

aforesaid article and grant libellant the cost of this proceeding against the claimant of the aforesaid article; that the aforesaid article be disposed of as this Court may direct pursuant to the provisions of said Act; and that libellant have such other and further relief as the case may require.

UNITED STATES OF AMERICA

By

United States Attorney.

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United States District Court, Southern District of Ohio, Western Division

Civil No. 6273

UNITED STATES OF AMERICA

v.

14 Cases, More or Less, of an Article Labeled in Part "24 Capsules * * *
LINCOCIN"

CONSENT DECREE

On the 27th day of October, 1966, a Complaint in the form of a Libel of Information against the above-described article was filed in this Court on behalf of the United States of America by the United States Attorney for this District. The Complaint alleges that the article, namely 14 cases of Lincocin capsules, proceeded against is a prescription drug which was shipped in interstate commerce and is in violation of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 352(n)) because of an advertisement which it was claimed failed to comply with 21 CFR 1.105(E) and 21 CFR 1.105(G).

Pursuant to monition issued by this Court, the United States Marshall for this District seized said article on the 27th day of October, 1966. Thereafter, The Upjohn Company, of Kalamazoo, Michigan, intervened and filed claim to said article. Now, without admitting the allegations of the Complaint, Claimant, having discontinued the advertisement, consents that a decree, as hereinafter provided, be entered.

It is therefore ordered, adjudged and decreed that, based on the consent of the Claimant which does not admit the allegations of the Complaint, the said article, namely 14 cases, more or less, labeled "24 Capsules * * * LINCOCIN" under seizure, is in violation of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 352(n)) and it is hereby condemned pursuant to 21 U.S.C. 334(a);

And it is further ordered, adjudged and decreed that the United States Marshal shall deliver the said condemned article in equal amounts as follows:

(a) to the Bellvue Hospital Center, First Avenue and 27th St. New York City (A. Wyman) 7 cases of Lincocin for its use;

(b) to the Los Angeles County General Hospital, 1200 N. State Street, Los Angeles, California (A. Witherill) 7 cases of Lincocin for its use.

And it is further ordered, adjudged and decreed that Claimant shall pay Court costs of \$—, and Marshal's fees of \$—.

Dated this 6th day of December, 1966.

TIMOTHY S. HOGAN,

United States District Judge.

We hereby consent to the entry of the foregoing decree.

DINSMORE, SHOHL, BARRETT, COATES & DEUPREE,

By THOMAS S. CALDER,

Attorneys for Claimant, The Upjohn Company.

UNITED STATES ATTORNEY,

By THOMAS R. SMITH,

Assistant United States Attorney.