin or if the vapors thereof are inhaled, and, furthermore, that all, if not properly handled or used in such machines, will cause illness to the operators—dangers which are increased by repeated contacts: it is deceptive and disparaging for the seller of certain of the other solvents competitive therewith to refer to said particular solvents as more toxic, poisonous, and dangerous than its own.

In such a connection the nature of the impairment to health which results from contacts with such particular solvents is immaterial and reference thereto is deceptive and disparaging; and while in scientific circles distinctions as to the safety or dangerous character of such particular solvents may be justified, in the commercial world broad distinctions as to the relative safety or dangerous character thereof are not justified, and, in connection with the sale thereof, constitute false and deceptive acts and practices and an unfair, false, and misleading method of competition.

Where a corporation which (1) was engaged in the manufacture and the interstate sale and distribution of synthetic solvent degreasing machines, for use in the cleaning of oil and grease from metal products, and in the similar sale of its synthetic dry-cleaning and degreasing solvents consisting of trichlorethylene, made by du Pont prior to January 1, 1947; (2) sold its degreasing solvents as "Triad" and "Perma-A-Clor"; (3) together with G. S. Blakeslee & Co., of Chicago, Ill., made all except a limited number of such degreasing machines, and, along with it, was party to a number of agreements and arrangements with the du Pont Co. covering the manufacture of such machines and the distribution of du Pont's synthetic degreasing solvents, including those sold by Blakeslee as "Blakosolv"; and which (4), along with Blakeslee, under said arrangements, handled a large part of the distribution of the degreasing solvents of du Pont, who also sold trichlorethylene as "Triclene D" (or, formerly, as "Cecolene No. 1"), and perchlorethylene as "Per-Clene (or, formerly, as "Cecolene No. 2"), for use in degreasing machines, and sold and distributed for use in synthetic solvent dry-cleaning machines, through various distributors and jobbers and through the Columbia Appliance Corp. of Long Island City, N. Y., manufacturer of synthetic solvent dry-cleaning machines, said trichlorethylene as "Triclene";

In promoting the sale and distribution of its said synthetic solvents through salesmen and technical servicemen who called upon jobbers and dry cleaners,

and upon users of degreasing equipment in the company, often, of salesmen employed by the jobbers and distributors; were instructed by the main office on competitive products and the manner in which to deal with problems met in the field; and sometimes carried with them equipment for testing synthetic solvents, which then included (1) carbon tetrachloride and ethylene dichloride—about 50 percent of which was made by Dow of Michigan, and mixtures of which were used for most of the dry cleaning done by some 4,000 to 5,000 dry cleaners in the United States, who used synthetic solvent machines, and who accounted for 15 percent of the dry cleaning done with such machines as compared with that done with “naphtha plants” and “naphtha systems”; (2) trichlorethylene, of which du Pont made from 94 to 97 percent, and which, along with the solvents made therefrom, prior to the entrance of the Kolene Corp. into the field as below set out, was used almost exclusively for solvent degreasing; (3) perchlorethylene or “Perclene,” production of which was about equally divided between du Pont and Dow, and which, together with “Tri-clene”, made up about one-third of the synthetic dry-cleaning solvents then used; and, (4) since about 1938, two products, namely, “Kolene C”, which, composed of carbon tetrachloride, trichlorethylene and benzol (made by the fractional distillation of coal), was produced by the Kolene Corp. and by it sold to some 500 dry cleaners; and said concern's degreasing solvent “Kolene T”, sold after December 1939 as “Kolyte”, originally of the same ingredients, and later changed to trichlorethylene, perchlorethylene and benzol or toluol;

- (a) Represented through letters and otherwise to distributors of synthetic solvents and others interested in their sale, that only the du Pont solvents named above should be used in synthetic solvent degreasing machines, and that those sold by Kolene Corp., which were sometimes referred to by it as “Kolene” should not be used for synthetic dry cleaning or synthetic degreasing, through such claims and statements as that “Kolene” had no value as a dry-cleaning or degreasing agent because it contained carbon tetrachloride, plus some benzol and kerosene, which were without value for dry cleaning or degreasing;

The facts being that while du Pont had in fact had samples of the Kolene synthetic solvents analyzed in its laboratories, and had furnished said corporation with a number of the reports thereof, it had not determined the true compositions of the products “Kolene-C” and “Kolene-T,” and neither it nor said corporation was in a position to report to the trade just what their components or properties were; that the Kolene products had in fact been used successfully for dry cleaning and for degreasing purposes, respectively, and had given and gave satisfactory results without undue or unusual harmful effects on either the materials or metals being dry cleaned or degreased or on the dry-cleaning or degreasing machines;

- (b) Represented that “Kolene,” being a solvent mixture, was not a suitable or satisfactory degreasing solvent because mixed solvents are unsatisfactory and dangerous to use in such degreasing machines; and that upon being heated in the course of dry-cleaning and degreasing operations in the machines, and being distilled therein, it would separate, break down, form acid and react unfavorably against and corrode them, and react unfavorably upon the materials and metals being dry cleaned and degreased;

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whereas, trichlorethylene, "Triad" and "Perm-A-Clor" were stable solvents and were free from such faults;

The facts being that in the du Pont solvents "Triclene," "Triad," and "Perm-A-Clor," when in contact with metals and also in the presence of water encountered in dry-cleaning and degreasing operations in said machines, were subject to the same type of faults as carbon tetrachloride; and needed to be handled in the same way as "Kolene" to insure satisfactory results both as to the machines and the metals and materials being dry cleaned or degreased;

- (c) Represented that "Kolene" was more toxic, poisonous, and dangerous to life and health than trichlorethylene or "Triad" or "Perm-A-Clor"; and that it was dangerous because it contained carbon tetrachloride and benzol; whereas, trichlorethylene, "Triad" and "Perm-A-Clor," were comparatively harmless and were not a health hazard when used in synthetic solvent machines;

The facts being that all the products mentioned are poisonous and toxic to some extent, and, if allowed to come in contact with the skin or if vapors thereof are inhaled, are dangerous to life and health; all, if not properly handled or properly used in such machines, will cause illness to the operators—dangers which are increased by continued and repeated contact therewith; and references to "Kolene" as more toxic, etc., than the others were deceptive and disparaging;

