

LANHAM ACT APPLIES TO THIRD-PARTY NUTRITIONAL GUIDEBOOK

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Pooja S. Nair, Chair of ECJ's Food, Beverage and Hospitality Department, published an article in the *Los Angeles Daily Journal* titled, "Lanham Act Applies to Third-Party Nutritional Guidebook."

NutriSearch Corporation published a guidebook that compared and reviewed directly marketed nutritional supplements. Pooja notes that the company "portrayed itself as an independent company relying solely on objective data and scientific analysis."

However, in a recent case, *ARIIX LLC v. NutriSearch Corporation*, the Plaintiff alleged that "NutriSearch had an undisclosed financial arrangement with ARIIX's competitor, Usana, in which the NutriSearch CEO was paid inflated speaking fees."

While the district court initially "dismissed the complaint with prejudice, finding that the guide as a whole ... [was] not commercial advertising within the scope of the Lanham Act," the Ninth Circuit reversed that ruling and "held that the complaint plausibly alleged that the guide was a sham marketing ploy ... and thus commercial speech under the Lanham Act."

Read the full article for more details of the case and Pooja's analysis of this decision (*subscription required*).

Pooja is a business litigator and problem solver with a focus on the food and beverage sector. She advises food and beverage clients, startups and other businesses on a comprehensive range of issues, including employment, trade secrets, partnership disputes, contract negotiations and intellectual property.

PROFESSIONALS

Pooja S. Nair

PRACTICE AREAS

Food, Beverage and Hospitality