

Seventh Circuit Affirms Trademark Win for Katten's Client Pepsi, Gatorade

September 13, 2019

In June 2018, Katten Intellectual Property partner Floyd Mandell and associate Julia Mazur successfully represented PepsiCo Inc. in a significant win in a trademark suit brought against PepsiCo Inc. and The Gatorade Company Inc. by a sports nutrition consulting firm, SportFuel Inc., for its use of the slogan, "Gatorade The Sports Fuel Company." The case received nationwide publicity. A recent article published in *Law360* describes how the Seventh Circuit United States Court of Appeals affirmed the ruling back in June of the Illinois District Court that ruled in favor of PepsiCo Inc. and The Gatorade Company, which found that the slogan is fair use under the Lanham Act.

According to *Law360*, the Seventh Circuit unanimously agreed with the District Court that Gatorade "didn't use the term 'sports fuel' as a trademark but as a description of its products" and concluded that the company used the "sports fuel" slogan fairly and in good faith by providing "enough evidence to show that it adopted the slogan to reflect its various sports fuel products and to help the company better describe its business."

"We are pleased with the outcome of the case and look forward to continuing our mission to fuel athletic performance," said a spokeswoman for Gatorade, Katie Montiel Vidaillet, to *Law360*.

Read, "7th Circ. Says Pepsi, Gatorade 'Sports Fuel' Slogan is Fair Use," in its entirety.

Law360, "7th Circ. Says Pepsi, Gatorade 'Sports Fuel' Slogan Is Fair Use," August 2

Bloomberg Law, "Gatorade Can Use 'Sports Fuel' Slogan Over Trademark Objection," August 2

ABA Journal, "Afternoon Briefs: First Step Act frees crack cocaine offender; judge vacates port-of-entry asylum rule," August 5

Reuters Legal, "Gatorade's 'Sports Fuel' slogan not a trademark violation - 7th Circ," August 5

IP Watchdog, "Seventh Circuit Finds Gatorade's Use of 'Sports Fuel' in Its Slogan Constitutes Fair Use," August 7

Cook County Record, "Gatorade can call itself 'Sports Fuel' without infringing trademark of SportFuel, appeals court says," August 7

Chicago Daily Law Bulletin, "7th Circuit grants Gatorade's use of 'sports fuel'," August 8

Rebecca Tusnet's 43 (B)log, "7th Cir: descriptive component of distinctive slogan can be descriptive fair use," August 8

World Trademark Review, "INTA heads to New Delhi, Gatorade victory, and 'fake IP lawyer' pleads guilty: news digest," August 9

IP Kat, "SportFuel is running on empty after losing appeal: US 7th Circuit Court affirms that Gatorade's slogan, "Gatorade The Sports Fuel Company" is fair use." August 11

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