- (d) Represented falsely that "Kolene" would catch on fire and explode if used in said machines because it contained benzol; that it constituted a fire hazard and risk when used in such machines and was more flammable and more explosive than trichlorethylene, "Triad," or "Perm-A-Clor," and that it would not flash or catch on fire up to the initial boiling point; whereas, trichlorethylene, "Triad," and "Perm-A-Clor" were not flammable or explosive, and could be used, heated, and distilled in synthetic solvent degreasing machines without risk of fire or explosion;

The facts being that said "Kolene" and "Kolene T" as used under standard or usual conditions, were not flammable, nor more flammable or explosive than "Triad," "Perm-A-Clor," trichlorethylene or perchlorethylene or the du Pont solvents made therefrom; and there was no basis for an inference or representation that use of either of said Kolene solvents constituted a fire hazard by reason of the fact that they had been found to be "slightly flammable" at the higher temperatures under which laboratory tests were made; and

- (e) Falsely represented that proof of the above-mentioned properties of "Kolene C" had been made by laboratory and other tests by said corporation and by du Pont;

With result of placing in the hands of distributors and others the means of passing on to purchasers the representations thus provided; and with tendency and capacity to mislead and deceive a substantial portion of the purchasing public and induce its purchase of said corporation's products in preference to purchase of "Kolene"; and thereby unfairly to divert trade to its sellers from the sellers of said Kolene preparations:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public, and of its competitors, and consti-

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tuted unfair methods of competition in commerce, and unfair and deceptive acts and practices therein.

In the aforesaid proceeding there was no basis for the inference or representation that the use of said solvent "Kolene C" constituted a fire hazard when it was used for dry cleaning, by reason of the fact that in tests made thereof in the laboratories it might have been found to be "slightly inflammable" at the higher temperatures under which said tests were made, it appearing that the Underwriters' Laboratories stated in part that it was "chemically stable and not flammable at ordinary temperatures," and that while it was "possible to produce moderately combustible mixtures with air under laboratory test conditions at higher temperatures (167° F. and upward)," under practical conditions the formation of combustible mixtures at temperatures as low as 167° F. is extremely unlikely"—substantially the same language used by said concern in reporting on the flammability of the competitive trichlorethylene.

Mr. D. E. Hoopingarner and *Mr. John R. Phillips, Jr.* for the Commission.

Mr. Ellsworth W. Allison, *Mr. Arbie O. Thalacker* and *Mr. Theodore R. Bohn*, of Detroit, Mich., and *Davies, Richberg, Beebe, Busick & Richardson*, of Washington, D. C., for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that Detroit Rex Products Co., a corporation, hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be to the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Detroit Rex Products Co., is a corporation organized and existing under and by virtue of the laws of the State of Michigan, with its principal office and place of business at 13011 Hillview Avenue, Detroit, Mich.

PAR. 2. (1) Respondent is now, and for more than 2 years last past has been, engaged in the manufacture, sale, and distribution of synthetic solvent degreasing machines, some of which are called "Detrex Degreasers," used in solvent degreasing, being the cleaning of metal products from oil and grease, and in the sale and distribution of synthetic degreasing solvents, consisting of trichlorethylene, sold by respondent under the names of "Triad" and "Perm-A-Clor." Respondent is now causing, and has caused, said synthetic degreasing

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solvents, when sold, to be transported from places located in various States of the United States to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said synthetic degreasing solvents, in commerce among and between the various States of the United States and in the District of Columbia.

(2) In the United States almost all of the synthetic solvent degreasing machines are sold by one of three companies, namely, respondent; also G. S. Blakeslee & Co., a corporation organized and existing under and by virtue of the laws of the State of Illinois, with its principal office and place of business at Cicero, Ill.; and E. I. du Pont de Nemours & Co., Inc., a corporation organized and existing under and by virtue of the laws of the State of Delaware, with its principal office and place of business at Wilmington, Del. These three companies are parties to agreements and arrangements covering the manufacture of synthetic solvent degreasing machines and the distribution of synthetic degreasing solvents made by E. I. du Pont de Nemours & Co., Inc. G. S. Blakeslee & Co., sells and distributes synthetic degreasing solvents, consisting of trichlorethylene, under the name of "Blacosolv." Respondent and G. S. Blakeslee & Co., sell degreasing solvents manufactured only by E. I. du Pont de Nemours & Co., Inc., and, under the arrangements aforesaid, handle a large part of the distribution of the degreasing solvents manufactured by said company. E. I. du Pont de Nemours & Co., Inc., also sells trichlorethylene, under the name of Cecolene No. 1, and Perchlorethylene, under the name of Cecolene No. 2, for use in synthetic solvent degreasing machines, which it distributes, in part, through a number of authorized distributors located in various States.

(3) Said E. I. du Pont de Nemours & Co., Inc., also sells trichlorethylene, under the name of "Tri-Clene," and perchlorethylene, under the name of "Per-Clene," for use in synthetic solvent dry-cleaning machines, and distributes said synthetic dry-cleaning solvents through a number of authorized distributors located in various States, including jobbers handling chemicals, and Columbia Appliance Corp., a corporation organized and existing under and by virtue of the laws of the State of New York, with its principal office and place of business in New York, N. Y. Columbia Appliance Corp. is engaged in the manufacture and sale of synthetic solvent dry-cleaning machines, as well as in the sale of said synthetic dry-cleaning solvents, "Tri-Clene" and "Per-Clene," made by E. I. du Pont de Nemours & Co., Inc.

(4) Respondent, in the course of its business, makes contacts with various persons interested in the sale and use of synthetic solvents through its home office, its several branch offices, a considerable number of dealers located in principal cities, and a number of salesmen schooled in chemistry, salesmanship, and degreasing. Data of advantage to respondent in combating competition from competing solvents are secured by respondent through its contacts aforesaid, from E. I. du Pont de Nemours & Co., Inc., and said other companies interested in the sale of the solvents made by said latter company. Statements relating to such data, based thereon, and in opposition thereto, are disseminated and distributed by respondent through its various contacts aforesaid.

PAR. 3. Respondent, in the sale and distribution of its synthetic degreasing solvents for use in synthetic solvent degreasing machines, is in competition with a number of corporations, partnerships, and individuals that are now, and, for more than 2 years last past, have been engaged in the sale and distribution of synthetic degreasing solvents for use in such machines in commerce among and between the various States of the United States and in the District of Columbia. Among such competitors is Kolene Corp., a corporation organized and existing under and by virtue of the laws of the State of Michigan, having its principal office and place of business located in Detroit, Mich., which is now, and for more than 2 years last past has been, engaged in the sale and distribution of the synthetic degreasing solvent called "Kolene T" and the synthetic dry-cleaning solvent called "Kolene C."

