

BLOGS

System Standards/Change

Federal Court Holds That Franchisor Unreasonably Delayed Lawsuit for Unapproved Products

A federal court in Indiana has dismissed a franchisor's Lanham Act claim on the grounds that the franchisor unreasonably delayed bringing the claim. *Noble Roman's, Inc. v. Hattenhauer Distrib. Co.*, 2017 WL 640092 (S.D. Ind. Feb. 27, 2017). Under the parties' franchise agreements, Hattenhauer was required to use only Noble Roman's approved ingredients at its pizza franchises. However, after Noble Roman's changed its approved distributor in 2010, Hattenhauer began purchasing and using unapproved cheese at one of its franchised locations. In 2014, Noble Roman's sued Hattenhauer for using unapproved cheese and asserted a claim for violation of the federal Lanham Act in addition to state law claims. Hattenhauer moved for summary judgment, arguing that Noble Roman's Lanham Act claim was barred by the doctrine of laches (i.e., that there was an unreasonable delay in asserting a right).

The court agreed with Hattenhauer and dismissed the Lanham Act claim. First, the court found that Noble Roman's had knowledge that Hattenhauer was using unapproved cheese as early as August 2010, when Noble Roman's began receiving monthly reports from its distributor showing the unapproved purchases. Second, the court held that Noble Roman's four-year delay in taking action with regard to Hattenhauer's use of unapproved cheese was unreasonable and constituted inexcusable delay. Third, the court found that Hattenhauer would be prejudiced by having to disgorge its profits for years of infringing sales that would not have been made had Noble Roman's acted promptly on the information that was readily available to it. Accordingly, the court dismissed the Lanham Act claim. The court further declined to exercise supplemental jurisdiction over the remaining state law claims and dismissed the case. This case serves as an important reminder that franchisors should not delay in enforcing brand standards.

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