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Sagehorn, D. (2014). Pom wonderful llc v. coca-cola co. 134 s. ct. 2228 (2014). Intellectual Property Law Bulletin, 19(1), 119-122.

Chicago 7th ed.
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McGill Guide 9th ed.
Derek Sagehorn, "POM Wonderful LLC v. Coca-Cola Co. 134 S. Ct. 2228 (2014)" (2014) 19:1 Intellectual Property L Bull 119.

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POM Wonderful LLC v. Coca-Cola Co. 134 S. Ct. 2228 (2014)

DEREK SAGEHORN*

BACKGROUND

Petitioner, POM Wonderful LLC ("POM"), produces and sells pomegranate juice blends. Respondent, Coca-Cola Company ("Coca-Cola"), through its Minute Maid Division, also makes and sells juice blends.

POM competes against Coca-Cola in the pomegranate-blueberry juice market. One of Coca-Cola's juice blends featured a label that advertises the product as "pomegranate blueberry." The label displayed a message in smaller type below those two prominent words that read "flavored blend of 5 juices." Despite the prominence of the words "pomegranate" and "blueberry," Coca-Cola's product only contained 0.3% pomegranate juice and 0.2% blueberry juice. In even smaller type below the words "flavored blend of 5 juices," the label read "from concentrate with added ingredients" and "and other natural flavors."

POM brought suit against Coca-Cola under the Lanham Act claiming that Coca-Cola's label is deceptive, thereby injuring POM as a competitor. POM claimed that Coca-Cola's marketing, label, name, and advertising of the juice blend tricks consumers into believing it contained mostly pomegranate and blueberry juice, when it primarily consists of less expensive apple and grape juices. This confusion arguably caused POM to lose business. Consequently, POM sought damages and injunctive relief.

PROCEDURAL HISTORY

The U.S. District Court for the Central District of California granted Coca-Cola partial summary judgment on its Lanham Act claim. The district court held that the Federal Food, Drug and Cosmetic Act (FDCA)[1] precluded POM from challenging Coca-Cola's juice blend.[2] According to the district court, the Food and Drug Administration's (FDA) juice blend regulations dealt directly with the issues arising in POM's Lanham Act claim, and did not prohibit but rather expressly approved of, aspects of Coca-Cola's juice blend label and marketing.

The Ninth Circuit Court of Appeals affirmed the district court's ruling.

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1. Pub. L. No. 75-717, 52 Stat. 1040 (1938) (codified as amended at 21 U.S.C. §§ 301–399f (2012)).

2. *See* 21 U.S.C. §§ 331, 343 (2012) (forbidding the misbranding of food, including by means of misleading labeling).

The Ninth Circuit reasoned that the FDA, whom Congress entrusts with matters of juice beverage labeling, already has a comprehensive regulation on the subject. Because the FDA has not imposed these requirements on Coca-Cola's labeling practice, the court explained that it was bound by precedent to avoid actions that would undercut the FDA's expert authority on the subject. Thus, the Ninth Circuit barred POM's Lanham Act claim.

ISSUE

Whether a private party may bring a Lanham Act claim challenging a food label regulated under the FDCA.

PETITIONER'S ARGUMENT

POM argued that the FDCA is an implied repeal of the Lanham Act, and courts must give full effect to each statute unless they are in "irreconcilable conflict."[3]

RESPONDENT'S ARGUMENT

Coca-Cola argued that the FDCA narrows the scope of the Lanham Act, and requires courts to merely reconcile or harmonize the statutes. Additionally, Coca-Cola claimed that the best way to harmonize the statutes was to bar POM's claim.

DECISION

The Supreme Court reversed the judgment of the Ninth Circuit, and held that the FDCA, FDA regulations, and the Lanham Act's private right of action complement each other. Consequently, the Court allowed POM to bring its Lanham Act claim, and remanded the case for further proceedings.

REASONING

The Court began its analysis by noting that nothing in the Lanham Act or the FDCA expressly limits Lanham Act claimants from challenging labels regulated by the FDCA. The Lanham Act imposes a comprehensive liability scheme onto any person who "misrepresents the nature, characteristics, quality, or geographic origin" of goods or services, which extends to misrepresentations on food and beverage labels.[4] The Court found no text in either statute that would imply preclusion of unfair competition claims for food labels.