PAR. 4. (1) Respondent, in the course and conduct of its business and for the purpose of inducing owners and users of respondents' synthetic solvent degreasing machines, made and sold by respondent, to purchase from respondent the synthetic degreasing solvents, consisting of trichlorethylene, sold by respondent under the names of "Triad," and "Perm-A-Clor," in preference to the solvents aforesaid sold by Kolene Corp., and, for the purpose of lessening, preventing, and destroying competition by Kolene Corp. in the sale of synthetic degreasing solvents, and of injuring, hindering, and eliminating it as a competitor in the synthetic solvent cleaning field, represents, and has represented to owners and users of synthetic solvent degreasing machines, distributors of synthetic solvents, and others interested in the sale and use of synthetic solvents, that only the solvents aforesaid, made by E. I. du Pont de Nemours & Co., Inc., should be used in the synthetic solvent degreasing machines sold by respondent, and that the solvents aforesaid sold by Kolene Corp., which are sometimes re-

ferred to by respondent as "Kolene," should not be used for synthetic solvent cleaning, either in synthetic solvent degreasing machines or in synthetic solvent dry-cleaning machines, giving various reasons therefor, among which the following are typical:

(a) Kolene has no merit as a degreasing or dry-cleaning agent because it is a mixture containing carbon tetrachloride, plus some benzol, and kerosene, which are without value for degreasing or dry-cleaning.

(b) Kolene, being a solvent mixture, is not a suitable or satisfactory degreasing solvent, because mixed solvents are unsatisfactory and dangerous to use in synthetic solvent degreasing machines.

(c) Kolene is not to be compared with trichlorethylene sold by respondent under the names of "Triad" and "Perm-A-Clor," being far inferior to it for degreasing purposes and without its proven merits.

(d) Kolene, upon being heated in the course of degreasing metals in synthetic solvent degreasing machines, and upon being distilled in such machines, will separate, break down, form acid, and react unfavorably against, and corrode, both the metals being degreased and the degreasing machines; whereas, trichlorethylene, sold by respondent as "Triad" and "Perm-A-Clor," is a stable solvent that is free from such faults.

(e) Kolene, if used in synthetic solvent degreasing and dry-cleaning machines, will corrode such machines and react unfavorably against the materials being degreased or cleaned.

(f) Kolene, when used in synthetic solvent degreasing and dry-cleaning machines, is more toxic, poisonous, and dangerous to life and health than trichlorethylene, or "Triad" or "Perm-A-Clor," the solvents sold by respondents.

(g) Kolene is dangerous to life and health, when used in synthetic solvent degreasing and dry-cleaning machines, because it contains carbon tetrachloride and also because it contains benzol; whereas, trichlorethylene, sold by respondent as "Triad" and "Perm-A-Clor," as compared to carbon tetrachloride and benzol, is comparatively harmless to life and health and not a health hazard when used in synthetic solvent degreasing machines.

(h) Kolene will catch on fire and explode if used in synthetic solvent degreasing and dry-cleaning machines, because it contains benzol.

(i) Kolene constitutes a fire hazard and risk, when used in synthetic solvent degreasing and dry-cleaning machines, and is more inflammable and explosive than trichlorethylene, or "Triad," or "Perm-A-Clor," the solvents sold by respondent.

(j) Kolene will, in general, not flash or catch on fire up to the initial boiling point; whereas, trichlorethylene, sold by respondent as "Triad"

and "Perm-A-Clor," is not flammable or explosive, and can be used, heated, and distilled in synthetic solvent degreasing machines without risk of fire or explosion.

(k) Proof of the properties of Kolene, as given in the statements aforesaid, has been made by laboratory and other tests made by respondent and E. I. du Pont de Nemours & Co., Inc., of Wilmington, Del.

(2) The aforesaid statements, claims, representations, implications, and inferences, and others of similar import and meaning, have been made, published, and caused to be made and published, by respondent, in and among and between various States of the United States and the District of Columbia, by means of letters transmitted by United States mails and otherwise.

PAR. 5. (1) The aforesaid statements, claims, representations, implications, and inferences are exaggerated, false, misleading, and deceptive.

(2) Through and by means of said statements, claims, representations, implications and inferences aforesaid, respondent has unfairly disparaged the products of Kolene Corp., namely, "Kolene T" and "Kolene C," which have been referred to by respondent as "Kolene."

PAR. 6. (1) There is no basis from either a scientific or a practical standpoint for a representation that the products of Kolene Corporation, namely, "Kolene T" and "Kolene C," referred to by respondent as "Kolene," have no merit, or are without value, or are not suitable, or satisfactory for degreasing or dry-cleaning purposes; or that "Kolene" has been made of mixed solvents that are of no value, or that are not suitable, or satisfactory for such purposes; or that mixed solvents are unsatisfactory or dangerous to use in synthetic solvent degreasing machines; or that trichlorethylene, sold by respondent under the names of "Triad" and "Perm-A-Clor," is far superior to "Kolene" for degreasing or dry-cleaning purposes; or that "Kolene" is not to be compared with the solvents sold by respondent for degreasing purposes. The truth is that "Kolene T" has been used successfully for degreasing purposes and that "Kolene C" has been used successfully for dry-cleaning purposes. Also, it is a fact that trichlorethylene, or "Triad" or "Perm-A-Clor," when in contact with metals and also when in the presence of water encountered in degreasing operations in synthetic solvent degreasing machines, is subject to the same type of faults as carbon tetrachloride, and, during degreasing operations in synthetic solvent degreasing machines, must be handled the same as "Kolene T," to insure satisfactory operating results, both as to the degreasing machines and the metals being degreased.

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(2) There is no basis for a statement that "Kolene T" or "Kolene C," upon being heated in the course of degreasing metals in synthetic solvent degreasing machines, or upon being distilled, will separate, break down, form acid, or react unfavorably against or corrode the metals being degreased or the degreasing machines; and any inference that "Kolene" is subject to such faults and that trichorethylene, or "Triad," or "Perm-A-Clor," is a stable solvent that is free from such faults, is deceptive. The truth is that "Kolene T" has been used in synthetic solvent degreasing machines and that "Kolene C" has been used in synthetic solvent dry-cleaning machines without undue or unusual corrosive effects on such machines. "Kolene T" has been so used without injury to, or unusual effects on, the metals being degreased, and "Kolene C" has been so used without injury to the materials being cleaned.

