

branded in that the name "DPS Formula 103" was a false and misleading device which represented and suggested that the article was efficacious for the following conditions: Scanty or difficult menstruation, amenorrhea, dysmenorrhea, delayed puberty, delayed menstruation, painful breasts, hot flushes, menopause, ovariectomy, and sexual asthenia.

The DPS Formula 105 was labeled in part: "Three Tablets Provide I. U. Vitamin A 5 Mg. Vitamin E in a base of the following inert desiccated glandular substances: Orchic, Prostate, Whole Adrenal, Anterior Pituitary, Suprarenal Cortex * * * The vitamin A is from fish liver oil concentrate; the vitamin E is from mixed natural tocopherols." It was alleged to be misbranded in that the name "DPS Formula 105" was a false and misleading device which represented and suggested that the article was efficacious as a treatment of impotence, sterility, lowered sex-tone, apathy, mental lethargy, and as a complete support of the male sex function.

The libel alleged further that the devices had acquired the above-described meanings by reason of the fact that the manufacturer of the articles had supplied and, together with his agents and employees and distributors, had disseminated to prospective purchasers of the articles the booklet entitled "DPS DARTELL FORMULAE," which disclosed that the articles were designed and intended for the conditions mentioned above.

The articles known as DPS Formulae 52, 57, 58, 61, and 100 were also misbranded under the provisions of the law applicable to foods, as reported in notices of judgment on foods.

On October 16, 1943, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

1125. Misbranding of DPS Formula 56. U. S. v. 8 Bottles of DPS Formula 56. Default decree of condemnation and destruction. (F. D. C. No. 9890. Sample No. 15356-F.)

On May 24, 1943, the United States attorney for the District of Colorado filed a libel against 8 bottles of DPS Formula 56 at Denver, Colo., alleging that the article, which had been consigned by the Dartell Professional Service, had been shipped on or about March 26, 1943, from Los Angeles, Calif.; and charging that it was misbranded.

The article was alleged to be misbranded in that the name "DPS FORMULA 56," appearing on its label, was false and misleading as applied to the product, each gram of which consisted essentially of (label) "Vitamins A, 80,000 USP XI units; Vitamin D, residual amounts as carried with Vitamin A," since the name was a device which represented and suggested to the purchaser that the article was efficacious for the following conditions: Nephritis, conjunctivitis, otitis media, upper respiratory disorders, kidney stones, eye weakness and inflammations, renal and urinary calculi, infection or high fevers, involvement of the mucosae, pregnancy, and lactation, whereas it was not efficacious for such conditions; and that the device acquired such meaning by reason of the fact that the manufacturer had supplied, and, together with his agents, employees, and distributors, had disseminated to prospective purchasers of the article a certain booklet entitled "DPS Dartell Formulae," which disclosed that the article was designated and intended for the above-named conditions.

On July 7, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

1126. Misbranding of Papaya Concentrate. U. S. v. 12 Bottles and 4 Bottles of Papaya Concentrate. Default decree of destruction. (F. D. C. No. 10142. Sample No. 43991-F.)

On or about June 28, 1943, the United States attorney for the Western District of Missouri filed a libel against 12 1-quart bottles and 4 1-gallon bottles of Papaya Concentrate at Kansas City, Mo., alleging that the article, which had been consigned on or about April 19, 1943, had been shipped from Chicago, Ill., by Macu Fruit Products; and charging that it was misbranded. The article was labeled in part: "Macu Brand Papaya Concentrate."

Examination disclosed that the article contained papaya pulp, seeds, and sugar.

The article was alleged to be misbranded because of false and misleading statements on its label and in the circular entitled "Drink Papaya (Fruta Bomba)," which represented and suggested that the article, when used as directed, was a rich source of vitamins, was a valuable aid to digestion, and would be of value in such conditions as gastritis, diphtheria, ulcers, bowel disorders, dyspepsia, croup, cancer, and gastric fermentation.

The article was also alleged to be misbranded under the provisions of the law applicable to foods, as reported in the notices of judgment on foods.

On July 30, 1943, no claimant having appeared, judgment was entered ordering that the product be destroyed.

