

Syllabus

IN THE MATTER OF

W. H. SHANKS, W. J. GOGGIN, CLARA SHANKS AND
JESSIE G. GOGGIN, TRADING AS SHANKS
LABORATORIES

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

Docket 3860. Complaint, Aug. 29, 1939¹—Decision, Dec. 20, 1939

Where four partners engaged in sale and distribution of their drug-containing "Mange Lotion" to purchasers in various other States and in the District of Columbia; in advertisements which they disseminated through the mails, through insertion in circulars and other printed or written matter distributed in commerce in the various States, and in other ways and through various other means, and which were likely and intended to induce, directly or indirectly, purchase of their said preparation—

- (a) Represented that their said product was a competent and effective cure or remedy and treatment for eczema and all types of mange, abscesses, cuts, sores, and other diseases and disorders of the skin on dogs and that, where thus used, it would in all cases cause hair to grow;
- (b) Represented that, applied to human beings, it constituted such a cure or remedy and treatment for eczema and all cases of itching scalp, and competent and effective cure or remedy for athlete's foot and dandruff, and would cause hair to grow on bald spots on the head of human beings; and
- (c) Represented that it was a guaranteed treatment for itching of scalp on human beings and for scratching dogs;

Facts being said preparation would not in all cases cause hair to grow on dogs, was not such a cure, remedy, or treatment for eczema or itching scalp or for other conditions above set forth, would not cause hair to grow on bald spots as above, was not such a cure, remedy, or treatment for any diseases or disorders of skin on dogs or human beings due to or persisting because of systemic disorder or condition, guarantee was limited to refund of purchase price and was not of preparation's therapeutic value, and representations and claims made as above were otherwise false and misleading and false advertisements;

With effect of misleading and deceiving substantial number of members of purchasing public into erroneous and mistaken belief that such false and misleading statements and representations were true, and into purchase of its said drug-containing 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.

Mr. Maurice C. Pearce for the Commission.

¹ Amended and supplemental.

AMENDED AND SUPPLEMENTAL 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 W. H. Shanks, W. J. Goggin, Clara Shanks, and Jessie G. Goggin, individuals and copartners trading as Shanks Laboratories, hereinafter referred to as respondents, have 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 amended and supplemental complaint stating its charges in that respect as follows:

PARAGRAPH 1. The respondents, W. H. Shanks, W. J. Goggin, Clara Shanks, and Jessie G. Goggin, are individuals and copartners trading as Shanks Laboratories and having their principal office and place of business in the city of Columbus, State of Ohio.

PAR. 2. The respondents are now, and have been for several years last past, engaged in the business of selling and distributing a medicinal preparation containing drugs designated "Shanks Mange Lotion." Respondents cause said preparation, when sold by them, to be transported from their aforesaid place of business in the State of Ohio to the purchasers thereof at their respective points of location in various States of the United States other than the State of Ohio, and in the District of Columbia. Respondents maintain, and at all times herein mentioned have maintained, a course of trade in said preparation in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid business, the respondents have disseminated and are now disseminating, and have caused and are now causing the dissemination of false advertisements concerning their said preparation, by United States mails, by insertion in 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 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 their said preparation; and have disseminated and are now disseminating, and have caused and are now causing the dissemination of, false advertisements concerning their said preparation, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their said preparation in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of the false statements and repre-

sentations contained in said advertisements disseminated and caused to be disseminated, as aforesaid, are the following:

The guaranteed treatment. For itchy scalps and scratching dogs.

I have been successful in compounding a preparation to be used in the treatment of mange, eczema, cuts, sores, abscesses, etc. that over a period of 20 years * * * it has never failed to effect a rapid clearing up of all forms of skin diseases * * *.

Nothing is much more unsightly not to mention the uncomfortableness, of a dog that is continually scratching and biting at himself in order to allay the continual itch. * * * In every case without one single exception Shanks Mange Lotion has cleared up this condition and produced a growth of coat.

Shanks gives quick relief, controls many so-called "hopeless cases" of mange, eczema and similar skin diseases.

One application brought results. It brings quick relief from mange and has cleaned up many so-called hopeless cases of skin disorders * * *.

Shanks controls almost "hopeless" skin diseases.

I find your Mange Lotion the most wonderful coat and skin conditioner I have ever used. It cleared up a very bad case of mange amazingly fast.

You, too, will find Shanks Mange Lotion the greatest preparation you have ever used.

