

Jury Must Decide if Dip & Squeeze Container is Novel

The question of who came up with the idea for Heinz Ketchup's "Dip & Squeeze" packaging will be left to a jury, a Pennsylvania U.S. District Court judge said.

The court denied H. J. Heinz Company's motion for summary judgment. The company sought to dismiss the case arguing that it was in the process of developing the dip and squeeze packaging when it was approached by David Wawrzynski with a similar idea. However, the court found that there was conflicting testimony, so summary judgment was not appropriate.

Wawrzynski owns and operates a food delivery company. He contends that he began to market his idea for a new condiment package called "The Little Dipper" and in March 2008 supplied Heinz's CEO "with a set of his promotional materials for the Little Dipper." The parties agree that they met several times beginning in April 2008. Wawrzynski alleged that Heinz requested he develop 100 samples of his design and marketing ideas for "upcoming focus groups." He claims the meetings stopped abruptly in October 2009. In December 2009, an attorney for Heinz sent Wawrzynski a letter stating that the company was not interested in his "product ideas" and returned his design and marketing materials. In 2010 Heinz began marketing its ketchup with the dip and squeeze packaging. Wawrzynski filed the action for breach of implied contract and unjust enrichment. Heinz moved for summary judgment.

The court found that under Pennsylvania law, there is a cause of action for breach of implied contract "when one party has the property right to a saleable idea and the other party wrongfully appropriates that idea." In order to have a property right, however, not only must the idea be concrete in form but also novel and new, the court wrote. In this case, "the question is whether there are any material facts in dispute concerning whether Plaintiff provided Defendants with a novel, or original idea(s) which Defendants had not already envisaged."

The court found it was undisputed that plaintiff provided Heinz with his promotional materials for the condiment container. But the court said the evidence was lacking to determine whether the ideas were "novel and concrete such that the Plaintiff had a property right in those idea(s)."

"Although Defendants have presented evidence which suggests that prior to meeting with Plaintiff, they were actively developing and marketing some sort of dual-function container, Plaintiff has adduced evidence that Defendants lacked success in either creating a feasible dual-function container and/or in marketing such a container. Given the evidence presented by both parties to this lawsuit, whether either or both of Plaintiff's ideas were novel and concrete are questions for the jury," the court concluded.

Wawrzynski v. H.J. Heinz Company, W.D. Penn. No. 11 cv1098, filed January 7, 2015.

Balough Law Offices, LLC, is a Chicago-based law firm which focuses on cyberspace, internet, and business law. Our homepage is balough.com.