

Syllabus

IN THE MATTER OF
JOHN C. JOHNSON, TRADING AS JOHNSON'S LIXOLENE
COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 3887. Complaint, Sept. 9, 1939—Decision, Dec. 19, 1939

Where an individual engaged in manufacture, sale, and distribution of medicinal preparation which was recommended by him for treatment of eczema, ringworm, athlete's foot, and other diseases, ailments and conditions of skin and scalp, and which consisted, essentially, of solution of salicylic acid in diluted mixture of alcohols, together with small amount of boric acid and trace of methyl salicylate; in advertisements concerning his said product which he disseminated through the mails, through circulars and other printed or written matter distributed in commerce among the various States, and through continuities broadcast from radio stations of extrastate audience, and through various means, and which were intended and likely to induce, directly or indirectly, purchase of his said product—

- (a) Represented that his said product, or "Johnson's Lixolene," was a safe skin remedy and reliable compound and effective antiseptic and powerful germicide, and competent, adequate and effective remedy for treatment and cure of eczema, athlete's foot, acne, psoriasis, dandruff, poison ivy, warts, and corns;
- (b) Represented that all eczemas and other diseases of the skin are caused by parasitic infection, and that proper treatment for relief or cure thereof is local application of a mild germicide such as his said product, and that such product constituted competent, adequate and effective remedy for diseases of scalp, such as dandruff, seborrhea, and alopecia, and gave complete relief for all parasitic infections of skin and scalp; and
- (c) Represented that he was a physician or doctor of medicine and had a recognized standing and reputation as a dermatologist and chemist, and was properly qualified by education, research, and training to prescribe for various diseases of skin and scalp;

Facts being his said product or "Lixolene" did not have qualities or achieve results claimed and represented as above set forth, was neither skin remedy nor powerful germicide nor competent, adequate or effective remedy or cure for eczema or for various other conditions above set forth, and had no therapeutic value in treatment thereof, beyond temporarily relieving, due to its mildly antiseptic and counter-irritant properties, itching, all eczemas and other skin diseases are not caused by parasitic infection, but eczemas in many cases are due to allergic conditions resulting from food contacts, plant pollens or other causes, requiring, for proper treatment in many cases, complicated procedure of competent physician, he was neither physician or doctor of medicine nor possessed of recognized standing or reputation as dermatologist or chemist, and facts set forth by him with reference to cause of acne and reproduction of bacteria and functioning thereof in causing skin diseases were false;

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With tendency and capacity, through use of such false and misleading statements, representations, and advertisements in designating or describing his said product and effectiveness in treatment of various diseases, ailments, and conditions of the skin and scalp, to mislead substantial portion of purchasing public into erroneous and mistaken belief that all of said representations were true, and that his product possessed properties represented and would, in truth, accomplish results claimed, and with result, as direct consequence of such mistaken and erroneous beliefs induced as aforesaid, that number of purchasing public bought substantial volume of his said product:

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.

Mr. Merle P. Lyon 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 John C. Johnson, an individual, trading as Johnson's Lixolene Co., hereinafter referred to as respondent, has violated the provisions of the 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 is an individual trading under the name and style of Johnson's Lixolene Co., with his office and principal place of business located at 4028 Hill Crest Drive, San Diego, Calif. Respondent is now, and for several years last past has been engaged in the manufacture, sale, and distribution of a medicinal preparation known as "Johnson's Lixolene," which is recommended by him for the treatment of eczema, ringworm, athlete's foot, psoriasis, acne, dandruff, poison ivy, warts, corns, and other diseases, ailments, and conditions of the skin and scalp.

PAR. 2. Said respondent, being engaged in business as aforesaid, causes and has caused his said product "Johnson's Lixolene," when sold, to be transported from his place of business in San Diego, Calif., to purchasers located in States of the United States other than the State of origin of such shipments, and in the District of Columbia. There is now, and has been during all the times herein mentioned, a course of trade in the aforementioned product sold by the respondent in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his said business, the respondent has disseminated and is now disseminating, and has caused and

is now causing the dissemination of, false advertisements concerning his said product, by United States mails, by circulars and other printed or written matter, all of which are distributed in commerce among and between the various States of the United States, and by continuities broadcast from radio stations which have sufficient power to, and do, convey the programs emanating therefrom to listeners located in various States of the United States other than the State in which said broadcasts originate, and by other means in commerce as commerce is defined in the Federal Trade Commission Act, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his said product; and has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said product, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his said product in commerce, as commerce is defined in the Federal Trade Commission Act. Among, and typical of the false statements and representations contained in said advertisements, disseminated and caused to be disseminated, as aforesaid, are the following:

Johnson's Lixolene. The Safe Skin Remedy.

