

PARTNER POOJA NAIR QUOTED ON FALSE ADVERTISING RULING UNDER THE LANHAM

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NutraIngredients-USA

Pooja S. Nair, Chair of ECJ's Food, Beverage and Hospitality Department, was quoted in the February 4, 2021 article, "Court: Supplement comparison guide considered 'advertisement' under Lanham Act."

This lead story, published by *NutraIngredients-USA*, discusses how the trademark provisions of the Lanham Act guided the Ninth Circuit appellate court's decision in *Ariix, LLC v. NutriSearch Corp.*

The Defendant, NutriSearch Corporation, publishes a guidebook that compares and reviews directly marketed nutritional supplements. Pooja explained that the Plaintiff, Ariix, "alleged that NutriSearch had an undisclosed financial arrangement with Ariix competitor Usana, in which the NutriSearch CEO was paid inflated speaking fees. The district court first considered the case dismissed because it found that Guide was not commercial advertising under the Lanham Act, and would therefore be entitled to First Amendment protection... However, the Ninth Circuit appellate court reversed and held that the Guide was commercial speech, and not protected by the First Amendment. Therefore, the Lanham Act applied and the First Amendment did not shield NutriSearch from plaintiff's claims."

Read the full article for more of Pooja's analysis and implications of this decision.

PROFESSIONALS

Pooja S. Nair

PRACTICE AREAS

Food, Beverage and Hospitality