

IN THE MATTER OF
WOODBURY CHEMICAL COMPANY ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket C-1035. Complaint, Jan. 20, 1966—Decision, Jan. 20, 1966

Consent order requiring a St. Joseph, Mo., manufacturer of insecticides to cease using language in its advertising which contradicts and negates the labeling on its packaging which warns the public as to the poisonous nature and hazardous use of its products.

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 Woodbury Chemical Company, a corporation, and Herbert A. Woodbury, Vera L. Woodbury, Richard W. Douglas and Leonard Everett, individually and as officers of said corporation, 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 complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Woodbury Chemical Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri with its office and principal place of business located at 426 Monterey, St. Joseph, Missouri.

Respondents Herbert A. Woodbury, Vera L. Woodbury, Richard W. Douglas and Leonard Everett are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent including the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of "Sta-Thion," an economic poison intended for rootworm control, which has been registered in accordance with the provisions of the Federal Insecticide, Fungicide and Rodenticide Act by the United States Department of Agriculture as "10% Granules Stabilized Parathion." Respondents sell the said "Sta-Thion" directly to the public and to retailers for resale to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past, have caused, their said product, when sold, to be shipped from their place of business in the State of Missouri to purchasers thereof located in various other States of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said product in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of products of the same general kind and nature as that sold by respondents.

PAR. 5. In the course and conduct of their business and for the purpose of inducing the purchase of their said product respondents have disseminated advertisements in one of which they represented that "Sta-Thion" is "far less toxic than some other competitive products" and that it is not a "significant skin irritant."

In the same advertisement respondents stated:

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HOW SAFE IS STA-THION?

"Sta-Thion does not appear to be a significant dermal irritant" reports A.M.E. Associates, well-known Princeton, N.J. research organization. The test work done on rabbits showed the acute dermal (skin) toxicity LD₅₀ of STA-THION to be in excess of 4640 mg./kg. body weight. "For comparison, the usual formulations containing this concentration of the pesticide are from 50 to 150 times more hazardous than STA-THION. The data indicated that the average 150 pound human could tolerate approximately one pound of STA-THION directly on the skin for 24 hours, producing only minor intoxication; whereas this much of other formulations of equal strength, under the same conditions, would probably be fatal."

Such advertisement made no further reference to the safety or toxicity of "Sta-Thion" nor did it contain any cautionary or warning statements. In another advertisement the statement "Application of STA-THION is safe • simple" appeared.

PAR. 6. The labels on the container is which respondents sell their product "Sta-Thion" are as reproduced herein:

Front Panel

BEFORE USING, STUDY SAFETY DIRECTIONS—
DESTROY EMPTY CONTAINERS—BURY OR BURN—
STAY OUT OF SMOKE AND FUMES

WOODBURY CHEMICAL COMPANY

STA-THION

STABILIZED 10% PARATHION GRANULES—Patent Pending

ACTIVE INGREDIENTS

Parathion (0,0-diethyl, 0-p-nitrophenyl phosphorothioate)	10.0%
Aromatic Petroleum Derivative solvent	10.0%
INERT INGREDIENTS	80.0%
TOTAL	100.0%

TO BE USED FOR THE CONTROL OF CORN ROOTWORM
ONLY. For use at planting time only.

DIRECTIONS FOR CORN ROOTWORM CONTROL: Apply
with granular ground equipment at the rate of 8 to 10
pounds per acre in row treatment at seeding time.

DANGER
POISON

KEEP OUT OF REACH OF CHILDREN

Harmful if swallowed, inhaled or absorbed through the skin. Rapidly absorbed through the skin! Do not contaminate feed and foodstuffs. Avoid contact with skin, eyes or clothing. See antidote statement and additional precautionary labeling on the back panel.

U.S.D.A. Registration
Number 449-355

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Back Panel

WARNING

This stabilized Parathion may be considerably more toxic than the usual Parathion dust. Wear a mask or respirator of a type passed by the United States Department of Agriculture for Parathion protection. A half mask equipped with cartridges that will absorb organic vapors, supplemented with aerosol filters should be worn at all times while the operator is exposed to mists containing Parathion. When used constantly during the day, the filters must be changed several times. Keep all persons out of the operating area or vicinity where there may be danger of drift. Vacated areas should not be re-entered until the drifting insecticides and volatile residues have dissipated. Only persons experienced in handling hazardous insecticides should make application.

