

IN THE MATTER OF  
ELI TEMPKIN AND ALLEN GORDON DOING BUSINESS  
AS NATIONAL STORES

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

*Docket 6017. Complaint, July 28, 1952—Decision, June 24, 1953*

When articles of merchandise, including sewing machines, are exhibited and offered for sale by retailers to the purchasing public, not marked to show foreign origin, or with foreign markings covered or otherwise concealed, such public understands and believes such articles to be wholly of domestic origin.

There is among the members of the purchasing public a substantial number who have a decided preference for products manufactured in the United States over products manufactured in whole or in part in foreign countries, including sewing machines.

The word "Eureka" and other well-known domestic names are the names or parts of the names of, or used as trade names, marks, or brands by, business organizations doing business in the United States, which are and have been well and favorably known to the purchasing public and which are and have been well and long-established in various industries, and there is a preference among members of the purchasing public for products manufactured by such concerns whose identity is connected with the word "Eureka" and other well-known domestic names.

Where two partners engaged in the competitive interstate sale to the purchasing public of sewing machines with heads imported from Japan, on the back of the vertical arm of which the word "Japan" became covered by attachment of a motor, and on the front of some of which a medallion displayed the word so small and indistinct as not to constitute adequate notice that said heads were imported—

- (a) Failed adequately to disclose on their said sewing machine heads that they were manufactured in Japan;
- (b) Falsely represented that they manufactured their sewing machines for sale direct from their factory in the United States to purchasers, through such statements in their advertising as "This is a direct factory savings to you done in hopes that you will aid our present advertising campaign";
- (c) Represented that their product was manufactured by or connected in some way with favorably known American firms through the featured use of such trade or brand names as "Eureka" on the front horizontal arm of the head, and in their advertising matter, and thereby enhanced the belief by the public that said machines were of domestic origin;

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- (d) Represented that they were offering to sell a Singer portable electric rebuilt sewing machine for the sum \$21.50 through such statements in their advertising as "We will not be undersold. Singer Portable Electric Rebuilt with parts by National", etc., together with depiction of a Singer electric portable sewing machine, and the words "\$21.50 full cash price. Free button hole making Attachment";

The facts being that said offer was not genuine and bona fide but was made to obtain the names of those interested in purchasing machines to whom, with no effort to sell such machines, they attempted to sell different and more expensive ones, and particularly those with heads made in Japan; and that the attachment was not given free but its cost was included in the price charged for the machine;

- (e) Confusingly and misleadingly made use of the term "five-year guarantee" in their aforesaid advertising, in which they did not disclose the nature and extent of such a guarantee and the manner in which the guarantor would perform thereunder;

- (f) Represented falsely in their advertising that \$189.50 was the customary and usual price charged by them for their sewing machines; that the machines had been tested, approved, and awarded a gold seal by a responsible, competent and impartial testing organization, through the words "Gold Seal Tested and Approved"; and that they had stores in principal cities from New York to California;

The facts being that the aforesaid price was greatly in excess of that usually charged for their said product and was wholly fictitious; their said machines had not been thus tested, etc.; and they had stores in only three cities in the United States;

With tendency and capacity to mislead a substantial portion of the purchasing public into the erroneous belief that all such representations were true and thereby induce the purchase of substantial quantities of their said machines; whereby substantial trade in commerce was unfairly diverted to them from their competitors, to the substantial injury of competition in commerce:

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

Before *Mr. John Lewis*, hearing examiner.

*Mr. William L. Taggart* for the Commission.

*Mr. Jerry S. Berk*, of Los Angeles, Calif., for respondents.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that *Eli Tempkin* and

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Allen Gordon, copartners doing business as National Stores, herein-after referred to as respondents, have violated the provisions of the said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondents Eli Tempkin and Allen Gordon are copartners doing business under the name of National Stores, with their office and principal place of business located at 3332 W. Olympic Boulevard, Los Angeles, California.