Furthermore, the Court noted that both statutes have coexisted since the Lanham Act's passage in 1946. Since then, Congress has amended both statutes, and included an express pre-emption amendment to the FDCA

3. POM Wonderful LLC v. Coca-Cola Co., 134 S. Ct. 2228, 2237 (2014).

4. 15 U.S.C. § 1125(a) (2012).

with regard to state food and beverage misbranding laws. Congress's inaction amidst these changes is clear that they did not intend to make the FDA the exclusive arbiter of food and beverage labeling. The Nutrition Labeling and Education Act of 1990[5] forbids a state or its political subdivision from imposing requirements similar, but not identical, to the FDCA food and beverage labeling requirements. The Court distinguished the fact that Congress pre-empted specific state food and beverage labeling requirements similar, but not identical, to the FDCA's while simultaneously declining to preclude similar, but not identical, Federal statutes like the Lanham Act. The Court reasoned that Congress's express pre-emption of state food and beverage labeling laws, demonstrates its intent to exclude all others from pre-emption—including the preclusion of the Lanham Act.

The Court also stated that the statutes complement each other in scope, purpose, and remedy. While both the Lanham Act and the FDCA deal with food and beverage labeling, the former protects businesses against unfair competition and the latter ensures public health and safety. Moreover, the FDA enforces the FDCA and its progeny of regulation, whereas the Lanham Act relies on marketplace competitors with specialized expertise to enforce the statute by private right of action.

The Court considered but dismissed Coca-Cola's argument that POM's claim is precluded because Congress enacted the FDCA to ensure national uniformity in food and beverage law. Coca-Cola highlighted three points to support its conclusion: (1) the FDCA's delegation of enforcement to the federal government instead of private parties; (2) the FDCA's express pre-emption of state food and beverage labeling laws; and (3) the specificity of the FDCA and its attendant regulations.

The Court explained that the delegation of enforcement of the FDCA to the federal government had no relevance because POM brought a Lanham Act claim and did not seek to enforce the FDCA. Next, the Court reasoned that POM's Lanham Act claim could not upset a congressional intent to ensure national uniformity in food and beverage labeling because the FDCA's express pre-emption applies only to state laws. The Court distinguished between the confusion that could occur by having fifty different state food and beverage labeling provisions, and the varied application by the courts of commercial fairness competition law. The Court stated that the FDCA only intended to curb the former. Finally, the Court dismissed Coca-Cola's argument that the heightened specificity of the FDA's regulations precludes POM's Lanham Act claim, noting that specificity "would matter only if the Lanham Act and the FDCA cannot be implemented in full at the same time."[6]

The U.S. government, as *amicus curiae*, argued that a Lanham Act

5. Pub. L. No. 101-535, 104 Stat. 2353 (1990) (codified as amended in scattered sections of 21 U.S.C. (2012)).

6. *POM Wonderful LLC*, 134 S. Ct. at 2240.

claim is precluded when the FDCA or FDA regulations specifically authorize the challenged aspects of the label. Therefore, under the government's reasoning, POM would be precluded from challenging the name of the Coca-Cola juice blend because the labeling of juice blends is specifically authorized by FDA regulations. POM would be free however, to pursue other Lanham Act claims unspecified by the FDCA or FDA regulations.

The Court clarified that the FDCA's regulations do not act as a ceiling, but rather as a complement to the regulation of food and beverage labeling. It further explained that an isolated reference by the FDA during the legislative process expressing the intent to allow for "flexibility for labeling products" does not have preclusive force over other federal statutes.[7] The Court dismissed the government's position, identifying it as an attempt to require the Court to preclude private parties from availing themselves of a well-established federal remedy because an agency enacted regulations that touch on similar subject matter.

The Court concluded that a Lanham Act claim brought against a competitor for a misleading food or beverage label is not precluded by either the FDCA, or any FDA regulation at issue. The Court remanded the case for further proceedings consistent with its opinion.

7. Food Labeling, Declaration of Ingredients, Common or Usual Name for Nonstandardized Foods, Diluted Juice Beverages, 58 Fed. Reg. 2897, 2919–20 (Jan. 6, 1993).