

Complaint

78 F.T.C.

IN RE: MATTERS OF

H. MYERSON SONS, ET AL.

ORDER, ETC., IN REGARD TO THE ABOVE

WOOL PRODUCTS LABELING ACTS

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Complaint

plaintiff's cause to be treated in commerce and in the im-

business and defendant delivered, transported and caused

(b) (6)

[REDACTED]

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Among such misbranded wool products, but not limited thereto,

weight of the wool products exclusive of ornamentation not ex

The complaint issued February 25, 1970, charges H. Myerson  
with misbranding textiles:

with misbranding textiles:

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- (1) By representing the fibers as all silk or all rayon when other fibers were represented (C. 3);<sup>2</sup>
- (2) By failing to disclose the true percentage of fibers present by weight and by failing to use the true generic name of the fibers present (C. 4);
- (3) Using trademarks without using the generic name in lettering of equal size or voice.

[REDACTED]

The prehearing order was complied with. Trial briefs were filed

by [REDACTED] Limited as required

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

sent and additional exhibits were offered also by consent.

Respondents, in their trial brief filed May 4, 1970, reiterated the claim that a corporation had succeeded to the business of the part-

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that one of the respondents, [redacted]

necessary since an order against respondents', individually, would  
be adequate to [redacted]



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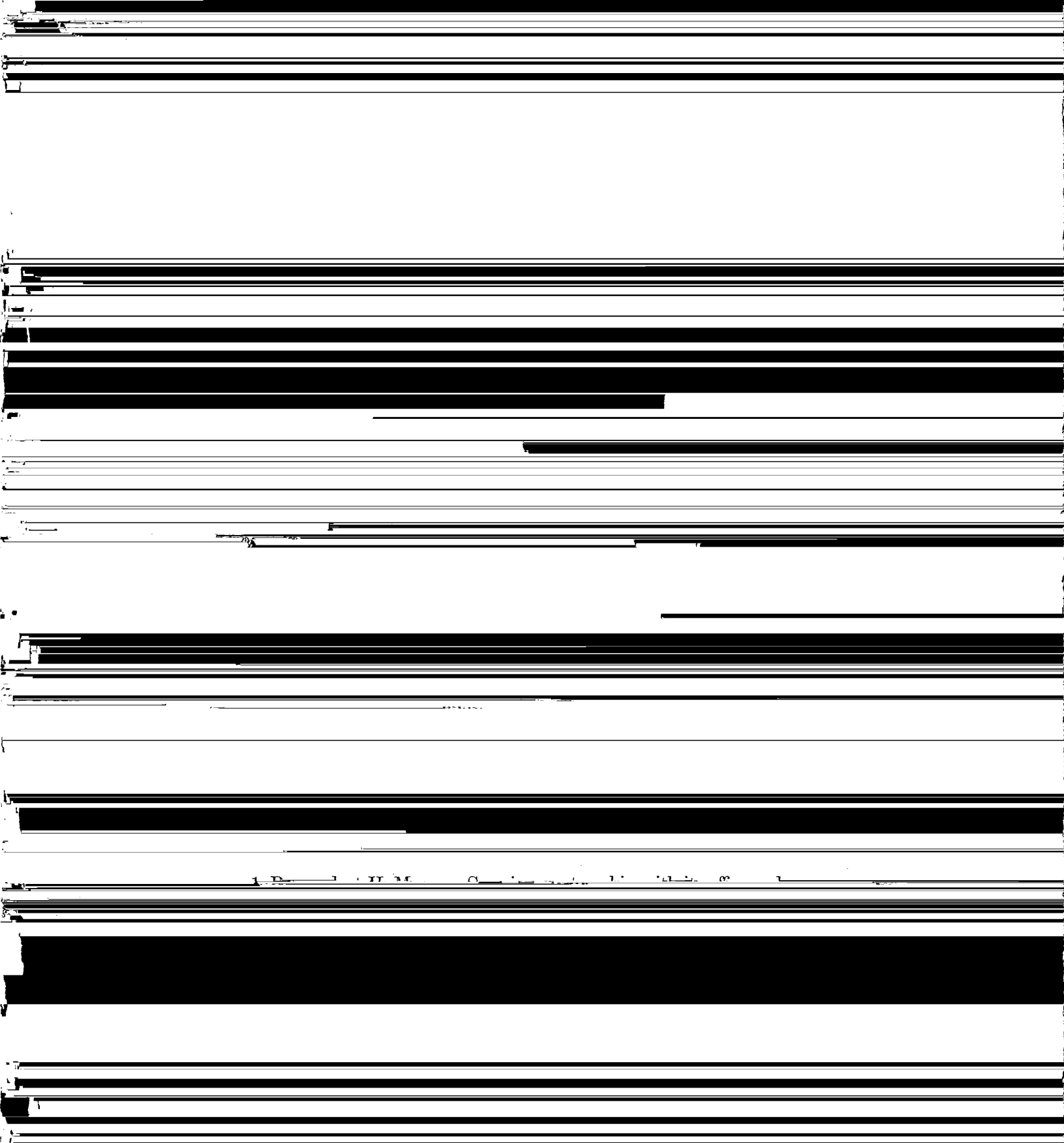
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cumstances to determine the fabric content (Tr. 315, *et seq.*), the action was deemed appropriate.