A Reliable Compound, An Effective Antiseptic, A Powerful Germicide. Used Externally for Eczema, Athlete's Foot, Acne, Ringworm, Psoriasis, Dandruff, Poison Ivy, Warts and Corns.

It is a well established fact that all Eczemas of the skin are caused by parasitic infection and the proper treatment is the local application of a Real Germicide on the skin where the disorder is present.

When these parasites get through the epidermis or outer layer of the skin, they take up their abode in the tissues where they can get a good supply of blood, lay their eggs, and hatch millions in just a short time.

The cause of Acne is the clogging of the pore or gland by a morbidly increased discharge of sebaceous matter on the skin; this hard tallow or grease in the gland causes it to become enlarged and inflamed, thus a portal is made and an invitation given for the germ to enter and develop the dreaded stage of Acne known as Acne Vulgares. Treatment to be desired for Acne in any stage is a mild germicide applied locally, which will gently peel the epidermis or outer skin and kill the parasite.

Johnson's Lixolene has proven to be a marvelous remedy in giving complete relief to a great host of young people whose faces were badly marred by the ravages of Acne.

Diseases of the Scalp—As Dandruff, Seborrhea and Alopecia. In recent years science has discovered that these disorders are all caused by parasites or germs in the skin. Through years of experience as a Dermatologist and chemist, we are glad to offer to any who need a real remedy for dandruff, Johnson's Lixolene.

This radio address is given by Dr. J. C. Johnson, the author of Johnson's Lixolene, "The Safe Skin Remedy," for the benefit of those who are interested in knowing of this new remedy which is offered in the drug stores for the

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relief of even the most chronic cases of eczemas. This is our third time to broadcast over this station, spreading the news about the therapeutic value of Lixolene in giving complete relief from the causes of all parasitic infections of the skin.

On account of the distinctive therapeutic value of Johnson's Lixolene to completely relieve all parasitic infections of the skin, we are receiving thousands of letters from grateful people who have been cured of all types of skin diseases as mentioned in this letter above.

PAR. 4. Through the use of the statements and representations hereinabove set forth, and other similar statements not herein set out, all of which purport to be descriptive of respondent's product and its effectiveness as a remedy or cure for the various diseases, ailments and conditions of the skin hereinbefore set out, the respondent has falsely represented, directly and by inference and implication, among other things: (1) That respondent's product "Johnson's Lixolene" is a safe skin remedy, a reliable compound, an effective antiseptic, a powerful germicide, and a competent, adequate and effective remedy for the treatment and cure of eczema, athlete's foot, acne, ringworm, psoriasis, dandruff, poison ivy, warts, and corns; (2) that all eczemas and other diseases of the skin are caused by parasitic infection, and that the proper treatment for the relief or cure thereof is the local application of a mild germicide such as respondent's product; (3) that respondent's product is a competent, adequate, and effective remedy or cure for diseases of the scalp, such as dandruff, seborrhea, and alopecia; (4) that respondent's product gives complete relief for all parasitic infections of the skin and scalp; and (5) that respondent is a medical doctor, and has a recognized standing and reputation as a dermatologist and chemist; and is peculiarly qualified by education, research and training to cure or prescribe for the various diseases of the skin and scalp.

PAR. 5. The aforesaid representations, used and disseminated by the respondent in the manner above described, are grossly exaggerated, misleading, and untrue, and constitute false advertisements. The true facts are that Johnson's Lixolene does not have any of the qualities or achieve any of the results claimed and represented as hereinbefore described.

Johnson's Lixolene consists essentially of a solution of salicylic acid in a diluted mixture of alcohols, together with a small amount of boric acid and a trace of methyl salicylate. Insofar as their action on the skin is concerned, these ingredients are all local irritants and mild antiseptics which may have some tendency to dissolve or wash away fat and greasy materials on the skin and produce a destruction of the superficial cell layers of the skin.