PAR. 2. Respondents are now, and have been for several years last past, engaged in the sale of sewing machines, of which heads imported from Japan are a part, to members of the purchasing public. In the course and conduct of their business, respondents cause their product, when sold, to be transported from their places of business in the States of California, Utah and New York to the purchasers thereof located in various other States of the United States and maintain, and at all times mentioned herein have maintained, a course of trade in commerce among and between the various States of the United States. Their volume of trade in said commerce has been and is substantial.

PAR. 3. When the sewing machines are sold by respondents to members of the purchasing public, the word "Japan" appears on the back of the vertical arm covered by the motor so that it is not visible. In some instances, said heads, when received by respondents, are marked with a medallion placed on the front of the vertical arm upon which the word "Japan" appears. This word is, however, so small and indistinct that it does not constitute adequate notice to the public that the heads are imported.

PAR. 4. When articles of merchandise, including sewing machines, are exhibited and offered for sale by retailers to the purchasing public, and such articles are not marked or are not adequately marked, showing they are of foreign origin, or if marked and the markings are covered, or otherwise concealed, such purchasing public understands and believes such articles to be wholly of domestic origin.

There is among the members of the purchasing public a substantial number who have a decided preference for products manufactured in the United States over products manufactured in whole or in part in foreign countries, including sewing machines.

PAR. 5. Respondents, in their advertising, make statements such as the following:

This is a direct factory savings to you done in hopes that you will aid our present advertising campaign.

By and through the use of the afore-mentioned statement, respondents represented, directly or by implication, that they manufacture the sewing machines for sale direct from their factory in the United States to the purchasers thereof.

The aforesaid representations were false, misleading and deceptive. In truth and in fact, the said sewing machines or any parts thereof were not manufactured in a factory either owned or controlled by respondents.

PAR. 6. Respondents use the word "Eureka" and other well known domestic names as trade or brand names for their sewing machine heads and sewing machines, which words are printed or embossed on the front horizontal arm of the head in large, conspicuous letters and use said trade or brand names in their advertising matter. The word "Eureka" and the other well known domestic names are the names or parts of the names of, or used as trade names, marks or brands by one or more business organizations transacting and doing business in the United States, which are and have been well and favorably known to the purchasing public and which are and have been well and long established in various industries.

PAR. 7. By using trade or brand names such as "Eureka" and other well known domestic names for their sewing machine heads, respondents represent, directly or by implication, that their product is manufactured by, or connected in some way with, the well and favorably known American firm or firms with which said names have long been associated, which is contrary to the fact.

PAR. 8. There is a preference among members of the purchasing public for products manufactured by well and favorably known and long established concerns whose identity is connected with the word "Eureka" and other well known domestic names. The use of said trade or brand names by respondents on their sewing machines and heads enhances the belief on the part of the public that the said sewing machines are of domestic origin.

PAR. 9. Respondents, in their advertising, make further statements such as the following:

We will not be undersold  
Singer Portable Electric Rebuilt  
with parts by National

New motor  
New carry case  
Round Bobbin  
New foot control  
New Sew Light  
5 year guarantee

Picturization of  
Singer Electric Portable  
Sewing Machine  
\$21.50 full cash price  
Free button hole making  
Attachment.

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By and through the use of the afore-mentioned statements, respondents represented, directly or by implication, that they were making a bona fide offer to sell Singer portable electric rebuilt sewing machines for the sum of \$21.50, and that a button hole making attachment was given free with the purchase of a machine.

The aforesaid representations were false, misleading and deceptive. In truth and in fact, the offer to sell rebuilt Singer sewing machines for \$21.50 was not a genuine and bona fide offer, but was made for the purpose of obtaining the names of persons interested in purchasing sewing machines. After obtaining said names, respondents make no effort to sell the advertised sewing machines to such persons, but attempt to sell different and more expensive machines, particularly machines, of which heads made in Japan, are a part. A button hole making attachment was not given free with the purchase of a machine, but the cost of said attachment was included in the price charged for the said machine. The use of the term "5 year guarantee" in said advertisement without disclosing the terms and conditions of the guarantee is confusing and misleading to the public and purchasers and constitutes an unfair and deceptive act and practice.