1127. Misbranding of Vbev. U. S. v. 16 Cans of Vbev. Decree of condemnation and destruction. (F. D. C. No. 5457. Sample No. 74285-E.)

On September 25, 1941, the United States attorney for the Southern District of New York filed a libel against 16 10-ounce cans of Vbev at New York, N. Y., alleging that the article had been shipped on or about July 8, 1941, from Jersey City, N. Y., by Healthaids, Inc.; and charging that certain statements in its labeling were false and misleading. The article was labeled in part: "Vbev A Food Beverage A Food Supplement Rich in Natural Vitamin B Complex with Vitamins A, D, and Essential Minerals * * * Purity Products Inc., Jersey City New Jersey Ingredients: Diastasic Malt Syrup, Dextrose, Whole Liquid Milk, Tricalcium Phosphate, Ferric Pyrophosphate—Soluble, Molasses, Natural Vitamin B Complex and Vitamin A and D Concentrate."

Examination disclosed that the article's content of calcium was 796 milligrams per ounce.

It was alleged in the libel (1) that the statement on the label, "Not less than the following values for each ounce of Vbev are maintained through periodic laboratory assays * * * Calcium 1000 milligrams," was false and misleading; (2) that the statement in the labeling of the article to the effect that the article was a new discovery and a new food beverage, developed after years of scientific research and investigation, was false and misleading since the article was merely a combination of well-known foods; and (3) that the statements in the labeling were false and misleading since they represented and implied that the article was efficacious in the cure, mitigation, treatment, or prevention of nervousness, tiredness, sleeplessness, underweight, infections, digestive disorders such as diarrhea, lack of appetite and gas pains, stunted growth, loss of hair, and general failure in physical well-being; and that it was efficacious to form and preserve strong bones and teeth, develop proper skin tone, prevent night blindness, over-brittle fingernails, dietary anemia and many skin disorders, protect eyes from degeneration and cataract, promote proper assimilation of calcium and phosphorus, provide quick energy between meals, aid clotting of blood and red pigmentation of blood, and provide a valuable supplementary supply of natural B complex as well as vitamins A and D and the vital minerals, calcium, phosphorus, iron, and copper. The article was not efficacious for such purposes and conditions.

On June 3, 1942, Purity Products, Inc., claimant, filed an answer denying that the product was misbranded. On March 25, 1943, the case having come on for trial before the court, the claimant having failed to appear to defend, and the Government having presented its proof, the court, on April 14, 1943, found that the article was misbranded as alleged in the libel. Judgment of condemnation was entered on April 22, 1943, and the product was ordered destroyed.

1128. Misbranding of Bates vitamin preparations. U. S. v. 320 Bottles of Vitamin Preparations. Decree of condemnation. Products ordered released under bond for relabeling. (F. D. C. No. 9897. Sample Nos. 3056-F to 3063-F, incl.)

On or about May 13, 1943, the United States attorney for the Western District of Missouri filed a libel against 24 bottles of Bates Natural B Complex, each bottle containing 120 tablets, and 16 bottles of Bates Riboflavin Vitamin B₂ (G), 16 bottles of Bates (Thiamine) Vitamin B₁, 16 bottles of Bates (Nicotinic Acid) Niacin, 16 bottles of Bates (Ascorbic Acid) Vitamin C, 24 bottles of Bates Vitamin A & D, and 208 bottles of Bates Calcium Pantothenate, each bottle of which contained 30 tablets, at Kansas City, Mo., alleging that the articles had been shipped from Chicago, Ill., by Bates Laboratories, Inc., and received by the consignee between February 2 and March 20, 1943; and charging that they were misbranded.

Examination disclosed that the natural B complex tablets contained riboflavin, thiamine, and yeast; that the riboflavin tablets and thiamine tablets contained riboflavin and thiamine respectively; that the niacin tablets contained 10.7 milligrams of niacin each; that the vitamin C tablets contained vitamins grams of ascorbic acid each; that the vitamin A & D tablets contained vitamins A and D; and that the calcium pantothenate tablets contained approximately 10 milligrams of calcium pantothenate each.

The articles were alleged to be misbranded because of false and misleading statements which appeared on the display card headed "Vibrant Health and