(3) Any inference that "Kolene" is more toxic, poisonous, and dangerous to life and health than trichorethylene, or "Triad" or "Perm-A-Clor," is deceptive. The truth is that trichorethylene, or "Triad" or "Perm-A-Clor," and "Kolene" are each dangerous to life and health and if not properly handled or properly used in synthetic solvent degreasing or dry-cleaning machines will cause illness to the operators of such machines. There is no scientific or practical basis for an assertion or inference that trichlorethylene, or "Triad" or "Perm-A-Clor," as compared to carbon tetrachloride or benzol, is comparatively harmless to health and not a health hazard when used in synthetic solvent degreasing machines.

(4) The truth is that "Kolene" will not catch on fire or explode when used in synthetic solvent degreasing or dry-cleaning machines. It has not been made of kerosene or of any product made from petroleum or of any product called "naphtha." The use of "Kolene T" in synthetic solvent degreasing machines does not constitute a fire hazard or risk to the owners of such machines. "Kolene" is not more inflammable nor more explosive than trichlorethylene, or "Triad" or "Perm-A-Clor." Any statement that "Kolene" will, in general, not flash or catch on fire up to the initial boiling point, or when kept at lower temperatures, is deceptive and implies, and may induce the belief, that "Kolene" is inflammable when used for degreasing or dry cleaning, or when used under operating conditions in synthetic solvent degreasing and dry-cleaning machines; and statements to such effect, as used by respondent convey the false and deceptive inference that "Kolene," if used in synthetic solvent degreasing or dry-cleaning machines, will catch on fire and explode. The fact is that "Triad" and "Perm-A-Clor" have each been given a numerically

higher and greater fire-hazard rating than "Kolene C" by Underwriters' Laboratories, Inc., a non-profit organization for the testing of materials as to their relation to life, fire, and casualty hazards.

(5) Inferences and statements on the part of the respondent that the comparative statements made by respondent, as above set out, have been substantiated by tests made by respondent, by E. I. du Pont de Nemours & Co., Inc., and others, are false and deceptive.

PAR. 7. (1) The aforesaid statements, claims, representations, implications, and inferences made and published by respondent as aforesaid, have been made by respondent to distributors of synthetic solvents and others interested in the sale and use of synthetic solvents. The latter have thus been placed in a position by respondent to make and publish the aforesaid statements, claims, representations, implications, and inferences.

(2) The use by respondent of the aforesaid acts and practices hereinabove mentioned in connection with the sale and distribution of synthetic degreasing solvents in commerce has the capacity and tendency to, and does, mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that said statements, claims, representations, implications, and inferences are true, and cause and have caused many members of the purchasing public, because of said mistaken and erroneous belief, to purchase respondent's synthetic degreasing solvents, in preference to the product "Kolene T," and not to purchase the products "Kolene T" and "Kolene C."

(3) The use by the respondent of the acts and practices, as aforesaid, also has the capacity and tendency to, and does, divert trade unfairly to respondent, and to the sellers of its solvents, from Kolene Corp., and the sellers of the solvents of Kolene Corp.

PAR. 8. The aforesaid acts and practices of the respondent as hereinabove alleged are all to the prejudice and injury of the public and of respondent's 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on January 21, 1942, issued and subsequently served its complaint in this proceeding upon the respondent,

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Detroit Rex Products Co., a corporation, charging said respondent with the use of unfair methods of competition in commerce and unfair and deceptive act and practices in commerce in violation of the provisions of that act. After the respondent filed its answer to said complaint, a written stipulation was entered into by and between the respondent, by its counsel, and Daniel J. Murphy, Assistant Chief Trial Counsel of the Commission, and in this stipulation it was provided that, subject to the approval of the Commission, the statement of facts contained therein may be taken as the facts in this proceeding in lieu of all evidence, and that the Commission may proceed upon the complaint, the respondent's answer, and said statement of facts to make its report, stating its findings as to the facts (including inferences which it may draw from the stipulated facts) and its conclusion based thereon, and enter its order disposing of this proceeding. In said stipulation the respondent expressly waived the filing of a trial examiner's report upon the evidence, but it did not waive the filing of briefs or the presentation of oral argument.

Thereafter, this proceeding regularly came on for final hearing upon the complaint, the respondent's answer thereto, and the stipulation as to the facts, said stipulation having been approved, accepted and filed (the respondent having decided not to file a brief or to request oral argument and no brief having been filed or oral argument requested by counsel in support of the complaint); and the Commission, having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Detroit Rex Products Co. (also known as Detrex Corp.), is a corporation organized and existing under and by virtue of the laws of the State of Michigan, with its principal office and place of business located at 13005 Hillview Avenue, in the city of Detroit, State of Michigan.

PAR. 2. The respondent is now, and for more than 2 years last past has been, engaged in the manufacture and in the sale and distribution of synthetic solvent degreasing machines, some of which are called "Detrex Degreasers," used in solvent degreasing, being the cleaning of oil and grease from metal products, and in the sale and distribution of synthetic dry-cleaning and degreasing solvents consisting of trichlorethylene. The respondent sells its synthetic degreasing solvents under the names of "Triad" and "Perm-A-Clor." The respondent

is now causing, and has caused, said synthetic dry-cleaning and degreasing solvents, when sold, to be transported from places located in various States of the United States to purchasers thereof located in various other States of the United States and in the District of Columbia. The respondent maintains, and at all times mentioned herein has maintained, a course of trade in said synthetic dry-cleaning and degreasing solvents in commerce among and between the various States of the United States and in the District of Columbia.

In the United States, all except a limited number of synthetic solvent degreasing machines have been, and are now, made and sold by two companies, namely, the respondent and G. S. Blakeslee & Co. of Cicero, Ill. These two companies and E. I. du Pont de Nemours & Co., Inc. (hereinafter referred to as "du Pont"), are parties to a number of agreements and arrangements covering the manufacture of synthetic solvent degreasing machines and the distribution of synthetic degreasing solvents made by du Pont. In 1939 there were three other companies making said machines and now there four additional ones. G. S. Blakeslee & Co. sells and distributes synthetic degreasing solvents consisting of trichlorethylene under the name of "Blacosolv." All of these solvents are made by du Pont. Prior to January 1, 1947, all of the synthetic degreasing solvents sold by the respondent under the names of "Triad" and "Perm-A-Clor" were also made by du Pont. Under the arrangements aforesaid, the respondent and G. S. Blakeslee & Co. have handled a large part of the distribution of du Pont's degreasing solvents. Du Pont also sells trichlorethylene under the name of "Triclene D" (formerly sold under the name of "Cecolene No. 1") and perchlorethylene under the name of "Per-Clene" (formerly sold under the name of "Cecolene No. 2"), for use in synthetic solvent degreasing machines.