Johnson's Lixolene is neither a safe skin remedy, a reliable compound, an effective antiseptic, nor a powerful germicide. The ingredients contained therein are definitely irritating and are dangerous to use except under the direction of a competent physician. Johnson's Lixolene is not a competent, adequate or effective remedy or cure for eczema, acne, ringworm, psoriasis, dandruff, poison ivy, seborrhea, or alopecia. All eczemas and other diseases of the skin are not caused by parasitic infection, but many eczemas result from contact with foods, plant pollens, or other causes. The proper treatment for eczemas and other skin ailments is not in all cases the local application of a mild germicide, but many cases of eczema, acne, and other ailments of the skin must be treated by a complicated procedure under the skillful direction of a competent physician. Respondent's product will not give complete relief for all parasitic infections of the skin or scalp. Respondent is not a physician or medical doctor and has no recognized standing or reputation as a dermatologist or chemist. Moreover, respondent's advertising representations as to the cause of acne and eczemas of the skin are unscientific, false, and deceptive. Acne is not caused by a parasite, and bacteria do not reproduce by laying eggs, or cause skin diseases by hatching millions of germs under the skin.

PAR. 6. The use of the aforesaid false and misleading statements, representations and advertisements by the respondent in designating or describing his said product, Johnson's Lixolene, and its effectiveness in the treatment of the various diseases, ailments, and conditions of the skin and scalp, in offering for sale and in selling his said product, had, and now has, a tendency and capacity to mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that all of said representations are true, and that said product possesses the properties represented and will in truth accomplish the results claimed.

PAR. 7. As a direct consequence of the mistaken and erroneous beliefs induced by the acts and representations of the respondent, as hereinabove detailed, a number of the purchasing public has purchased a substantial volume of respondent's said product, Johnson's Lixolene.

PAR. 8. The aforesaid acts and practices of the respondent as herein alleged are all to the prejudice of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on September 9, 1939, issued, and on October 6, 1939, served its complaint in this proceeding upon respondent John C. Johnson, an individual trading as Johnson's Lixolene Co., charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On October 25, 1939, the respondent filed his answer in which answer he admitted all of the material allegations of fact set forth in said complaint, and waived all intervening procedure and further hearing as to said facts. Thereafter the proceeding regularly came on for final hearing before the Commission on the said complaint and the answer thereto, and the Commission having duly considered the matter and being now fully advised in the premises finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent is an individual trading under the name and style of Johnson's Lixolene Co., with his office and principal place of business located at 4028 Hill Crest Drive, San Diego, Calif. Respondent is now, and for several years last past has been, engaged in the manufacture, sale, and distribution of a medicinal preparation known as "Johnson's Lixolene," which is recommended by him for the treatment of eczema, ringworm, athlete's foot, psoriasis, acne, dandruff, poison ivy, warts, corns, and other diseases, ailments, and conditions of the skin and scalp.

PAR. 2. Said respondent, being engaged in business as aforesaid, causes and has caused his said product "Johnson's Lixolene," when sold, to be transported from his place of business in San Diego, Calif., to purchasers located in States of the United States other than the State of origin of such shipments, and in the District of Columbia. There is now and has been during all the times herein mentioned, a course of trade in the aforementioned product sold by the respondent in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his said business, the respondent has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said product, by United States mails, by circulars and other printed or written matter, all of which are distributed in commerce among

and between the various States of the United States, and by continuities broadcast from radio stations which have sufficient power to, and do, convey the programs emanating therefrom to listeners located in various States of the United States other than the State in which said broadcasts originate, and by other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his said product; and has disseminated and is now disseminating, and has caused and is now causing the dissemination of, false advertisements concerning his said product, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of his said product in commerce, as "commerce" is defined in the Federal Trade Commission Act. Among, and typical of the false statements and representations contained in said advertisements, disseminated and caused to be disseminated, as aforesaid, are the following:

Johnson's Lixolene. The Safe Skin Remedy.

A Reliable Compound, An Effective Antiseptic, A Powerful Germicide. Used Externally for Eczema, Athlete's Foot, Acne, Ringworm, Psoriasis, Dandruff, Poison Ivy, Warts, and Corns.

It is a well established fact that all Eczemas of the skin are caused by parasitic infection and the proper treatment is the local application of a Real Germicide on the skin where the disorder is present.

When these parasites get through the epidermis or outer layer of the skin, they take up their abode in the tissues where they can get a good supply of blood, lay their eggs, and hatch millions in just a short time.

The cause of Acne is the clogging of the pore or gland by a morbidly increased discharge of sebaceous matter on the skin; this hard tallow or grease in the gland causes it to become enlarged and inflamed, thus a portal is made and an invitation given for the germ to enter and develop the dreaded stage of Acne known as Acne Vulgares. Treatment to be desired for Acne in any stage is a mild germicide applied locally, which will gently peel the epidermis or outer skin and kill the parasite.