PAR. 10. Respondents, in their advertising, make further statements such as the following:

Eureka Goodhousekeeper Sewing Machine  
\$189.50  
Gold Seal Tested and Approved.  
National Sewing Machine Stores in  
principal cities from New York  
to California.

By and through the use of the afore-mentioned statements, respondents represented, directly or by implication, that \$189.50 was the customary and usual price charged by them for said sewing machines; that said sewing machines have been tested, approved and awarded a gold seal by a responsible, competent and impartial testing organization; and that respondents have stores in principal cities from New York to California.

PAR. 11. The aforesaid representations were false, misleading and deceptive. In truth and in fact, the sum of \$189.50 was greatly in excess of the amount usually and ordinarily charged for said sewing machines by respondents, and was a wholly fictitious price. Said sewing machines have not been tested, approved or awarded a gold seal by any responsible, competent and impartial testing organization. Respondents have stores in only three cities in the United States.

PAR. 12. The use by the respondents of the foregoing false, misleading and deceptive statements and representations has had, and now has, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that all such statements and representations were and are true, and to induce the purchase of substantial quantities of their sewing machines as a result of this erroneous and mistaken belief.

PAR. 13. Respondents, in the course and conduct of their business, are in substantial competition in commerce with the sellers of domestic sewing machines and also sellers of imported sewing machines, some of whom adequately disclose to the public that their sewing machines, or parts thereof, are of foreign origin.

PAR. 14. The failure of respondents to adequately disclose on the sewing machine heads that they are manufactured in Japan has the tendency and capacity to lead members of the purchasing public into the erroneous and mistaken belief that their said product is of domestic origin and to cause substantial numbers of the purchasing public to purchase sewing machines of which said heads are a part because of said erroneous and mistaken belief.

The use of trade or brand names such as "Eureka" and other well known domestic names have the tendency and capacity to lead members of the purchasing public into the erroneous and mistaken belief that their product is of domestic origin, and is manufactured by the well and favorably known firm or firms with which said names have long been associated, and to induce members of the purchasing public to purchase sewing machines, of which said heads are a part, because of such erroneous and mistaken belief.

As a result thereof, substantial trade in commerce has been unfairly diverted to respondents from their competitors and substantial injury has been and is being done to competition in commerce.

PAR. 15. The aforesaid acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and of respondents' competitors, and constitute unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

#### CONSENT SETTLEMENT<sup>1</sup>

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on July 28, 1952, issued and conse-

<sup>1</sup> The Commission's "Notice" announcing and promulgating the consent settlement as published herewith, follows:

The consent settlement tendered by the parties in this proceeding, a copy of which is served herewith, was accepted by the Commission on June 24, 1953, and ordered entered

quently served its complaint on the respondents named in the caption hereof, charging them with the use of unfair and deceptive acts and practices and unfair methods of competition in commerce within the intent and meaning of the Federal Trade Commission Act.

The respondents, desiring that this proceeding be disposed of by the consent settlement procedure provided in Rule V of the Commission's Rules of Practice, solely for the purposes of this proceeding, any review thereof, and the enforcement of the order consented to, and conditioned upon the Commission's acceptance of the consent settlement hereinafter set forth and in lieu of answer to said complaint, filed August 28, 1952, hereby

(1) Admit all the jurisdictional allegations set forth in the complaint.

(2) Consent that the Commission may enter the matters hereinafter set forth as its findings as to the facts, conclusion, and order to cease and desist. It is understood that the respondents, in consenting to the Commission's entry of said findings as to the facts, conclusion, and order to cease and desist, specifically refrain from admitting or denying that they have engaged in any of the acts or practices stated therein to be in violation of law.

(3) Agree that this consent settlement may be set aside in whole or in part under the conditions and in the manner provided in Paragraph (f) of Rule V of the Commission's Rules of Practice.