Du Pont also sells trichlorethylene under the name of "Tri-Clene" and perchlorethylene under the name of "Per-Clene," for use in synthetic solvent dry-cleaning machines, and it distributes these synthetic dry-cleaning solvents through a number of authorized distributors located in various States, including jobbers handling chemicals, and Columbia Appliance Corp., of Long Island City, New York. Columbia Appliance Corp. is also engaged in the manufacture and in the sale of synthetic solvent dry-cleaning machines.

In order to handle the sale and distribution of its synthetic dry-cleaning and degreasing solvents, the respondent maintains a solvent sales office in Detroit, Mich., and also maintains branch offices in New York and other cities. It has its salesmen and technical servicemen call upon jobbers, distributors and users of dry-cleaning and

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degreasing equipment in the interest of the sale and distribution of its synthetic solvents, and these salesmen and technical servicemen often make calls upon dry cleaners and users of degreasing equipment in the company of salesmen employed by the jobbers and distributors. They sometimes carry with them equipment for testing dry-cleaning and degreasing solvents, and are given instructions by the respondent's main office and its branch offices in competitive products and the manner in which to deal with problems met in the field.

PAR. 3. For more than 2 years prior to the enactment and adoption, in October 1941, of emergency measures looking to the defense of the United States in the recent World War, approximately 15 to 20 percent on the dry-cleaning in the United States was done in machines using synthetic solvents, commonly known as "synthetic solvent machines," and the remainder was done in machines using petroleum naphtha, commonly known as "naphtha plants" and "naphtha systems." Most of the dry cleaning which was done in the synthetic solvent machines was done with mixtures containing carbon tetrachloride, including mixtures of carbon tetrachloride and ethylene dichloride. About 5 to 7 percent of the dry cleaning, or about 33 percent of said 15 to 20 percent, was done with trichlorethylene and perchlorethylene. During the time mentioned, The Dow Chemical Co. of Midland, Mich., made approximately 50 percent of the carbon tetrachloride and ethylene dichloride thus used. In addition to The Dow Chemical Co. only a few other concerns made carbon tetrachloride, the chief ones being Westvaco Chlorine Products Corp., The Diamond Alkali Co., and Niagara Smelting Corp. Almost all of the distribution of the latter company was handled by du Pont. Du Pont was then making approximately 94 to 97 percent of the trichlorethylene then being manufactured, and Westvaco Chlorine Products Corp. was making the balance. At such time du Pont was making approximately 50 percent of the perchlorethylene then being manufactured, and The Dow Chemical Co. was making the balance. Between 4,000 and 5,000 dry cleaners in the United States were using "synthetic solvent machines." Approximately 40 to 50 percent of these dry cleaners were using in their machines the synthetic solvents of The Dow Chemical Co.

In 1938, the Kolene Corp. (also known as Kolene, Inc.), of Detroit, Mich., entered the synthetic solvent dry-cleaning and degreasing field. At that time it began to produce and sell, and has since continued to produce and sell, a synthetic dry-cleaning solvent called "Kolene C." At that time this company also began to produce and sell a synthetic degreasing solvent called "Kolene T," and it continued to sell this product under this name until 1939. Since September 1939, this de-

greasing solvent has been sold by the Kolene Corp., and is now being sold by said corporation, under the name of "Kolyte." For more than 2 years prior to 1941 Kolene Corp. was regularly selling its product "Kolene C" to approximately 500 dry cleaners.

Prior to the time the Kolene Corp. entered the degreasing field, almost all solvent degreasing was done with trichlorethylene and the solvents made therefrom.

After October 1941, the synthetic dry-cleaning solvents mentioned above were largely diverted to defense and war purposes and deliveries thereof to dry cleaners were curtailed. For the most part, however, the situation in the dry-cleaning industry now is about the same as it was prior to October 1941.

PAR. 4. The solvent made by the Kolene Corp. for dry-cleaning purposes, called "Kolene C," has always been made of carbon tetrachloride, trichlorethylene, and benzol (benzol being a product made by the fractional distillation of coal). The solvent made by it for degreasing purposes, first called "Kolene T" and later "Kolyte," and December 1939, was made of the same ingredients. In December 1939, the ingredients of this degreasing solvent, then sold under the name of "Kolyte," were changed to trichlorethylene, perchlorethylene, and benzol. In August 1940, this latter solvent was further changed for certain customers by replacing the benzol with toluol (toluol being a petroleum product) but Kolene Corp. continued to make said solvent with benzol instead of toluol for certain customers. So far as its use for degreasing is concerned, the properties of "Kolyte" are the same as those described herein for "Kolene T."

PAR. 5. In promoting the sale and distribution of its synthetic dry-cleaning and degreasing solvents, the respondent, during the period from 1938 to the date of the complaint in this proceeding (January 21, 1942), made a number of claims, statements, and representations to owners and users of synthetic solvent degreasing machines, manufacturers of such machines, and distributors and others interested in the sale and use of synthetic dry-cleaning and degreasing solvents, to the effect that only the solvents named above made by du Pont should be used in synthetic solvent degreasing machines, and that the solvents sold by Kolene Corp., which were sometimes referred to by the respondent as "Kolene," should not be used for synthetic dry-cleaning or synthetic degreasing. In support of these statements and representations, the respondent gave various reasons therefor, among which were the following:

(a) that "Kolene" has no value as a dry-cleaning or degreasing agent because it is a mixture containing carbon tetrachloride, plus

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some benzol and kerosene, which are without value for dry-cleaning or degreasing;

(b) that "Kolene," being a solvent mixture, is not a suitable or satisfactory degreasing solvent because mixed solvents are unsatisfactory and dangerous to use in synthetic solvent degreasing machines;

(c) that "Kolene" is not to be compared with trichlorethylene sold by the respondent under the names of "Triad" and "Perm-A-Clor," being far inferior to them for degreasing purposes and without their proven merits;