Johnson's Lixolene has proven to be a marvelous remedy in giving complete relief to a great host of young people whose faces were badly marred by the ravages of Acne.

Diseases of the Scalp—As Dandruff, Seborrhea, and Alopecia. In recent years science has discovered that these disorders are all caused by parasites or germs in the skin. Through years of experience as a Dermatologist and chemist, we are glad to offer to any who need a real remedy for dandruff, Johnson's Lixolene.

This radio address is given by Dr. J. C. Johnson, the author of Johnson's Lixolene, "The Safe Skin Remedy," for the benefit of those who are interested in knowing of this new remedy which is offered in the drug stores for the relief of even the most chronic cases of eczemas. This is our third time to broadcast over this station, spreading the news about the therapeutic value of Lixolene in giving complete relief from the causes of all parasitic infections of the skin.

Findings

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On account of the distinctive therapeutic value of Johnson's Lixolene to completely relieve all parasitic infections of the skin, we are receiving thousands of letters from grateful people who have been cured of all types of skin diseases as mentioned in this letter above.

PAR. 4. Through the use of the statements and representations hereinabove set forth, and other similar statements not herein set out, all of which purport to be descriptive of respondent's product and its effectiveness as a remedy or cure for the various diseases, ailments, and conditions of the skin hereinabove set out, the respondent has falsely represented, directly and by inference and implication, among other things: (1) That respondent's product "Johnson's Lixolene" is a safe skin remedy, a reliable compound, an effective antiseptic, a powerful germicide, and a competent, adequate, and effective remedy for the treatment and cure of eczema, athlete's foot, acne, psoriasis, dandruff, poison ivy, warts, and corns; (2) that all eczemas and other diseases of the skin are caused by parasitic infection, and that the proper treatment for the relief or cure thereof is the local application of a mild germicide such as respondent's product; (3) that respondent's product is a competent, adequate, and effective remedy or cure for diseases of the scalp, such as dandruff, seborrhea, and alopecia; (4) that respondent's product gives complete relief for all parasitic infections of the skin and scalp; and (5) that respondent is a medical doctor, and has a recognized standing and reputation as a dermatologist and chemist, and is peculiarly qualified by education, research and training to cure or prescribe for the various diseases of the skin and scalp.

PAR. 5. The aforesaid representations, used and disseminated by the respondent in the manner above described, are grossly exaggerated, misleading and untrue, and constitute false advertisements. The true facts are that Johnson's Lixolene does not have any of the qualities or achieve any of the results claimed and represented as hereinabove described.

Johnson Lixolene consists essentially of a solution of salicylic acid in a diluted mixture of alcohols, together with a small amount of boric acid and a trace of methyl salicylate. Insofar as their action on the skin is concerned, these ingredients are all local irritants and mild antiseptics which may have some tendency to dissolve or wash away fat and greasy materials on the skin and produce a destruction of the superficial cell layers of the skin.

Johnson's Lixolene is neither a skin remedy nor a powerful germicide. It is not a competent, adequate, or effective remedy or cure for eczema, acne, psoriasis, dandruff, poison ivy, seborrhea, or alopecia, and it does not have any therapeutic value in the treatment thereof

in excess of temporarily relieving the symptom of itching due to its mildly antiseptic and counter-irritant properties. All eczemas and other diseases of the skin are not caused by parasitic infection, but many eczemas of the skin are caused by allergic conditions which may result from contact with foods, plant pollens or other causes. The proper treatment for eczemas and other skin ailments is not in all cases the local application of a mild germicide, but many cases of eczema, acne and other ailments of the skin must be treated by a complicated procedure under the skillful direction of a competent physician. Respondent is not a physician or medical doctor and has no recognized standing or reputation as a dermatologist or chemist. Respondent's product will not give complete relief for all parasitic infections of the skin or scalp. Moreover, respondent's advertising representations as to the cause of acne and eczemas of the skin are unscientific, false, and deceptive. Acne is not caused by a parasite, and bacteria do not reproduce by laying eggs, or cause skin diseases by hatching millions of germs under the skin.

