

Is High-Fructose Corn Syrup “Natural”? Case May Decide Issue

A case venued in the U.S. District Court for the Central District of California may determine whether or not the use of the words “natural” and “corn sugar” can be used to describe high-fructose corn syrup, runs afoul of the false advertising protections set forth in the Lanham Act.



In a ruling by U.S. District Judge Consuelo B. Marshall in late October, the Court held that an advertising campaign being run by the Corn Refiners Association (the “CRA”) qualifies as commercial speech and is subject to U.S. federal trademark statutes. The lawsuit, filed in April 2011 by a group of sugar farmers and their trade group, the Western Sugar Cooperative, sought to end what it argues is a misleading ad campaign that falsely equates corn syrup with sugar derived from cane and other sources.

The \$50 million campaign was comprised mainly of television commercials that used phrases like “sugar is sugar” and contentions that the human body metabolizes sugar and high-fructose corn sugar in the same manner.

The defendants had filed a motion to dismiss based on the argument that the campaign was primarily educational in nature and that corn syrup is not a product but an ingredient. However, the ruling did not entirely favor the sugar farmers. Judge Marshall’s ruling also dismissed plaintiffs’ claims filed against individual corporate defendants as well as all of the plaintiffs’ claims which had been asserted under California’s unfair business competition laws. This let companies like Archer Daniels Midland Co. and Cargill, Inc. off the hook for the moment.

In his ruling, Judge Marshall wrote, “As a trade organization made up of corn refiners, an economic motive exists. The statements themselves also clearly are promoting corn syrup to food and beverage purchasers.”

Corn syrup is the sweetening agent found in most sodas and processed foods. Corn refiners have been so eager to recharacterize it as a natural product that they have even applied to the Food and Drug Administration (the “FDA”) for permission to use the term “corn sugar.” The FDA’s decision is pending, but it already has issued a letter to the CRA saying that it did not believe consumers would be confused by the term.

David Baker is an Intellectual Property attorney who represents small start-ups to large companies with issues involving copyrights and trademarks, trade secrets, non-disclosure agreements, advertising, rights of publicity, Internet law, counterfeiting issues, licensing, patents and commercial litigation. For more information, please call 714-432-8700 or email dbaker@hkclaw.com.

*Hart, King & Coldren, 200 Sandpointe, 4th Floor, Santa Ana, CA 92707
Ph: 714-432-8700 www.hkclaw.com*

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