In one instance the investigator stated that the assistant buyer ~~who had purchased the fabric~~ believed that the fabric

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of these references in no way indicate that the evidence as a whole has not been considered. Consideration has also been given to the demeanor of the witnesses in weighing their credibility. Accordingly, the hearing examiner makes the following Findings of Fact, Conclusions, and Order. All proposed findings of fact and conclusions



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7. Respondents have conducted, as aforesaid, what is primarily a surplus fine-fabric retail and wholesale business. On the buying end, through their contact with

Myerson, Mr. Myerson told him that the business was a partnership conducted by his brother and himself and was established some 45 years previously (Tr. 94). Mr. Taggart drew the following deficiencies to Mr. Myersons' attention: the use of foreign words on some of the bolts of fabric; the use of fabric trademarks in lieu of generic names; and in some instances the bolts didn't have labels (Tr. 95). When questioned about how he could label fabric with the

label missing, Mr. Myerson told Mr. Taggart that he had done the best he could. It was difficult because of the nature of his operation, and because he got fabric from so many different sources (Tr. 95).

In one specific instance, Mr. Myerson told Mr. Taggart that he had

labeled a fabric 100 percent wool because he always bought 100 percent wool from that particular supplier (Tr. 95, 98).

10. In July 1968, Mr. Taggart again visited respondents' place of business by direction of the Washington office (Tr. 100). On this

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15. One of Mr. Suggs' reports (CX 12) dated July 3, 1968 (re-

ceived, Tr. 197), recited that he contacted Mr. Jerald V. Thomas.

he purchased one yard of fabric from each of four rolls identified by Mr. Thomas from order forms and invoices as having been purchased from Windsor Fabrics.

16. A statement by counsel supporting the complaint was made as to the impracticality of producing Mr. Thomas (Tr. 156). This was

approved by counsel for respondent without further comment.

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names, dates and identities, names of persons, etc.

fied by Mr. Bledsoe who testified that it was Mr. Suggs' duty to

and because Mr. Myerson could not state whether or not the swatches of cloth were his (Tr. 235), the records of Mr. Suggs were accepted (Tr. 247). From the analysis above we find that two of the four Ancoin samples were mislabeled, one labeled as "all silk" (CX 24,

33). Each of these samples was sold and shipped in interstate commerce (CX 26).

*Field Investigation at Kansas City, Missouri*

25. Paul G. Orloff, an investigator for the Bureau of Textiles and Furs of the FTC, conducted an inspection at Leiter's Fabrics

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at the store for a month, so she asked the assistant buyer to identify

the fabric from Windsor Fabrics that Mr. Misch requested (Tr.

what fabrics were from Windsor Fabrics because she checked with



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true since respondents in their answer relied on the incorporation as a defense and since complaint counsel deferred action until the date of the commencement of trial to endeavor to change the parties. To change the parties then would, it seemed to the hearing examiner, raise problems of fairness that are wholly unnecessary. We pass now to respondents' contentions.

dence that customers complained to respondents that they were mis-

led; and respondents could not have built up a business such as theirs except through a reputation for fair dealing. Nonetheless, respondents sold fabric in their establishment and shipped in interstate commerce fabrics purchased from them that bore marks and labels contrary to the applicable laws and regulations. These laws

where If a representation is made respondents must be responsible

must be. We turn now to the merits.



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Final Order

ing, advertising, or otherwise identifying any textile fiber prod-

not as to the precise amount of equipment fibers contained

therein.

2. Failing to affix a stamp, tag, label or other means of identi-  
fication to each such product showing in a clear, legible and

