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In This Issue

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Honors and Awards

Law Firm of the Year, National Advertising, *U.S. News and World Report*, 2012 and 2014

Analysis

NAD Finds Calorie-Free Food Ads Packed with Meaty Issues

In a recent post to Venable's advertising law blog, Venable partners [Amy Ralph Mudge](#) and [Randal M. Shaheen](#) analyze a recent, wide-ranging National Advertising Division (NAD) review of "healthy," "reduced calorie," and weight loss claims by Walden Farms, a marketer of low- and no-calorie foods. Among the most problematic issues NAD found was the company's use of employees to perform substantiation testing. It's tempting for marketers to use employees, write Mudge and Shaheen, because they are readily available and, in the case of consumer products company employees, are consumers outside the workplace. However, companies should leave the office park when trying to decipher how consumers think and behave.

[Click here](#) to read the full text of the post by Mudge and Shaheen to Venable's advertising law blog, www.allaboutadvertisinglaw.com.

[Click here](#) to read the NAD press release about the Walden Farms decision.

"Made in" Claims Require More Than a Flag

Manufacturing products in the United States is hot again, and so are highly regulated "Made in USA" advertising claims, write Venable partners [Amy Ralph Mudge](#) and [Randal M. Shaheen](#) in a recent post to Venable's advertising law blog. Both the Federal Trade Commission (FTC) and NAD have weighed in on the claims in recent cases. California law holds the strictest "Made in USA" standard. And, last month, the state further muddied the waters with the creation of a "Made in California" designation for products. Mudge and Shaheen write that this creates at least three conflicting definitions for "Made in [insert favorite geographic location]" claims, as well as likely consumer confusion and a trap for the unwary advertiser.

[Click here](#) to read the full text of the post by Mudge and Shaheen to Venable's advertising law blog, www.allaboutadvertisinglaw.com.

[Click here](#) to read the text of the new "Made in California" Act.

What's the Evidentiary Value of a Self-Regulatory Decision?

The evidentiary value of an opinion by an advertising self-regulatory body, such as NAD, has received little attention, write Venable attorneys [Roger A. Colaizzi](#), [Amy Ralph Mudge](#), and [David D. Conway](#) in a post to Venable's advertising law blog. Although NAD is designed to adjudicate advertising disputes quickly, efficiently, and effectively, the organization does not always have the final word. This leaves marketers and counsel wondering what evidentiary impact an NAD case report has when advertising is challenged in federal court.

In the first of a series of blog posts on NAD procedural issues, Colaizzi, Mudge, and Conway detail the various ways an NAD case report can play a role in litigation.

[Click here](#) to read the post by Colaizzi, Mudge and Conway on Venable's advertising law blog, www.allaboutadvertisinglaw.com.



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For more information about Venable's award-winning Advertising and Marketing practice, please visit our website at www.Venable.com/Advertising-and-Marketing

Upcoming Events

SupplySide West – Las Vegas, NV

November 12–16, 2013

SupplySide West brings together key professionals, thought leaders, and executives who drive the dietary supplement, food, beverage, animal nutrition, personal care, and cosmetic marketplace to explore and discover innovations from around the world. Join Venable partners **Todd A. Harrison** and **Claudia A. Lewis** on November 15 from 1:00 p.m. to 1:50 p.m. PST at booth #14074 for a thought-provoking town hall discussion titled "What Regulators and Other Attorneys Will Not Tell You About FDA, FTC and Class Action Lawsuits." Learn the contours of a permissible structure/function claim, and the type of evidence you need to substantiate claims. In addition to providing strategic steps you can take to minimize your regulatory risk and plaintiff class action exposure, this insightful presentation will also explore how to respond to a FDA warning letter, a demand from the FTC, and threatened legal action by plaintiff class action attorneys to bolster your class action toolkit.

[Click here](#) to learn more and register.

35th Annual Brand Activation Association Marketing Law Conference – Chicago

November 18–20, 2013

Venable is proud to sponsor the BAA Marketing Law Conference, featuring the nation's leading speakers from the Marketing and Advertising Law Bar and from major brands and prominent regulators. Venable partner **Melissa Landau Steinman** will present a session on gift cards, coupons, and loyalty programs. Joining her as speakers at the conference are Venable partners **Po Yi**, who will join a roundtable to discuss legal aspects of partnering with the media on integrated marketing programs, and **Amy Ralph Mudge** and **Randal M. Shaheen**, who will address how to respond when the FTC challenges advertising.

Please join Venable at these sessions and at our reception at the House of Blues on November 18 from 6:30 p.m. to 8:30 p.m. CST.

[Click here](#) to learn more about the BAA Conference and to receive \$100 off your registration as a Venable guest when you enter discount code **VENABLE100**.

[Click here](#) to subscribe to Venable's Advertising and Marketing RSS feed and receive the Venable team's insight and analysis as soon as it is posted.

Visit Venable's advertising law blog at www.allaboutadvertisinglaw.com.

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