The repackaged capsules were alleged to be adulterated in that their strength differed from that which they purported or were represented to possess, namely, (cartons) "Each Cap contains 3½ grs. acetanilid," since each capsule contained materially less than 3½ grains of acetanilid.

They were alleged to be misbranded: (1) In that they would be dangerous to health when used in the dosage or with the frequency or duration prescribed, recommended, or suggested in the labeling, namely: (Carton) "One Capsule Usually Gives The Desired Results. If Necessary, Another May Be Taken In One Hour"; and (circular) "Take one Bromo-Cap with a swallow of water and repeat again in about an hour if not relieved, or until 3 doses have been taken. * * * A few Bromo-Caps, taken one every 2 Or 3 hours * * * 1 Bromo-Cap every 3 or 4 hours. * * * take 1 Bromo-Cap. Repeat in 1 or 2 hours. Then one every 3 or 4 hours. * * * Take one Bromo-Cap every 3 or 4 hours with large drinks of water. * * * Take one Bromo-Cap, another in 1 hour, then one every 3 or 4 hours. It may be advisable to take at least 12 altogether * * * a Bromo-Cap every 2 or 3 hours for a few doses. * * * Bromo-Cap taken with one or two large glasses of water. Thereafter take one Bromo-Cap every three or four hours until well." (2) In that the name "Bromo-Cap" on the carton was false and misleading since they contained no bromine or compound of bromine. (3) In that the statements, (carton) "Bromo-Caps Contain No Narcotic Drugs" and (accompanying circular) "A Quick, Sure Scientific Remedy That Takes the Place of Aspirin, Habit-Forming Headache Powders and Liquids," were false and misleading since they created the impression that the article contained neither dangerous drugs nor aspirin. (4) In that statements in the labeling representing that they would give relief and constitute an adequate treatment for rheumatic pains, colds, toothache, over-indulgence in food or drink, mental fatigue, menstrual pains, feverish conditions, and sea or car sickness, were false and misleading since they would not be efficacious for such purposes. (5) In that the labeling failed to bear the common or usual names of the active ingredients other than acetanilid and did not state the quantity or proportion of acetanilid present, since the statement on the label was incorrect.

Both the repackaged and bulk capsules were alleged to be misbranded: (1) In that their labeling failed to bear adequate directions for use (in the case of the repackaged capsules) since the directions given provided for the administration of excessive quantities of acetanilid; and (in the case of the bulk capsules) since the labeling failed to bear warnings to the effect that because of their acetanilid content, frequent or continued use might be dangerous, causing serious blood disturbances, anemia, collapse, or dependence on the drug, and that they should not be given to children. (2) In that the labeling did not bear adequate warnings against use in those pathological conditions or by children where their use might be dangerous to health or against unsafe dosage or methods or duration of administration, in such manner and form, as are necessary for the protection of users, since it failed to bear warnings to the effect that because of their acetanilid content frequent or continued use might be dangerous, causing serious blood disturbances, anemia, collapse, or dependence on the drug, and that they should not be given to children.

The bulk capsules were alleged to be misbranded further in that the label did not bear the common or usual names of the active ingredients, since aspirin had been declared by its chemical name, "Acetylsalicylic Acid," rather than by its common or usual name.

On August 18, 1941, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

602. Misbranding of cold capsules and tablets. U. S. v. 4,300 Cold Special No. 2 Capsules and 74 Packages of Swiss Capsules (and 2 other seizures of cold remedies). Default decrees of condemnation and destruction. (F. D. C. Nos. 3866, 4695, 4909, 4913. Sample Nos. 50188–E, 50189–E, 50249–E, 50250–E, 50668–E, 60421–E.)

These preparations, when used according to directions, would supply acetanilid in amounts that would be dangerous to health. Their labeling also failed to bear adequate directions and warning statements, and they were misbranded further because the name of a portion, "Cold Special," and the statement on the label of the remainder, "For Simple Colds * * * For * * * Colds," were false and misleading since they did not constitute a treatment or preventive for colds. A portion also failed to bear the required ingredient and quantity of contents statements, was deceptively packaged, and failed to bear the name and place of business of the manufacturer, packer, or distributor.

