

Complaint

46 F. T. C.

IN THE MATTER OF  
WALTER M. JAKWAY DOING BUSINESS AS VOGUE  
PRODUCTS

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

*Docket 5537. Complaint, Apr. 21, 1948—Decision, May 23, 1950*

Where an individual engaged in selling and distributing a preparation designed as "Tuffenail"; in advertisements in periodicals and in circulars, leaflets, pamphlets, and display cards, directly and by implication—

- (a) Represented that said preparation was an effective aid for brittle, splitting, breaking, and chipping nails, would toughen the nails and prevent such conditions;
- (b) Represented that application thereof to the nails constituted a competent and effective treatment for "onychosis," would stimulate nail growth, help nails to grow stronger and keep them strong; and
- (c) Represented that said Tuffenail would penetrate the skin into the flesh of the nail bed and prevent sluggishness of the lymphatic glands;

The facts being that while said product would temporarily soften the cuticle around the nails, it had no other therapeutic property; it would have no effect on onychosis nor on the lymphatic glands, none of which are located at the matrix of the nails; and splitting and brittle nails are not due to lack of stimulation or to sluggish action of said glands at the matrix;

With tendency and capacity to mislead and deceive a substantial portion of the public into the erroneous belief that said advertisements were true and thereby induce its purchase of said preparation:

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

Before *Mr. Abner E. Lipscomb*, trial examiner.

*Mr. R. P. Bellinger* for the Commission.

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 Walter M. Jakway, an individual doing business as Vogue Products, 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 in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Walter M. Jakway is an individual trading and doing business under the name Vogue Products, with his

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principal place of business located at 1149 North Seward Street, Hollywood, Calif.

PAR. 2. Respondent is now and has been for several years last past engaged in the business of selling and distributing a drug preparation, as "drug" is defined in the Federal Trade Commission Act.

The designation or brand name used by respondent for his said preparation and the formula and directions for its use are as follows:

Designation or brand name:

Tuffenail.

Formula:

	<i>Percent</i>
K I (potassium iodide) -----	3.5
Sulphonated fatty alcohol -----	.1
K O H (potassium hydroxide) -----	.18
Alcohol -----	8.3
Glycerine -----	4.2
Essential oils -----	.1
Metnail yellow -----	.0014
H <sub>2</sub> O (water) Q. S. to 100 percent.	

Directions:

Use nightly. Wash and dry hands. Apply liberally around the cuticle and under nail tips.

Respondent causes his said preparation, when sold, to be transported from his place of business in the State of California to purchasers thereof located in various other States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his said business, respondent, subsequent to March 21, 1938, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of said preparation, has disseminated and caused the dissemination of certain advertisements concerning said preparation by the United States Mails and by various means in commerce as "commerce" is defined in the Federal Trade Commission Act, including but not limited to advertisements appearing on page 81 of the February 1945 issue of *Movies Magazine*, headed "Tuffenail"; on page 97 of the July 1944 issue of the magazine *Modern Romances*, headed "Tuffenail"; on page 2 of the September 18, 1941, issue of the *Hollywood, Calif., Citizen News*, headed "NOW! America's Most Effective Nail Aid!"; on page 89 of the April 1946 issue of *Movie Life Magazine* headed "Lovelier Nails With Tuffenail"; all of which magazines and the newspaper mentioned herein are distributed by the United States mails and by other means in commerce as "commerce" is defined in the Federal Trade Commission Act; and respondent has disseminated and caused the dissemination of advertisements concerning the prepa-

