



Juicy Decision

FD&C Act doesn't bar Lanham Act claims

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Abstract:

When is a pomegranate-blueberry juice not a pomegranate-blueberry juice? That's what a district court will get to decide now that the U.S. Supreme Court has issued a ruling clarifying that the federal Food, Drug, and Cosmetic (FD&C) Act doesn't prohibit lawsuits brought by a competitor under the Lanham Act. The article observes that the Court's ruling could lead to a rise in false advertising lawsuits over product labels on food and beverages.

POM Wonderful LLC v. Coca-Cola Co., No. 12-761, June 12, 2014 (Supreme Court)

When is a pomegranate-blueberry juice not a pomegranate-blueberry juice? That's what a district court will get to decide now that the U.S. Supreme Court has ruled in *POM Wonderful LLC v. Coca-Cola Co.* This highly anticipated unanimous decision clarifies that the federal Food, Drug, and Cosmetic (FD&C) Act doesn't prohibit lawsuits brought by a competitor under the Lanham Act, the federal trademark and false advertising statute.

Seeds of the case

POM Wonderful produces, markets and sells a pomegranate-blueberry juice blend. It filed a Lanham Act claim against Coca-Cola — alleging that the name, label, marketing and advertising of one of Coca-Cola's juice blends misled consumers into believing the product consists predominantly of pomegranate and blueberry juice.

In fact, the blend consists predominantly of less expensive apple and grape juices. POM claimed the resulting confusion caused it to lose sales.

The district court ruled that the FD&C Act and its regulations preclude Lanham Act challenges to the name and label of Coca-Cola's juice blend. The U.S. Court of Appeals for the Ninth Circuit affirmed.

Laws on labeling

Among other things, the Lanham Act allows one competitor to sue another for unfair competition arising from false or misleading product descriptions.



The FD&C Act prohibits the misbranding of food and beverages, and the Food and Drug Administration (FDA) has issued regulations regarding food and beverage labeling — including one addressing juice blends. Unlike the Lanham Act, the FD&C Act and its regulations give the federal government nearly exclusive enforcement authority and don't permit enforcement lawsuits by private parties.

Fruitful combination

Neither the Lanham Act nor the FD&C Act expressly forbids or limits Lanham Act claims challenging labels that are regulated by the FD&C Act. The Supreme Court found this to be powerful evidence that Congress didn't intend FDA oversight to be the exclusive means of ensuring proper food and beverage labeling. Further, the Court said that, where two statutes are complementary, holding that Congress intended one federal statute to preclude operation of the other would show disregard for the congressional design.

The Court found that the two laws complement each other in major respects. Both touch on food and beverage labeling. But the Lanham Act protects commercial interests against unfair competition, while the FD&C Act protects public health and safety.

They also complement each other with respect to remedies, according to the Supreme Court. The FD&C Act's enforcement is largely left to the FDA, while the Lanham Act allows private parties to sue competitors to protect their interests.

The FDA doesn't necessarily pursue enforcement measures against all objectionable labels. Thus, the Court reasoned, preclusion of Lanham Act claims would leave commercial interests — and indirectly the public — with less effective protection in the food and beverage labeling realm than in other less regulated industries.

Potential spoils

The Supreme Court's ruling could lead to a rise in false advertising lawsuits over product labels on food and beverages. After all, compliance with the FD&C Act and its regulations can no longer be considered a shield against Lanham Act claims challenging the regulated activity.

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