

Christopher Cole Weighs in on Legal Hurdles Facing Competitor's Challenge to Purina's Bird Flu Claims

June 27, 2025

Intellectual Property Partner and Advertising, Marketing and Promotions Co-Chair Christopher Cole was quoted in a *Law.com* article about a case brought by Kalmbach Feeds (Kalmbach) against Purina Animal Nutrition (Purina), challenging Purina's claim that its poultry feed offers a "built-in defense against avian influenza." Kalmbach, a much smaller competitor of Purina's, is arguing that there is no scientific proof that food additives can prevent bird flu and accusing Purina of false advertising under the Lanham Act and a corresponding state law.

The lawsuit seeks to halt Purina's advertising and recover damages, though history suggests that Kalmbach faces significant challenges since "Lanham Act cases are expensive and hard fought," Chris said. He added that he thinks Kalmbach will need strong evidence to prove false advertising. Chris "highly doubts" that a company with Purina's reputation would neglect to run scientific tests that back its claims and run its ad campaign by legal counsel.

"The larger trend I see is consumer class action litigation on the rise, which seems to have chilled Lanham Act filings," Chris said. "Every company is afraid of having to spend money on defending itself in a class action case, and plaintiffs often take inspiration from Lanham cases." Chris also underscored that comparative ads can be highly effective — however, companies must understand that their product claims will be scrutinized, at the very least, or be challenged, with claims on product packaging and in print getting the most attention. He warned that losing a challenge could be very costly and potentially lead to a ruinous injunction.

"Rival Steps Up to Challenge Purina's Claim That Its Poultry Feed Fights Off Bird Flu," **Law.com*, June 25, 2025

**Subscription may be required for article access.*

CONTACTS

For more information, contact your Katten attorney or any of the following attorneys.



Christopher A. Cole
+1.202.625.3550
chris.cole@katten.com

Attorney advertising. Published as a source of information only. The material contained herein is not to be construed as legal advice or opinion.

©2026 Katten Muchin Rosenman LLP.

All rights reserved. Katten refers to Katten Muchin Rosenman LLP and the affiliated partnership as explained at katten.com/disclaimer.