

Sheppard Mullin New York Wins Unfair Competition Case Against Rexall Sundown

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Perrigo Company of South Carolina, Inc. announced today that it won two favorable jury verdicts against Rexall Sundown, Inc. in an unfair competition lawsuit brought in the U.S. Eastern District Court of New York.

Perrigo was represented by Sheppard Mullin partners Paul W. Garrity (NY) and Robert S. Friedman (NY) and associate Mark E. McGrath (NY), and was assisted by associates Eric S. O'Connor (NY), Sean J. Kirby (NY), and Dante DiPasquale (NY) (as well as attorneys from Kelley Drye & Warren LLP).

The jury unanimously found that Perrigo's statement, used on store brand packaging for its joint care products containing Glucosamine and Chondroitin that invites the consumer to compare the products to Rexall Sundown's Osteo Bi-Flex, is not false and misleading and does not violate Section 43 of the Lanham Act.

In addition, the jury ruled in Perrigo's favor on its false advertising counterclaim against Rexall Sundown under Section 43 of the Lanham Act based on a statement used by Rexall Sundown on packaging from 2006 to 2008. The jury determined that the statement was false and misleading and awarded Perrigo damages.

Perrigo's Chairman and CEO Joseph C. Papa stated, "This verdict is a huge victory for store brands and consumers. The jury found that our "compare to the national brand" statement on our packaging is not unfair competition. Consumers are able to identify which product they want and then save by choosing the affordable store brand option. Perrigo is working every day to make quality healthcare more affordable."

Perrigo Company is a leading global healthcare supplier that develops, manufactures and distributes OTC and generic prescription (Rx) pharmaceuticals, nutritional products, active pharmaceutical ingredients (API) and pharmaceutical and medical diagnostic products. The Company is the world's largest manufacturer of OTC pharmaceutical products for the store brand market. The Company's primary markets and locations of manufacturing and logistics operations are the United States, Australia, Israel, Mexico and the United Kingdom. Visit Perrigo on the Internet (<http://www.perrigo.com>).

Attorneys

Robert S. Friedman

Paul W. Garrity

Practice Areas

Intellectual Property

Litigation