SHANKS MANGE LOTION—FOR HUMAN USE—SCALP AND DANDRUFF TREATMENT.

A treatment of this kind every week or 10 days will clear a scalp of dandruff and stop any itching condition.

I was troubled with an itching condition of my scalp for several years. This was so annoying that many nights after retiring I was compelled to get up and wash my scalp with cold water, which gave temporary relief. Shanks Mange Lotion used once or twice monthly has cleaned up this condition entirely and keeps the scalp feeling fine.

Alopecia (bald or bare spots that appear rather suddenly). Some physicians claim this is caused by a nervous condition, some claim they do not know what the cause is. Regardless of the cause Shanks Mange Lotion used twice daily has never failed to clear up this condition and produce a regrowth of hair.

I have had a bald spot on my head about the size of a half dollar for over six months and have been treating it by a physician with salves, lotions and lights, but no results. A barber recommended I try Shanks Mange Lotion. I purchased a 50¢ size bottle and applied it twice daily. Before this amount was all used the hair was coming in thicker than on other parts of my head.

ATHLETE'S FOOT. The U. S. Department of Drugs and Foods claim this is incurable. Probably they are correct. However, if you are troubled with this condition give Shanks Mange Lotion a trial.

Infant 3 months old. All of body covered with eczema. Various remedies were used, all of which caused the child to cry and become very irritable. Shanks Mange Lotion was applied. It caused no discomfort to the child. After one application daily for ten days the skin appeared normal.

PAR. 4. Through the use of the aforesaid statements and representations and others of similar import or meaning not herein set out, the respondents represent directly or by implication that said preparation is a competent and effective cure or remedy, and a competent and

Complaint

30 F. T. C.

effective treatment, for eczema, all types of mange, abscesses, cuts, sores, and all other diseases and disorders of the skin on dogs and that the use of said preparation will in all cases cause hair to grow on dogs. The respondents further represent, as aforesaid, that said preparation when applied to human beings is a competent and effective cure or remedy, and a competent and effective treatment, for eczema and all cases of itching scalp, that said preparation is a competent and effective cure or remedy for athlete's foot and dandruff, and will cause hair to grow on bald spots on the head of human beings. The respondents further represent, as aforesaid, that the said preparation is a guaranteed treatment for itching of the scalp on human beings and for scratching dogs.

PAR. 5. The aforesaid statements and representations by respondents, used and disseminated in the manner above described, are false and misleading and constitute false advertisements. In truth and in fact, said preparation is not a cure or remedy or a competent or effective treatment for eczema, all types of mange, abscesses, cuts, sores, or all other diseases or disorders of the skin on dogs. Said preparation will not in all cases cause hair to grow on dogs. Said preparation is not a cure or remedy or a competent or effective treatment for eczema or all cases of itching of the scalp on human beings. Said preparation is not a cure or remedy for athlete's foot or dandruff and will not cause hair to grow on bald spots on the head of human beings. Said preparation is not a cure or remedy or a competent or effective treatment for any diseases or disorders of the skin on dogs or human beings which diseases or disorders are due to or persist because of a systemic disorder or condition. Said preparation is not a guaranteed treatment for itching of the scalp on human beings or for scratching dogs. Such guarantee is limited by the respondents to a refund of the purchase price of said preparation to the purchaser thereof but is not a guarantee of the therapeutic value of said preparation.

PAR. 6. The use by the respondents of the aforesaid false and misleading statements and representations has the tendency and capacity to, and does, mislead and deceive a substantial number of members of the purchasing public into the erroneous and mistaken belief that the aforesaid false and misleading statements and representations are true and into the purchase of respondents' said medicinal preparation containing drugs.

PAR. 7. The aforesaid acts and practices of respondents, as herein alleged, are all to the prejudice and injury of the public and con-

stitute 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 July 26, 1939, issued and subsequently served its complaint in this proceeding upon respondents, W. H. Shanks, W. J. Goggin, Clara Shanks, and Jessie G. Goggin, individuals and copartners trading as Shanks Laboratories, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On August 29, 1939, the Commission issued its amended and supplemental complaint in this proceeding, and subsequently served said complaint upon said respondents. On November 17, 1939, the respondents filed their answer, in which answer they admitted all the material allegations of fact set forth in said original complaint and in said amended and supplemental 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 original complaint and said amended and supplemental 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. The respondents, W. H. Shanks, W. J. Goggin, Clara Shanks, and Jessie G. Goggin, are individuals and copartners trading as Shanks Laboratories, and having their principal office and place of business in the city of Columbus, State of Ohio.

