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**In This Issue:**

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**Honors and Awards**

2011 *Chambers USA*  
 Award for Excellence  
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Top-Tier Firm *Legal 500*



**LAST CHANCE:** Planning to attend ERA's D2C Conference in Las Vegas? Venable friends and clients, who have not yet registered, are eligible for a free exhibit hall pass or \$100 discount off an all-access pass. To take part in this offer, you must register by September 9. [Click here](#) to register. We look forward to seeing you at the show!

**News****FTC Zaps Acne Apps in First Mobile App Health Claim Cases**

The FTC today announced settlements in two separate cases with marketers who claimed their smartphone applications, "AcneApp" and "Acne Pwner," could help reduce acne by using colored lights emitted from the screen of the user's mobile device. The cases are the first brought by the FTC targeting health claims in the mobile application marketplace.

"...unfortunately when it comes to curing acne, there's no app for that," FTC Chairman Jon Leibowitz said in the Commission's press release.

The FTC charged that both applications made unsubstantiated acne treatment claims and that the marketers of AcneApp falsely claimed that a study in a British medical journal proved that blue and red light therapy, which the app used, is an effective acne treatment.

The settlements bar the marketers from making acne-treatment claims about their mobile apps and other medical devices, as well as the safety, performance, benefits, or efficacy claims about any device, without competent and reliable scientific evidence. The marketer of Acne Pwner will pay \$1700. The two marketers of AcneApp will pay \$14,294 and be barred from misrepresenting research, tests, or studies.

[Go here](#) to view the FTC's press release.

**FTC: Cosmetic Claims Must Be More Than Skin Deep**

In the September edition of *Electronic Retailer* magazine, the FTC's Lesley Fair provides insight into the FTC's thoughts on claim substantiation for cosmetic products in the wake of the recent Beiersdorf settlement.

[Go here](#) to read Fair's piece on page 22 of this month's *Electronic Retailer*.

**"All Natural" Claims Make It a Rough Week for Skinny Girl Cocktails**

Last week, leading upscale grocer Whole Foods Market announced that it was pulling the "Skinny Girl" brand of prepackaged cocktails from shelves because the products, which are labeled "all natural," contain sodium benzoate, a preservative. On September 2, the Skinny Girl brand, Beam Global Spirits and Wine and SGC Global Industries were hit with a \$5 million consumer class action alleging that the companies engaged in false advertising when they advertised the Skinny Girl products as "all natural."

Top-ranked in *U.S. News and World Report*



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The Skinny Girl brand was founded by former "Real Housewives of New York City" star Bethenny Frankel and has annual sales of approximately 100,000 cases. In March 2011, she sold the brand to Beam Global Spirits and Wine for approximately \$120 million. The case is *Greene v. Skinny Girl Cocktails, LLC et al* (U.S. District Court for the Southern District of Florida)

[Go here](#) to read coverage of the class action at *CelebrityCafe*.

[Go here](#) to read the company's response to the suit.

## Analysis

### 'Weiner Wars' Highlight Evolving Trends in Marketers' Use of Legal Challenges

A legal dust-up that began more than two years ago between two leading U.S. hot dog purveyors is starting to sizzle. In lawsuits filed in a federal district court in Illinois, Sara Lee Corp. and Kraft Foods both allege that the other made false claims in advertising its hot dog products. The lawsuits also demonstrate the increased willingness of consumer product companies to bring their market wars into legal forums.

[Go here](#) to read analysis by Venable's Jeff Knowles and Mikhia Hawkins in the *DRMA Voice*.

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## Upcoming Events

### 2011 ERA D2C Convention - Las Vegas

September 13-15, 2011

Visit Venable at Booth 909. For a free show hall pass or \$100 off an all access pass, [click here!](#)

### Ask the NDI Legal Experts: Q&A Session- presented by *Natural Products Insider*

September 14, 2011

**Michelle C. Jackson** will speak on panel discussing the FDA's recent New Dietary Ingredient guidelines during this September 14 webinar presented by *Natural Products Insider*.

### IQPC Anti-Counterfeiting & Brand Protection - New York City

September 26-28, 2011

**Marcella Ballard** will be speaking on the panel Protecting your Brand Globally through IP Best Practices.

### NAD Annual Conference 2011 - New York City

October 3-4, 2011

**Thomas A. Cohn** will be speaking on social media issues including burgeoning issues such as publicity rights, blogs, branded entertainment, endorsements and testimonials as well as providing guidance on understanding regulatory developments and best practices.

### ACC Annual Meeting - Denver

October 23-26, 2011

**Emilio W. Cividanes, Stuart P. Ingis, James E. Nelson, Melissa L. Steinman** and **Jeffrey S. Tenenbaum** will present sessions at the meeting.

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