The admitted jurisdictional facts, the statement of the acts and practices which the Commission had reason to believe were unlawful, the conclusion based thereon, and the order to cease and desist, all of which respondents consent may be entered herein in final disposition of this proceeding, are as follows:

#### FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondents Eli Tempkin and Allen Gordon are copartners doing business under the name of National Stores, with their office and principal place of business located at 3332 W. Olympic Boulevard, Los Angeles, California.

PAR. 2. Respondents are now, and have been for several years last past, engaged in the sale of sewing machines, of which heads imported from Japan are a part, to members of the purchasing public. In the

of record as the Commission's findings as to the facts, conclusion, and order in disposition of this proceeding.

The time for filing report of compliance pursuant to the aforesaid order runs from the date of service hereof.

course and conduct of their business, respondents cause their product, when sold, to be transported from their places of business in the States of California, Utah and New York to the purchasers thereof located in various other States of the United States and maintain, and at all times mentioned herein have maintained, a course of trade in commerce among and between the various States of the United States. Their volume of trade in said commerce has been and is substantial.

PAR. 3. When the sewing machines are sold by respondents to members of the purchasing public, the word "Japan" appears on the back of the vertical arm covered by the motor so that it is not visible. In some instances, said heads, when received by respondents, are marked with a medallion placed on the front of the vertical arm upon which the word "Japan" appears. This word is, however, so small and indistinct that it does not constitute adequate notice to the public that the heads are imported.

PAR. 4. When articles of merchandise, including sewing machines, are exhibited and offered for sale by retailers to the purchasing public, and such articles are not marked or are not adequately marked, showing they are of foreign origin, or if marked and the markings are covered, or otherwise concealed, such purchasing public understands and believes such articles to be wholly of domestic origin.

There is among the members of the purchasing public a substantial number who have a decided preference for products manufactured in the United States over products manufactured in whole or in part in foreign countries, including sewing machines.

PAR. 5. Respondents, in their advertising, make statements such as the following:

This is a direct factory savings to you done in hopes that you will aid our present advertising campaign.

By and through the use of the afore-mentioned statement, respondents represented, directly or by implication, that they manufacture the sewing machines for sale direct from their factory in the United States to the purchasers thereof.

The aforesaid representations were false, misleading and deceptive. In truth and in fact, the said sewing machines or any parts thereof were not manufactured in a factory either owned or controlled by respondents.

PAR. 6. Respondents use the word "Eureka" and other well known domestic names as trade or brand names for their sewing machine heads and sewing machines, which words are printed or embossed on

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the front horizontal arm of the head in large, conspicuous letters and use said trade or brand names in their advertising matter. The word "Eureka" and the other well known domestic names are the names or parts of the names of, or used as trade names, marks or brands by one or more business organizations transacting and doing business in the United States, which are and have been well and favorably known to the purchasing public and which are and have been well and long established in various industries.

PAR. 7. By using trade or brand names such as "Eureka" and other well known domestic names for their sewing machine heads, respondents represent, directly or by implication, that their product is manufactured by, or connected in some way with, the well and favorably known American firm or firms with which said names have long been associated, which is contrary to the fact.

PAR. 8. There is a preference among members of the purchasing public for products manufactured by well and favorably known and long established concerns whose identity is connected with the word "Eureka" and other well known domestic names. The use of said trade or brand names by respondents on their sewing machines and heads enhances the belief on the part of the public that the said sewing machines are of domestic origin.

PAR. 9. Respondents, in their advertising, make further statements such as the following:

We will not be undersold  
Singer Portable Electric Rebuilt  
with parts by National

New motor  
New carry case  
Round Bobbin

Picturization of  
Singer Electric Portable  
Sewing machine

New foot control  
New Sew Light  
5 year guarantee

\$21.50 full cash price  
Free button hole making  
Attachment.

By and through the use of the aforementioned statements, respondents represented, directly or by implication, that they were making a bona fide offer to sell Singer portable electric rebuilt sewing machines for the sum of \$21.50, and that a button hole making attachment was given free with the purchase of a machine.