(d) that "Kolene," upon being heated in the course of dry-cleaning and degreasing operations in synthetic dry-cleaning and degreasing machines, and upon being distilled in such machines, will separate, break down, form acid, and react unfavorably against and corrode such machines, and will react unfavorably against the materials and metals being dry cleaned and degreased; whereas, trichlorethylene, "Triad," and "Perm-A-Clor" are stable solvents that are free from such faults;

(e) that "Kolene" is more toxic, poisonous, and dangerous to life and health than trichlorethylene or "Triad" or "Perm-A-Clor";

(f) that "Kolene" is dangerous to life and health because it contains carbon tetrachloride and also because it contains benzol; whereas, trichlorethylene, "Triad," and "Perm-A-Clor," as compared to carbon tetrachloride and benzol, are comparatively harmless to life and health and are not a health hazard when used in synthetic solvent machines;

(g) that "Kolene" will catch on fire and explode if used in synthetic solvent dry-cleaning and degreasing machines because it contains benzol;

(h) that "Kolene" constitutes a fire hazard and risk when used in synthetic solvent dry-cleaning and degreasing machines and is more inflammable and explosive than trichlorethylene, "Triad," or "Perm-A-Clor";

(i) that "Kolene" will, in general, not flash or catch on fire up to the initial boiling point; whereas, trichlorethylene, "Triad," and "Perm-A-Clor" are not flammable or explosive and can be used, heated, and distilled in synthetic solvent degreasing machines without risk of fire or explosion; and

(j) that proof of the above-mentioned properties of "Kolene" has been made by laboratory and other tests made by the respondent and E. I. du Pont de Nemours & Co., Inc.

The means employed by the respondent and the manner in which these representations have been made are illustrated and typified by the following statements made by the respondent or its representatives in

correspondence with the respondent's distributors, employees, and others interested in the sale and use of synthetic solvents.

In a letter dated March 24, 1939, from one of the respondent's vice presidents to du Pont:

"Kolene C" is now being used at Gerity-Adrian in a conveyORIZED degreaser. It was also being used at Metal Moulding in Detroit but it lasted just about a week and then the doctors threw it out. Their analysis, according to a rough check, showed about 60% carbon tetrachloride, the remainder, benzene.

In a letter dated May 26, 1939, from one of the respondent's vice presidents to du Pont:

Gerity-Adrian in Toledo was using Kolene T on die castings, checking the solution every two hours for possible breakdown and after running it from May 15, to 24, it was discontinued due to spotting on their work, which their chemist advised was caused by the water in the machine. They went back to PERM-A-COLOR yesterday morning.

The Kolene Company is quite active in the territory, naturally, trying to secure business either from the dry cleaning or from metal cleaning particularly on the accounts in the metal cleaning trade where they have conveyORIZED units.

This product has been in a number of plants, but we know of none in which it is now being used. On the other hand, in discussing the matter with Mr. Hedke of Eaton-Clark, he told me that they were quite active in the dry cleaning field, but there also they were having difficulty in making their installations stick. Some of the men went home ill, and others objected to the odor.

In a memorandum dated June 1, 1939, from one of the respondent's vice presidents to a number of respondent's salesmen:

"Kolene Corp. are marketing two solvents known as Kolene C, which is being sold to the dry cleaning trade, and Kolene T, which goes to the metal degreasing field. A number of samples have been tested, both by ourselves and the DuPont Co., and both of the materials contain carbon tetrachloride, benzol, and a petroleum solvent such as kerosene, with percentages ranging from 60-80% of carbon tet, 25-30% benzol, and 2% petroleum naphtha. Tests are now being made in our plant to determine solvent losses and secure other pertinent data which will enable you to meet this competition without trouble."

Benzene, or benzol, a coal tar product has been reported to be quite toxic, and in a no. of cases the Health Dept. has recommended it be discontinued on that account. It is true that Kolene Corp. have had tests made by Detroit Testing Laboratories, which show carbon tet to be the most toxic, trichlorethylene next, and naturally Kolene last. In the opinion of the DuPont Co. as well as ourselves this test was not conclusive as it did not cover a long enough duration. However, we have no definite information as yet to refute the claims. Kolene T has been used in the metal cleaning industry in the Detroit area on two or three of our conveyORIZED units, but no tests have been run for a period of longer than 2 weeks, at which time both plants, discontinued its use. Dry cleaning field experience has been similar. The material is put in for a week or ten days and later thrown out, so I don't feel that we have much competition from this particular material.

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In a report dated June 20, 1939, submitted to the respondent by one of its salesmen:

Called here with Mr. Dunn on alkali and obtained permission from P. A. to make survey of all alkali cleaning which we did and also will make recommendations to office to so it can be written up. During conversation with P. A. I asked how new unit was working and he replied that as far as he knew everything was fine. But when we got to plating dept. Mr. Ashcroft said he would like to know what was the matter with machine and what had happened to their work. Every bit of the zinc coating was gone up to water condenser and work was badly etched. My first impression was that unit had gone acid but solvent didn't smell bad so I told Mr. Ashcroft that as soon as I was finished with the alkali survey I would get my kit and we would find out what was wrong. But before we were finished with the survey, Ashcroft came to me and gave me the story they had put Kolene in the unit and it had broken down, not only ruining the zinc coating but spoiling a good deal of work. He asked that I protect him on the source of information which I did. Next I met Mr. Patch who was responsible for Kolene being in there and I asked him what happened to this unit. "What have you had in it"?

He told me Kolene and stated that they were going to run another test Thursday. I asked him when he was going to send unit in to be rezinc coated inasmuch as unit will certainly rust very quickly now. He felt as though it wouldn't make any difference whether there was any coating on unit or not. They were using our solvent today. He also claims the only thing they are interested in is saving \$7.00 per Dr. However, this Mr. Elread superintendent has something to say and he says Kolene is only coming into plant again when Kolene Co. produces a certified check for twice the value of unit. He wants to use part of it to have unit rezinc coated. Kolene are using Gerity Adrian to help sell there product. I spent plenty of time going over Health Hazards and everything else I could think of to stop this, second trial.

In a letter dated August 16, 1939, from one of the respondent's vice presidents to Otis Elevator Co. of Yonkers, N. Y., with copies to the respondent's New York office and others:

The Competitive material mentioned in your letter of the 8th (Kolene) has been tried out in several places in the Detroit area, particularly Gerity-Adrian, and Sparks Withington Co. None of the places, we know of it having been tried are now using this material. This made be due to the fact that it contains carbon tetrachloride according to the information we have been able to gather, and according to laboratory tests.