Wear clean natural rubber gloves, protective clothing and goggles while using this product. Do not get on skin, in eyes or on clothing. Do not breathe spray or mist. Do not take into mouth. If spilled on skin, wash immediately with soap and warm water. Wash hands, arms and face after handling and before eating or smoking. Clothing that has become contaminated should be removed immediately and thoroughly washed with soap and water.

ANTIDOTE AND FIRST AID TREATMENT: Persons who show any contraction of eye pupils, or have headaches, nausea or other signs of illness while or soon after handling Parathion must be taken to a doctor at once. The physician should be informed that repeated treatment with atropine, to the limit of the patient's tolerance, is the most effective antidote. **CALL A PHYSICIAN AT ONCE!**

SKIN: Wash immediately with plenty of soap and water. Remove all contaminated clothing and wash before re-use.

EYES: Flush immediately with large amounts of water.

INTERNAL: If swallowed, immediately induce vomiting (finger down throat) or administer a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Have victim lie down and keep quiet.

NOTICE OF WARRANTY: Woodbury Chemical Company warrants (its liability being limited to the purchase price of the product named on this label) that this product consists of the ingredients specified, but makes no other warranty or representation regarding the effect or result of this product's use, whether or not the product is used in accordance with directions and shall have no responsibility whatsoever for injury to persons, or loss or damage to property resulting from the handling, storage or use of this product. The user or buyer shall be deemed to have accepted these conditions, which may be varied only by agreement in writing signed by a duly authorized representative of the above-named company.

Manufactured by
WOODBURY CHEMICAL COMPANY
 St. Joseph, Missouri Orlando, Florida
 Denver, Colorado Princeton, Florida

WARNING

KEEP AWAY from FEED or FOOD PRODUCTS
 POISON

CAUTION — DO NOT DROP
 IF LEAKING
 DON'T

BREATHE FUMES—TOUCH CONTENTS—SWALLOW

This is to certify that the contents of this package are properly described by name and are packed and marked and are in proper condition for transportation according to the Regulations prescribed by the Interstate Commerce Commission.

WOODBURY CHEMICAL COMPANY

ICC-44D

ICC Special Permit No. 4378

PAR. 7. The advertisements set forth and referred to in Paragraph Five hereof and others similar thereto not specifically set forth herein are inconsistent with, negate and contradict the labeling on respondents' product as set forth in Paragraph Six hereof, which inconsistency, negation and contradiction have the tendency and capacity to mislead and confuse purchasers of said product as to, among other things, the hazardous nature of said product and the degree of care to be taken by users of said product.

Therefore, the acts and practices of respondents as set forth in Paragraph Five hereof were and are unfair and deceptive.

PAR. 8. The aforesaid unfair and deceptive acts and practices of respondents have had, and now have, the capacity and tendency to induce, and have induced, members of the purchasing public to purchase substantial quantities of respondents' product.

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce, and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings and enters the following order:

Order

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1. Respondent Woodbury Chemical Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 426 Monterey in the city of St. Joseph, State of Missouri.

Respondents Herbert A. Woodbury, Vera L. Woodbury, Richard W. Douglas and Leonard Everett are officers of said corporation and their address is the same as that of said corporation.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Woodbury Chemical Company, a corporation, and its officers, and Herbert A. Woodbury, Vera L. Woodbury, Richard W. Douglas and Leonard Everett, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of the product STA-THION or any other economic poison in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Making any statements or representations or disseminating any advertisements which are inconsistent with, negate or contradict any statements set forth on the labeling of any such product or which in any way limit, qualify or detract from any statement appearing on the labeling of any such product.

It is further ordered, That the respondents herein shall, within sixty (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.

Complaint

IN THE MATTER OF

BENSON & RIXON COMPANY ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-1036. Complaint, Jan. 20, 1966—Decision, Jan. 20, 1966*

Consent order requiring Chicago, Ill., distributors of flags and banners to cease misrepresenting themselves as manufacturers through use of the word "Manufacturers" on letterheads and in advertising and promotional material, and preticketing their flag kits with a deceptive retail selling price.

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 Benson & Rixon Company, a corporation, Loyal Flag Company, a corporation, and Edward Freeman and Donald B. Weren, individually and as officers of said corporation, 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 complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Loyal Flag Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 230 South State Street, Chicago, Illinois.

Edward Freeman and Donald B. Weren are individuals and officers of said corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. Their address as individuals and as officers is the same as that of the corporate respondent.

PAR. 2. The respondent Benson & Rixon Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois with its office and principal place of business located at 230 South State Street, Chicago, Illinois.

Said Benson & Rixon Company owns one hundred per cent (100%) of the stock of said Loyal Flag Company. The individual