The aforesaid representations were false, misleading and deceptive. In truth and in fact, the offer to sell rebuilt Singer sewing machines for \$21.50 was not a genuine and bona fide offer, but was

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## Findings

made for the purpose of obtaining the names of persons interested in purchasing sewing machines. After obtaining said names, respondents make no effort to sell the advertised sewing machines to such persons, but attempt to sell different and more expensive machines, particularly machines, of which heads made in Japan, are a part. A button hole making attachment was not given free with the purchase of a machine, but the cost of said attachment was included in the price charged for the said machine. The use of the term "5 year guarantee" in said advertisement without disclosing the terms and conditions of the guarantee is confusing and misleading to the public and purchasers and constitutes an unfair and deceptive act and practice.

PAR. 10. Respondents, in their advertising, make further statements such as the following:

Eureka Goodhousekeeper Sewing Machine  
\$189.50  
Gold Seal Tested and Approved.  
National Sewing Machine Stores in  
principal cities from New York  
to California.

By and through the use of the aforementioned statements, respondents represented, directly or by implication, that \$189.50 was the customary and usual price charged by them for said sewing machines; that said sewing machines have been tested, approved and awarded a gold seal by a responsible, competent and impartial testing organization; and that respondents have stores in principal cities from New York to California.

PAR. 11. The aforesaid representations were false, misleading and deceptive. In truth and in fact, the sum of \$189.50 was greatly in excess of the amount usually and ordinarily charged for said sewing machines by respondents, and was a wholly fictitious price. Said sewing machines have not been tested, approved or awarded a gold seal by any responsible, competent and impartial testing organization. Respondents have stores in only three cities in the United States.

PAR. 12. The use by the respondents of the foregoing false, misleading and deceptive statements and representation has had, and now has, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that all such statements and representations were and are true, and to induce the purchase of substantial quantities of their sewing machines as a result of this erroneous and mistaken belief.

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PAR. 13. Respondents, in the course and conduct of their business, are in substantial competition in commerce with the sellers of domestic sewing machines and also sellers of imported sewing machines, some of whom adequately disclose to the public that their sewing machines, or parts thereof are of foreign origin.

PAR. 14. The failure of respondents to adequately disclose on the sewing machine heads that they are manufactured in Japan has the tendency and capacity to lead members of the purchasing public into the erroneous and mistaken belief that their said product is of domestic origin and to cause substantial numbers of the purchasing public to purchase sewing machines of which said heads are a part because of said erroneous and mistaken belief.

The use of trade or brand names such as "Eureka" and other well known domestic names have the tendency and capacity to lead members of the purchasing public into the erroneous and mistaken belief that their product is of domestic origin, and is manufactured by the well and favorably known firm or firms with which said names have long been associated, and to induce members of the purchasing public to purchase sewing machines, of which said heads are a part, because of such erroneous and mistaken belief.

As a result thereof, substantial trade in commerce has been unfairly diverted to respondents from their competitors and substantial injury has been and is being done to competition in commerce.

## CONCLUSION

The aforesaid acts and practices of respondents, as herein found, are all to the prejudice and injury of the public and of respondent's competitors, and constitute unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

## ORDER TO CEASE AND DESIST

*It is ordered*, That the respondents, Eli Tempkin and Allen Gordon, individually and as copartners, doing business as National Stores, or doing business under any other name or names, their representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of sewing machine heads or sewing machines in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

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1. Offering for sale, selling or distributing foreign-made sewing machine heads, or sewing machines of which foreign-made heads are a part, without clearly and conspicuously disclosing on the heads the country of origin thereof.

2. Using the word "Eureka," or any simulation thereof, as a trade or brand name to designate, describe, or refer to their sewing machines or sewing machine heads, or represent, through the use of any other words or in any other manner, that their sewing machines or sewing machine heads are made by anyone other than the actual manufacturers.

3. Representing that sewing machines are offered for sale when such offer is not a bona fide offer to sell the machines so offered.

4. Representing, directly or by implication, that any product sold by them has been tested or approved or awarded a seal of approval unless said product has actually been tested by some responsible, competent and impartial testing organization and has been approved or awarded a seal of approval based upon such tests.