Carbon tetrachloride, of course, we know is quite corrosive and is usually unsatisfactory for solvent degreasing. This is also true of the foreign trichlorethylenes which are imported into this country, some of which are very unsatisfactory due to the range in boiling point which runs from 6° to 10° F., and is evidently caused by impurities.

It would be well, therefore for you to carefully consider the chemical analysis of any degreasing solvent offered. If the difference in cost is of sufficient interest to you to try out some of the various compounds or imported solvents, if you will secure a sample of same and submit it to us, we will give you a true report on

how it compares with the solvents recommended and sold for degreasing processes within the United States.

These statements, claims, representations, and inferences, and others similar thereto, were made by the respondent to distributors of synthetic solvents and others interested in the sale of such products, and the respondent thus placed in the hands of such distributors, and others, the means of passing on to purchasers the information so provided. The record shows that such information was actually used by such distributors, and others, in whose hands it was placed, as a means of persuading dry cleaners and operators of degreasing machines not to begin or to continue, as the case might be, the use of "Kolene C" and "Kolene T."

PAR. 6. (a) There is no basis from either a scientific or a practical standpoint for a representation or inference that the products of the Kolene Corp., namely "Kolene C" and "Kolene T," which the respondent referred to as "Kolene," have no merit or that they are without value or are not suitable or satisfactory for dry-cleaning or degreasing purposes or that if they are used for such purposes they will give poor results or cause trouble or difficulty.

(b) There is no scientific or practical basis for a statement that "Kolene C" or "Kolene T," upon being heated in the course of dry-cleaning or degreasing in synthetic solvent dry-cleaning or degreasing machines, will separate, break-down or form acid or that they will react unfavorably against or corrode the materials or metals being dry cleaned or degreased or the machines in which such products are used; and any statement or inference that either "Kolene C" or "Kolene T" is subject to such faults, and that trichlorethylene, "Triad" and "Perm-A-Clor" are stable solvents that are free from such faults, is deceptive.

(c) Any statement or inference that "Kolene C" or "Kolene T" is more toxic, poisonous and dangerous to life and health than trichlorethylene, "Triad" and "Perm-A-Clor" is deceptive. There is no scientific or practical basis for an assertion or inference that either trichlorethylene or "Triad" or "Perm-A-Clor," as compared with carbon tetrachloride or benzol, is comparatively harmless to life and is not a health hazard when used in synthetic solvent dry-cleaning and degreasing machines.

(d) There is no scientific or practical basis for an assertion or inference that either "Kolene C" or "Kolene T" will catch on fire and explode if used in synthetic solvent dry-cleaning and degreasing machines because they contain benzol, or that when thus used they constitute a fire hazard and risk and are inflammable.

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(e) Any statement that "Kolene C" or "Kolene T" will not flash or catch on fire up to the initial boiling point is deceptive and implies and may induce the belief that "Kolene C" and "Kolene T" are inflammable when used for dry-cleaning or degreasing or when used under operating conditions in synthetic solvent dry-cleaning or degreasing machines; and statements to such effect, as used by the respondent, convey the false and deceptive impression that "Kolene C" and "Kolene T," if used for dry-cleaning or degreasing in synthetic solvent dry-cleaning or degreasing machines, will catch on fire and explode.

(f) Proof to the properties of "Kolene C" and "Kolene T," as they were represented to be by the respondent in the manner above stated, had not been made by laboratory or other tests made by the respondent or others prior to the making of the representations referred to, except as indicated herein. The actual properties of said solvents are covered herein by paragraphs 4, 6, and 7.

PAR. 7. At the time the representations referred to in paragraph 5 were made, du Pont had in fact procured samples of the synthetic solvents of the Kolene Corp. and had had these samples analyzed in its laboratories and had furnished the respondent with a number of reports of such analyses. Du Pont had not, however, by its analyses or otherwise, determined the true compositions of the products "Kolene C" and "Kolene T," and neither it nor the respondent was in a position to represent to the trade just what the components or the characteristics or properties of said products were.

The record shows that "Kolene C" has been used successfully for dry-cleaning purposes, and that "Kolene T" has been used successfully for degreasing purposes. Said solvents when used for such purposes have given, and do give, satisfactory results without undue or unusual harmful effects on either the materials or metals being dry cleaned or degreased or the dry-cleaning or degreasing machines.

The solvents, trichlorethylene, "Triad" and Perm-A-Clor," made by du Pont, when in contact with metals and also when in the presence of water encountered in dry-cleaning and degreasing operations in synthetic solvent dry-cleaning and degreasing machines, are subject to the same type of faults as carbon tetrachloride. During working operations in synthetic solvent dry-cleaning and degreasing machines, these solvents must be handled the same as "Kolene C" and "Kolene T" to insure satisfactory operating results, both as to machines being thus used and the materials and metals being thus dry cleaned or degreased.

All of the products mentioned herein as having been used for dry-cleaning and degreasing purposes are poisonous and toxic to some extent and, if allowed to come in contact with the skin or if the vapors of such products are inhaled, are dangerous to life and health. If not properly handled or properly used in synthetic solvent dry-cleaning and degreasing machines, all of said solvents will cause illness to the operators of such machines. Such dangers are increased by continued and repeated contacts with said solvents. Hence, it is deceptive and disparaging for the respondent to refer to "Kolene C" and "Kolene T" as more toxic, poisonous, or dangerous than the other named solvents; and in this connection the nature of the impairment to health resulting from contacts with such solvents is immaterial and reference thereto in the circumstances is deceptive and disparaging. In scientific circles, distinctions as to the safety or dangerous character of said solvents may be justified, but in the commercial world broad distinctions as to the relative safety or dangerous character of said solvents are not justified, and if made in connection with the sale of such solvents constitute unfair, false and deceptive acts and practices and an unfair, false and misleading method of competition.

