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Trademark case: PIM Brands Inc. v. Haribo of America Inc., USA

George Basharis (Wolters Kluwer Legal & Regulatory US) · Friday, September 22nd, 2023

The trade dress of a wedge-shaped candy, colored to resemble a slice of watermelon, was determined to be functional and not eligible for protection under federal trademark law.

The U.S. Court of Appeals for the Third Circuit upheld a summary judgment decision by a New Jersey district court, ruling that a candy maker could not prevent competitors from selling wedge-shaped candies colored to resemble a slice of watermelon. The court determined that the combination of color and shape effectively communicates to consumers that the candy is watermelon-flavored and, as such, does not qualify for protection under trademark law. Cancellation of the candy maker's trademark registration was affirmed (PIM Brands Inc. v. Haribo of America Inc., September 7, 2023, Bibas, S.).

Case date: 07 September 2023

Case number: No. 22-2821

Court: United States Court of Appeals, Third Circuit

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

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