5. Representing, directly or by implication, that certain amounts are the prices of their sewing machines when such amounts are in excess of the prices at which their said sewing machines are ordinarily sold in the usual and regular course of business.

6. Representing, directly or by implication, that their sewing machine heads or sewing machines are guaranteed for 5 years or for any other period of time, or that they are otherwise guaranteed, unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed.

7. Representing, through the use of advertising of the word "factory," or any other word or term of similar import or meaning, or in any other manner, that said respondents are the manufacturers of the sewing machine heads or sewing machines sold by them, unless and until such respondents actually own and operate, or directly and absolutely control, a factory wherein said products are manufactured by them.

8. Representing that a button hole attachment or any other attachment is given free with the purchase of a sewing machine.

9. Misrepresenting the number of stores operated by them or otherwise misrepresenting the extent of their business.

*It is further ordered,* That the respondents, Eli Tempkin and Allen Gordon, co-partners doing business as National Stores, shall within sixty days after service upon them of this order, file with the

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Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

JERRY S. BERK,  
629 South Hill Street,  
Los Angeles, California

Attorney for respondents.

[s] JERRY S. BERK

*December 17, 1952*

ELI TEMPKIN and  
ALLEN GORDON,  
Co-partners, doing business as  
NATIONAL STORES, with  
office and principal place of busi-  
ness at 3332 West Olympic  
Blvd., Los Angeles, California.

Respondents.

[s] ELI TEMPKIN  
[s] ALLEN GORDON

*December 17, 1952*

The foregoing consent settlement is hereby accepted by the Federal Trade Commission and ordered entered of record on this the 24th day of June, 1953.

## Syllabus

## IN THE MATTER OF

## JACOBS MANUFACTURING COMPANY

COMPLAINT, SETTLEMENT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SUBSEC. (a) OF SEC. 2 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914, AS AMENDED BY AN ACT OF CONGRESS APPROVED JUNE 19, 1936

*Docket 6061. Complaint, Nov. 19, 1952—Decision, June 24, 1953*

Where a corporation which for 50 years had been the leading manufacturer in the United States of industrial chucks for use in the portable machine tool industry, produced and sold about 95% of all such chucks sold in the United States, and had as its largest original equipment customer the manufacturer which occupied a dominant position in the production and sale of portable drills in the United States; and which was in competition, necessarily limited by its dominant position, with other manufacturers of industrial chucks who sold to original equipment manufacturers;

In selling under an annual quantity discount and rebate plan applicable to its sales of drill chucks to manufacturers of motor-driven, hand, or portable tools, and light power-driven machinery for use as original and replacement equipment, pursuant to which it sent a statement to each of such purchasers at the end of the calendar year showing the total amount of purchases for such period, together with a credit memorandum and check for the amount of the discount and rebate earned under the plan, which provided for discounts and rebates amounting to 2.5% on aggregate purchases ranging from \$25,000.00 to \$50,000.00, returned 4.9% on purchases from \$50,000 to \$100,000.00; 7.31% on purchases between \$100,000.00 and \$200,000.00; and 9.63% on purchases of \$200,000.00 and over—

Discriminated in price between its different manufacturer-purchasers in commerce of commodities of like grade and quality by charging some higher prices than it charged others, through the allowance and payment of discounts and rebates under its said annual quantity discount and rebate plan, in which the making of small additional purchases to bring the annual total within a higher discount bracket, resulted in the equivalent of free goods;

With tendency to cause original equipment manufacturer-purchasers to concentrate all their purchases of chucks and parts upon respondent's products, to the exclusion of respondent's competitors and to their injury, and to discourage and prevent prospective competition with respondent by reason of the inducements thus offered to respondent's purchasers to concentrate all purchases of their chuck requirements with it in order to receive the discounts and rebates provided by said plan, under which, as illustrative, such a purchaser in 1950 received a quantity discount and rebate of \$633.18 by reason of purchases amounting to \$25,327.12, qualifying for the first bracket discount by the small additional purchases above \$25,000.00; and