"Kolene C" will not catch on fire or explode when used in synthetic solvent dry-cleaning machines, and "Kolene T" will not catch on fire or explode when used in synthetic solvent degreasing machines. The use under standard or usual conditions of "Kolene C" in synthetic solvent dry-cleaning machines or "Kolene T" in synthetic solvent degreasing machines does not constitute a fire hazard or risk to the owners and users of such machines and when thus used they are not inflammable. Such solvents are not more inflammable, nor more explosive, when used for such purposes, than "Triad," "Perma-A-Clor," trichlorethylene or perchlorethylene or the solvents made therefrom, as the latter are made by du Pont. There is no basis for an inference or representation that use of either of these solvents constitutes a fire hazard when such solvents are used for dry cleaning or degreasing by reason of the fact that in tests made of such solvents in the laboratory they have been found to be "slightly flammable" at the higher temperatures under which said tests were made. With respect to the flammability of "Kolene C," the Underwriters Laboratories, Inc. (an enterprise sponsored by the National Bureau of Fire Underwriters, operated for service and not for profit) in a report dated June 1939, stated in part:

The product is a colorless, volatile liquid intended for use as a cleaning fluid; it is chemically stable and not flammable at ordinary temperatures; it

is possible to produce moderately combustible mixtures with air under laboratory test conditions at higher temperatures (167 F. and upward) but under practical conditions the formation of combustible mixtures at temperatures as low as 167 F. is extremely unlikely.

This is substantially the same language used by this concern in reporting on the flammability of trichlorethylene.

PAR. 8. The false, misleading, and disparaging representations made by the respondent to the effect and in the manner aforesaid have had a tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the false and erroneous belief that said representations are true and into the purchase of the respondent's products in preference to the products "Kolene C" and "Kolene T." Because of such erroneous belief, said false and misleading representations and disparagements also have the tendency and capacity unfairly to divert trade from the sellers of the preparations "Kolene C" and "Kolene T" to the respondent and to the sellers of the respondent's products.

CONCLUSION

The acts and practices of the respondent as herein found are all to the prejudice and injury of the public and of the respondent's 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 respondent's answer thereto, a stipulation as to the facts entered into by and between the respondent, by its counsel, and Daniel J. Murphy, Assistant Chief Trial Counsel of the Commission, which stipulation provided, among other things, that without further evidence or other intervening procedure except the filing of briefs and presentation of oral argument (the filing of briefs and the presentation of oral argument having been subsequently waived), the Commission may issue and serve upon the respondent its findings as to the facts and conclusion based thereon and an order disposing of the proceeding; and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent, Detroit Rex Products Co., and its officers, agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale

or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of its synthetic dry-cleaning and degreasing solvents, do forthwith cease and desist from:

(1) Misrepresenting in any manner the constituents, properties or characteristics of "Kolene C" or "Kolene T," or of any other dry-cleaning or degreasing solvent sold in competition with the respondent's products;

(2) Representing, directly or by implication, that "Kolene C" has no merit or value or that it is not suitable or satisfactory as a dry-cleaning agent, or that "Kolene T" has no merit or value or that it is not suitable or satisfactory as a degreasing agent;

(3) Representing, directly or by implication, that either "Kolene C" or "Kolene T," when used in synthetic solvent dry-cleaning or degreasing machines, will separate, break down or form acid, or that either of said solvents will react unfavorably against or corrode the materials or metals being dry cleaned or degreased or the machines in which said solvent is used;

(4) Representing, directly or by implication, that the toxicity of or dangers from the fumes of "Kolene C" or "Kolene T" are greater than the toxicity of or dangers from the fumes of the respondent's dry-cleaning or degreasing solvents; or misrepresenting in any manner the absolute or comparative toxicity of or dangers from the fumes of "Kolene C" or "Kolene T" or any other competing dry-cleaning or degreasing solvent;

(5) Representing, directly or by implication, that the hazards of fire or explosion from the use of "Kolene C" or "Kolene T" are greater than the hazards of fire or explosion from the use of the respondent's solvents; or representing, directly or by implication, that "Kolene C" or "Kolene T" is inflammable or explosive when used for dry-cleaning or degreasing purposes under standard or usual conditions for such work;

(6) Making or publishing any false or disparaging representations concerning the dry-cleaning or degreasing solvent of any competitor; or supplying to or placing in the hands of distributors or others any statement, claim, report or data which may be used by such distributors or others as a means of or basis for any false or disparaging representation concerning the dry-cleaning or degreasing solvent of any competitor.

It is further ordered, That the respondent shall, within 60 days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

IN THE MATTER OF
G. S. BLAKESLEE & CO.

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

Docket 4678. Complaint, Jan. 23, 1942—Decision, Dec. 30, 1948

As respects the question as to whether or not a certain solvent, used in synthetic solvent degreasing machines, may be properly characterized as more toxic, poisonous, or dangerous than certain others thus used, it appearing that all are poisonous and toxic to some extent and, if allowed to come in contact with the skin or if the vapors thereof are inhaled, are dangerous to life and health, and, furthermore, that all, if not properly handled or used in such machines will cause illness to the operators—dangers which are increased by repeated contacts therewith: it is deceptive and disparaging for the seller of certain of the other solvents competitive therewith to refer to said particular solvent as more toxic, poisonous and dangerous than theirs.

In such a connection the nature of the impairment to health which results from contacts with such particular solvent is immaterial and reference thereto is deceptive and disparaging; and while in scientific circles distinctions as to the safety or dangerous character of such particular solvent may be justified, in the commercial world broad distinctions as to the relative safety or dangerous character thereof are not justified, and, in connection with the sale thereof, constitute false and deceptive acts and practices and an unfair, false and misleading method of competition.

Where a corporation which (1) was engaged in the manufacture of synthetic solvent degreasing machines for use in the cleaning of oil and grease from metal products, and in the interstate sale and distribution thereof, and of its "Blacoslov" synthetic degreasing solvents consisting of trichlorethylene, made by du Pont prior to January 1, 1947; (2) together with the Detroit Rex Products Co. made all except a limited number of such degreasing machines, and, along with it, was party to a number of agreements and arrangements with the du Pont Co., covering the manufacture of such machines, and the distribution of du Pont's synthetic degreasing solvents, including said Detroit Rex, "Triad" and "Perm-A-Clene"; and which (3) along with said Detroit Rex, under such arrangements, handled a large part of the distribution of the degreasing solvents of du Pont who sold trichlorethylene also as "Triclene-D" (or, formerly, as "Cecolene No. 1"), and perchlorethylene as "Percline" (or, formerly, as "Cecolene No. 2") for use in such machines;

In promoting the sale and distribution of its "Blacoslov" synthetic solvent through salesmen and technical servicemen who called upon jobbers, distributors and users of degreasing equipment—often in the company of salesmen employed by the jobbers and distributors; were instructed by the main office on competitive products and the manner in which to deal with problems met in the field; and sometimes carried with them equipment for testing degreasing solvents, which prior to 1938, included the products of a