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Trademark case: **Belmora LLC. v. Bayer Consumer Care AG, USA**

Thomas Long (Wolters Kluwer Legal & Regulatory US) · Friday, April 16th, 2021

Use of analogous state-law limitations period for Lanham Act Section 43(a) claims was “unsatisfactory”; summary judgment order finding Bayer’s false association and false advertising claims time-barred was vacated.

Reasoning that a district court erred by reading a limitations period into the Lanham Act where none existed for Section 43(a) claims, the U.S. Court of Appeals in Richmond has vacated a decision rejecting as time-barred false association and false advertising claims by Bayer Consumer Care, AG, against competitor Belmora LLC over use of the mark FLANAX for naproxen sodium pain relievers in the United States. Reasoning that the analogous state-law statute of limitations was “unsatisfactory” for adjudicating the claims, the court held that the affirmative defense of laches should have been applied. The district court also erred in declining to consider whether Bayer’s filing of a petition with the USPTO to cancel Belmora’s FLANAX registration tolled the statute of limitations applicable to its California state-law unfair competition and false advertising claims. The case was remanded for the district court to determine whether Bayer’s Section 43(a) claims were barred by laches, whether its state-law claims were time-barred, and to make any necessary further factual findings (*Belmora, LLC. v. Bayer Consumer Care AG*, February 2, 2021, Floyd, H.).

Case date: 02 February 2021

Case number: No. 18-2183

Court: United States Court of Appeals, Fourth Circuit

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

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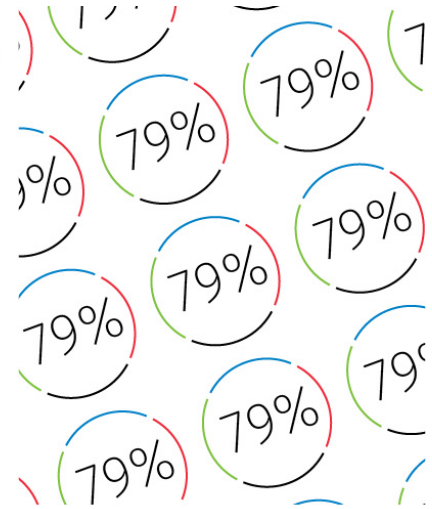
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