

within a period of 60 days. One of the devices was destroyed on February 23, 1948, and the other device was destroyed on May 20, 1948.

9018. Misbranding of Pur-Ar-Lite Air Purifiers. U. S. v. 71 Devices * * *
Tried to the court. Verdict for Government. Decree of condemnation.
 (F. D. C. No. 27260. Sample No. 55219-K.)

LIBEL FILED: June 1, 1949, District of Kansas.

ALLEGED SHIPMENT: On or about March 8, 1949, by the Circlite Corp. from Chicago, Ill.

PRODUCT: 71 *Pur-Ar-Lite Air Purifiers* at Kansas City, Kans. Examination showed that the device consisted of a Sylvania 4W No. S1119 bulb, together with the necessary electrical connections.

LABEL, IN PART: "The Pur-Ar-Lite Air Purifier."

NATURE OF CHARGE: Misbranding, Section 502(a), the following statements, which appeared in accompanying leaflets entitled "Look" and "Here It Is," were false and misleading since the device was not effective in the prevention of the diseases and conditions stated and implied: (In leaflet entitled "Look") "Pur-Ar-Lite * * * protects your family, your home from deadly air-borne bacteria * * * Guards Your Family Against Disease! Yes! Pur-Ar-Lite Air Purifier's powerful concentrated ultra-violet rays quickly, instantly deal a death blow to menacing air-borne germs which spread colds, sore throats, flu, pneumonia, measles, scarlet fever, diphtheria, smallpox and other dread contagious diseases! Pur-Ar-Lite Air Purifier is a modern scientific method of insuring your family's health! * * * In the Bedroom * * * helps protect you and your child against colds, dangerous diseases, cuts down on doctor bills!" and (in leaflet entitled "Here It Is") "In The Bedroom * * * helps protect children and adults from colds, dangerous diseases, cuts down on doctor bills!"

DISPOSITION: The Circlite Corp. appeared as claimant and filed an answer denying that the devices were misbranded. On November 2, 1949, the case came on for trial before the court without a jury, and at the conclusion of the testimony the court made the following findings of fact and conclusions of law in favor of the Government:

HILL, District Judge:

FINDINGS OF FACT

"(1) The Claimant, Circlite Corporation, of Chicago, Illinois, shipped in interstate commerce from Chicago, Illinois, to Kansas City, Kansas, the articles of device seized in the action.

"(2) Said devices were labeled in part 'Pur-Ar-Lite Air Purifier,' and each consisted of a 4-watt mercury arc lamp together with its associated starting and operating components mounted in a metal housing and arranged such that the radiant flux from the lamp was reflected through an opening at one end of the housing. The lamp emitted ultraviolet radiation and on testing the measured density was found to be 44.2 microwatts per square centimeter at 6 inches from the opening and 12.4 microwatts per square centimeter at 12 inches from the opening.

"(3) The labeling which accompanied the devices represented among other things that the use of one of the devices would be effective in killing air-borne bacteria and would be effective in preventing colds, sore throats, flu, pneumonia, measles, scarlet fever, diphtheria, smallpox and other contagious diseases, and would protect one's family and cut down on doctor bills.

"(4) In an average size room the number of air-borne bacteria that the device might kill would be insignificant. The ultraviolet radiation from one of the devices would have no effect in preventing the specific disease conditions for

which it was recommended or any other contagious diseases, and the use of one of the devices would not protect one's family against any disease and would not cut down on doctor bills.

"(5) The labeling of the 'Pur-Ar-Lite Air Purifier' devices involved in this action is false and misleading.

CONCLUSIONS OF LAW

"(1) This Court has jurisdiction of the subject matter in the above-entitled action.

"(2) The devices seized in this action are misbranded within the provisions of 21 U.S.C. 352(a) because the labeling of said devices is false and misleading.

"(3) The devices are condemned under the provisions of 21 U.S.C. 334."

On November 17, 1949, judgment of condemnation was entered and the court ordered that two of the devices be delivered to the Food and Drug Administration and that the remaining devices be released to the claimant under bond for relabeling under the supervision of the Federal Security Agency.

3019. Misbranding of Theraplate (device). U. S. v. 202 Devices, etc. (F. D. C. No. 27789. Sample No. 1675-K.)

LIBEL FILED: September 15, 1949, Eastern District of South Carolina.

ALLEGED SHIPMENT: The devices were shipped from New York, N. Y., on or about March 14 and April 1, 1949, by the Infra-Appliances Corp. (American Metal Industries, New York, N. Y., consignor), and quantities of printed matter were shipped from New York, N. Y., between March and May, 1949, by the Infra-Appliances Corp.

PRODUCT: 202 *Theraplate devices* at Columbia, S. C., together with a number of leaflets entitled "Theraplate Instructions," "Information Bulletin #1," and "Introducing the Theraplate," and a number of display cards entitled "It's Theraplate." The device consisted of an electrically heated resistance wire embedded in a glass plate mounted on a metal base.

NATURE OF CHARGE: Misbranding, Section 502 (a), the following statements in the labeling accompanying the device were false and misleading since the statements represented and suggested that the device was effective in the treatment of the conditions stated and implied, whereas it was not effective for such purposes: (In leaflet entitled "Theraplate Instructions") "Many who suffer from Rheumatism, Arthritis, Sinus and the common cold have found welcome relief from pain and discomfort in Theraplate's infrared rays * * * For Relief of Rheumatic and Arthritic Conditions * * * For Treatment of Sinus, Common Colds," (in display card entitled "It's Theraplate") "Helps relieve painful discomforts caused by Rheumatism, Arthritis, Sinusitis, common colds," (in leaflet entitled "Information Bulletin #1") "Theraplate can be successfully used in bringing about relief from such ailments as Arthritis, Rheumatism, Phlebitis, Sinus, Hay Fever, and from general aches and pains * * * Theraplate will write a spectacular history in the bringing of much needed relief to the sufferers from Arthritis, Rheumatism, Sinus, Phlebitis, Hay Fever, and other muscular aches and pains," and (in leaflet entitled "Introducing the Theraplate") "Sufferers from Arthritis, Sinusitis, Phlebitis, Hay Fever, Rheumatic and other pains have found relief by use of the Theraplate * * * Sprained ankles, Charley horses, strained ligaments, bumps and bruises are all benefited by the magic penetrating infrared rays of the Theraplate."

DISPOSITION: February 22, 1950. The Central Radiant Glass Heating Co., Columbia, S. C., claimant, having consented to the entry of a decree, judgment