PAR. 2. The respondents are now, and have been for several years last past, engaged in the business of selling and distributing a medicinal preparation containing drugs, designated "Shanks Mange Lotion." Respondents cause said preparation, when sold by them, to be transported from their aforesaid place of business in the State of Ohio to the purchasers thereof at their respective points of location in various States of the United States, other than the State of Ohio, and in the District of Columbia. Respondents maintain, and at all times herein mentioned have maintained, a course of trade in said preparation in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their aforesaid business the respondents have disseminated and are now disseminating, and have

Findings

30 F. T. C.

caused and are now causing the dissemination of false advertisements concerning their said preparation by United States mails, by insertion in 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 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 their said preparation, and have disseminated and are now disseminating, and have caused and are now causing the dissemination of false advertisements concerning their said preparation, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their said preparation 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:

The guaranteed treatment. For itchy scalps and scratching dogs.

I have been successful in compounding a preparation to be used in the treatment of mange, eczema, cuts, sores, abscesses, etc., that over a period of 20 years * * * It has never failed to effect a rapid clearing up of all forms of skin diseases. * * *

Nothing is much more unsightly not to mention the uncomfortableness, of a dog that is continually scratching and biting at himself in order to allay the continual itch. * * * In every case without one single exception Shanks Mange Lotion has cleared up this condition and produced a growth of coat.

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One application brought results. It brings quick relief from mange and has cleaned up many so-called hopeless cases of skin disorders. * * *

Shanks controls almost "hopeless" skin diseases.

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A treatment of this kind every week or 10 days will clear a scalp of dandruff and stop any itching condition.

I was troubled with an itching condition of my scalp for several years. This was so annoying that many nights after retiring I was compelled to get up and wash my scalp with cold water, which gave temporary relief. Shanks Mange Lotion used once or twice monthly has cleaned up this condition entirely and keeps the scalp feeling fine.

Alopecia (bald or bare spots that appear rather suddenly). Some physicians claim this is caused by a nervous condition, some claim they do not know what the cause is. Regardless of the cause Shanks Mange Lotion used twice daily has never failed to clear up this condition and produce a regrowth of hair.

I have had a bald spot on my head about the size of a half dollar for over six months and have been treating it by a physician with salves, lotions and lights, but no results. A barber recommended I try Shanks Mange Lotion. I pur-

chased a 50¢ size bottle and applied it twice daily. Before this amount was all used the hair was coming in thicker than on other parts of my head.

ATHLETE'S FOOT. The U. S. Department of Drugs and Foods claim this is incurable. Probably they are correct. However, if you are troubled with this condition give Shanks Mange Lotion a trial.

Infant 3 months old. All of body covered with eczema. Various remedies were used, all of which caused the child to cry and become very irritable. Shanks Mange Lotion was applied. It caused no discomfort to the child. After one application daily for ten days the skin appeared normal.

PAR. 4. Through the use of the aforesaid statements and representations and others of similar import or meaning not herein set out, the respondents represent, directly or by implication, that said preparation is a competent and effective cure or remedy and a competent and effective treatment for eczema, all types of mange, abscesses, cuts, sores, and all other diseases and disorders of the skin on dogs, and that the use of said preparation will in all cases cause hair to grow on dogs. The respondents further represent, as aforesaid, that said preparation, when applied to human beings, is a competent and effective cure or remedy and a competent and effective treatment for eczema and all cases of itching scalp; that said preparation is a competent and effective cure or remedy for athlete's foot and dandruff, and will cause hair to grow on bald spots on the head of human beings. The respondents further represent, as aforesaid, that the said preparation is a guaranteed treatment for itching of the scalp on human beings and for scratching dogs.