PAR. 6. The use of the aforesaid false and misleading statements, representations, and advertisements by the respondent in designating or describing his said product, Johnson's Lixolene, and its effectiveness in the treatment of the various diseases, ailments, and conditions of the skin and scalp, in offering for sale and in selling his said product, had, and now has, a tendency and capacity to mislead a substantial portion of the purchasing public into the erroneous and mistaken belief that all of said representations are true, and that said product possesses the properties represented and will in truth accomplish the results claimed.

PAR. 7. As a direct consequence of the mistaken and erroneous beliefs induced by the acts and representations of the respondent, as hereinabove detailed, a number of the purchasing public has purchased a substantial volume of respondent's said product, Johnson's Lixolene.

CONCLUSION

The aforesaid acts and practices of respondent as herein found, are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, and the answer of respondent in which answer respondent admits all the material allega-

tions of fact set forth in said complaint and states that he waives all intervening procedure and further hearing as to said facts and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent John C. Johnson, an individual trading as Johnson's Lixolene Co., or trading under any other name or names, his agents, servants, representatives, and employees, directly or through any corporate or other device, do forthwith cease and desist from:

Disseminating or causing to be disseminated any advertisement by means of the United States mails or in commerce, as "commerce" is defined in the Federal Trade Commission Act, by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of the medicinal preparation known as Johnson's Lixolene, or any other medicinal preparation composed of substantially similar ingredients or possessing substantially similar therapeutic properties, whether sold under the same name or under any other name or names, or disseminating or causing to be disseminated, any advertisement by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said medicinal preparation, which advertisements represent directly or through implication:

1. That the use of respondent's preparation is a remedy or cure for eczema, acne, psoriasis, dandruff, poison ivy, seborrhea, or alopecia, or has any therapeutic value in the treatment thereof in excess of temporarily relieving the symptom of itching by reason of its mildly antiseptic and counter-irritant properties.

2. That respondent's preparation is a germicide.

3. That all eczemas or other diseases of the skin are caused by parasitic infection.

4. That the use of respondent's preparation will give relief for all parasitic infections of the skin or scalp.

5. That the proper treatment for eczema or other skin ailments is, in all cases, the local application of a germicide.

6. That respondent is a physician or medical doctor, or that he has any recognized standing or reputation as a dermatologist or chemist.

It is further ordered, That the respondent shall, within 60 days after the service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.

Syllabus

IN THE MATTER OF
NATIONAL NUMBERING MACHINE COMPANY, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SUBSEC. (A) OF SEC. 2 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914,
AS AMENDED BY AN ACT OF CONGRESS APPROVED JUNE 19, 1936

Docket 3889. Complaint, Sept. 12, 1939—Decision, Dec. 19, 1939

Where a corporation engaged in manufacture of typographic numbering machines of five-wheel and six-wheel type for stock, and in sale, offer and distribution of such machines to purchasers in commerce among the various States engaged in substantial competition with each other in resale of said machines, and, as engaged as aforesaid in manufacture, sale, etc., of such machines, in active competition with others engaged in manufacture, sale, and distribution in commerce of similar products—

- (a) Discriminated in price between dealer purchasers in active competition with one another in resale of such machines to same prospective purchasers, through selling to certain company 100 machines at net price of \$6 per machine, while selling, at or about same time, 300 machines of like grade and quality at net price of \$5 per machine to dealer competitor, by whom substantial number of such machines, thus purchased by it, were advertised and resold at net price of \$7.50 and \$8.50 for the five-wheel and six-wheel types, respectively; and
- (b) Discriminated in price through selling for resale its machines of like grade and quality in quantities of five or less and at net prices varying from \$6 to \$8 per machine to various other concerns, corporations, individuals, firms, and partnerships competitive the one with the other;

With the result that the effect of such discriminations in price made by it as aforesaid in sale in commerce of its said typographic numbering machines of like grade and quality to purchasers competitive the one with the other, had been and might be—

(1) Substantially to lessen competition with it and with favored purchasers;

(2) To tend to create a monopoly in it and in said favored purchasers in line of commerce in which it and favored customers engaged; and

(3) To injure, destroy or prevent competition in sale and distribution of said typographic numbering machines between it and its competitors, and between said favored purchasers of said machines receiving such discriminatory prices and other less favored competing purchasers of same machines not receiving such discriminatory prices:

Held, That said corporation discriminated in price in sale in commerce of its said machines of like grade and quality to purchasers competitive one with the other, in violation of provisions of subsection (a) of section 2 of the Clayton Act, as amended.

Mr. John W. Carter, Jr. for the Commission.

Mr. Irving Fox, of Brooklyn, N. Y., for respondent.