Between February 25 and June 23, 1941, the United States attorneys for the Southern District of West Virginia, Eastern District of Virginia, District of Maryland, and the District of Oregon filed libels against the following quantities of cold remedies—4,870 capsules (3,500 in original bulk container labeled "Capsules Cold Special" and 114 cartons, each containing 12 repackaged capsules, labeled in part "Upjohn Cold Special") at Richmond, Va.; 5 bottles of Cold Special No. 2 and 74 packages of Cold Special Capsules at Charleston, W. Va.; 4,300 Cold Special No. 2 and 74 packages of Swiss Capsules at Baltimore, Md.; and 1 bottle of Cold Special No. 2 Tablets at Portland, Oreg., alleging that the articles had been shipped in interstate commerce within the period from on or about September 25, 1940, to on or about February 14, 1941, by the Upjohn Co., in part from Kalamazoo, Mich., and in part from New York, N. Y.; and charging that they were misbranded.

Analyses of samples of the cold preparations showed that they contained acetanilid, a quinine salt, camphor, podophyllin, and aloin.

The articles were alleged to be misbranded in that they would be dangerous to health when used in the dosage and with the frequency and duration prescribed, recommended, and suggested in the labeling. They were alleged to be misbranded further: (1) In that the labeling failed to bear adequate directions for use since (in the case of those at Charleston, Baltimore, and Portland) if used in accordance with the directions given they would have been dangerous to health; and (in the case of those at Richmond) since the directions given were inappropriate for articles of their composition. (2) In that the labeling failed to bear adequate warnings against use in those pathological conditions and by children where their use might be dangerous to health or against unsafe dosage and duration of administration, in such manner and form, as are necessary for the protection of users; and (in the case of those at Baltimore and Portland) in that the labeling failed to bear warnings against use in cases of nausea, vomiting, abdominal pain, or other symptoms of appendicitis, against its use by children, against frequent or continued use which might endanger the health of users by causing serious blood disturbances, anemia, collapse, or a dependence upon the drug, and against taking such amounts, or the continuation of its use for a period of time, which might prove injurious to the user. (3) In that the designation "Cold Special," appearing on the label of a portion, and the statements on the label of the remainder, "For Simple Colds * * * For * * * Colds," were false and misleading since they did not constitute a treatment for or preventive of the disease commonly known as "cold."

The repackaged lot at Richmond, Va., labeled "Upjohn Cold Special Capsules," was alleged to be misbranded still further (1) in that the label failed to bear the common or usual name of each active ingredient; (2) in that the label failed to bear the name and address of the manufacturer, packer, or distributor since the name "Grant Drug Co., Inc.," appearing on the label, was not qualified to show the connection that firm had with the article, and the firm's location was not stated; (3) in that the label failed to state the quantity of contents of the package; and (4) in that its container was so made, formed, and filled as to be misleading.

Within the period from June 12 to October 18, 1941, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

603. Misbranding of physiological solution of sodium chloride and of dextrose in physiological solution of sodium chloride. U. S. v. 20 Bottles of Physiological Solution of Sodium Chloride; 18 Bottles, 447 Bottles, and 317 Bottles of Dextrose in Physiological Solution of Sodium Chloride. Default decrees of condemnation and destruction. (F. D. C. Nos. 4917 to 4919, incl., 4935. Sample Nos. 29086-E, 29087-E, 43447-E, 43449-E, 47597-E, 49066-E, 49067-E, 49069-E.)

These products would have been dangerous to health when used according to directions, because they had been contaminated with lead.

On or about June 14, 16, and 18, 1941, the United States attorneys for the Northern District of Illinois, Northern District of Ohio, and the Western District of Missouri filed libels against 20 bottles of physiological solution of sodium chloride at Chicago, Ill., and the following quantities of dextrose in physiological solution of sodium chloride—18 bottles of 10 percent strength at Cleveland, Ohio, and 276 bottles of 5 percent strength and 171 bottles of 10 percent strength at Kansas City, Mo., alleging that the articles had been shipped in interstate commerce on or about May 5, 13, 14, and 19, 1941, by the Upjohn Co., in part from Kalamazoo, Mich., and in part from New York, N. Y.; and charging