PAR. 5. The aforesaid statements and representations by respondents used and disseminated in the manner above described, are false and misleading and constitute false advertisements. In truth and in fact, said preparation is not a cure or remedy or a competent or effective treatment for eczema, all types of mange, abscesses, cuts, sores, or all other diseases or disorders of the skin on dogs; said preparation will not in all cases cause hair to grow on dogs; said preparation is not a cure or remedy or a competent or effective treatment for eczema or for all cases of itching of the scalp on human beings; said preparation is not a cure or remedy for athlete's foot or dandruff, and will not cause hair to grow on bald spots on the head of human beings; said preparation is not a cure or remedy or a competent or effective treatment for any diseases or disorders of the skin on dogs or human beings, which diseases or disorders are due to or persist because of a systemic disorder or condition; said preparation is not a guaranteed treatment for itching of the scalp on human beings or for scratching dogs. Such guarantee is limited by the respondents to a refund of the purchase price of

Order

30 F. T. C.

said preparation to the purchaser thereof, but is not a guarantee of the therapeutic value of said preparation.

PAR. 6. The use by the respondents of the aforesaid false and misleading statements and representations has the tendency and capacity to, and does, mislead and deceive a substantial number of members of the purchasing public into the erroneous and mistaken belief that the aforesaid false and misleading statements and representations are true and into the purchase of respondent's said medicinal preparation containing drugs.

CONCLUSION

The aforesaid acts and practices of respondents, 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 and the amended and supplemental complaint of the Commission and the answer of the respondents, in which answer respondents admit all the material allegations of fact set forth in said complaint and in said amended and supplemental complaint and state that they waive 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 respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, W. H. Shanks, W. J. Goggin, Clara Shanks, and Jessie G. Goggin, individually and as copartners trading as Shanks Laboratories, or trading under any other name or names, their representatives, agents, 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 designated by the name "Shanks Mange Lotion," 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 said preparation is a cure or remedy or a competent or effective treatment for eczema, abscesses, cuts, or sores.

2. That said preparation is a cure or remedy for athlete's foot or dandruff.

3. That said preparation will cause hair to grow on bald spots on the head of human beings.

4. That said preparation is in all cases a competent or effective treatment for itching scalp on human beings or mange on dogs.

5. That said preparation is a cure or remedy or a competent or effective treatment for any diseases or disorders of the skin on human beings or dogs, unless such representations are restricted to those cases of such diseases or disorders which are not due to and do not persist because of a systemic disorder.

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

IN THE MATTER OF
BEN RANSOM, TRADING AS RANSOM ELECTRIC
COMPANY

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

Docket 3905. Complaint, Sept. 30, 1939—Decision, Dec. 20, 1939

Where an individual engaged in business of buying for resale and selling to retail trade, incandescent electric lamp bulbs, including certain of said products made in Japan and by him imported therefrom, and marked or branded as there made, and including also bulbs purchased by him from domestic manufacturers and certain products made under trade name "Elite Lamp Service," and, as thus engaged, in selling his said products to purchasers at various points in other States and in the District of Columbia, in competition with others engaged in sale and distribution of electric lamp bulbs, and including many competitors who do not in any manner misrepresent their products or the source or origin thereof—

- (a) Represented that said imported products were of domestic manufacture or origin, through removing therefrom words "Made in Japan" and packing same in cartons upon which were printed words "Made in U. S. A." and "Lednew Lamps" or "The Lednew Corporation," and selling and shipping, thus containered and marked, said bulbs to purchasers in commerce as aforesaid set out, with effect of misleading and deceiving purchasing public into erroneous and mistaken belief that bulbs manufactured in and imported from Japan were made in the United States; and
- (b) Represented that bulbs dealt in by him as aforesaid were made by other than the real or actual manufacturer, through setting forth, on cartons in which he placed certain bulbs brought from domestic makers, as name of purported manufacturer of product enclosed, name of which was not that of manufacturer of lamp bulbs enclosed therein, or, in some instances, name of any manufacturer of such products, with effect of misleading and deceiving purchasing public and causing it erroneously to believe that domestically manufactured bulbs were made by company whose name appeared on carton or container thereof, as above set forth, and that such products were of quality and grade of bulbs usually made and sold by concern whose name thus appeared; and
- (c) Represented that the Bureau of Standards had adopted and promulgated specifications for incandescent electric lamp bulbs, and that bulbs sold by him under trade name above set forth were made in conformity therewith, through statement "All the E. L. S. lamps are made in conformity with the specifications of the U. S. Bureau of Standards," facts being said bureau had not adopted or promulgated any such specifications with which his said product could conform;

With capacity and tendency to mislead substantial portion of purchasing public through such false, deceptive, and misleading acts and practices, and cause it to believe said statements and representations to be true, and with result, as direct consequence of such mistaken and erroneous beliefs induced by said acts and practices, that substantial number of consuming public pur-