
Kluwer Trademark Blog

Trademark Case: Xlear, Inc. v. Focus Nutrition, LLC, USA

Cheryl Beise (Wolters Kluwer Legal & Regulatory US) · Monday, July 9th, 2018

A federal district court's award of attorney fees under the Lanham Act and Utah's Truth in Advertising Act (UTIAA) to a defendant following the parties' stipulation of dismissal has been vacated and the case remanded by the U.S. Court of Appeals in Denver. The defendant was not a prevailing party entitled to attorney fees under the Lanham Act because there was no court action that materially altered the legal relationship between the parties. While it was possible that the defendant could be considered a prevailing party for purposes of the UTIAA, the case was remand for analysis of the factors governing prevailing party status under Utah law in the first instance and for determination, if appropriate, of the portion of fees incurred in defense of the UTIAA claim and the reasonableness of the requested fees (*Xlear, Inc. v. Focus Nutrition, LLC*, June 26, 2018, McHugh, C.).

Case date: 26 June 2018

Case number: No. 17-4126

Court: United States Court of Appeals, Tenth Circuit

A full summary of this case has been published on [Kluwer IP Law](#).

To make sure you do not miss out on regular updates from the Kluwer Trademark Blog, please [subscribe here](#).

Kluwer IP Law

The **2022 Future Ready Lawyer survey** showed that 79% of lawyers think that the importance of legal technology will increase for next year. With Kluwer IP Law you can navigate the increasingly global practice of IP law with specialized, local and cross-border information and tools from every preferred location. Are you, as an IP professional, ready for the future?

Learn how [Kluwer IP Law](#) can support you.

79% of the lawyers think that the importance of legal technology will increase for next year.

Drive change with Kluwer IP Law.

The master resource for Intellectual Property rights and registration.



2022 SURVEY REPORT
The Wolters Kluwer Future Ready Lawyer
Leading change



Experience how the renewed **Manual IP** enables you to work more efficiently



[Learn more →](#)



This entry was posted on Monday, July 9th, 2018 at 1:09 pm and is filed under [Case law](#), [United States](#)

You can follow any responses to this entry through the [Comments \(RSS\)](#) feed. You can leave a response, or [trackback](#) from your own site.