

CLIENT SUCCESS

Winston Defeats Kerry Group in IPR Involving a Patent for a Natural Meat-Cure Process, Preserving FFP's Strategic Market Share

APRIL 1, 2023

In April 2023, we prevailed in an *inter partes* review (IPR) before the PTAB on behalf of **Florida Food Products** (FFP), foiling a competitor's attempt to rely on its patent to gain an advantage in the natural meat-cure market.

We represented challenger FFP in an IPR challenging the validity of U.S. Patent No. 11,071,304 (the "'304 Patent'"), assigned to Kerry Group and Kerry Luxembourg, directed toward a meat-preservation process using a plant-based nitrite-curing solution – that is, a so-called "natural cure," which is a U.S. multimillion-dollar business. In October 2021, we filed a petition for an IPR challenging the validity of the '304 Patent on behalf of FFP, alleging the claimed preservation process was a well-known and federally regulated process disclosed in a multitude of prior art references.

In April 2022, the PTAB agreed that FFP had raised substantial questions of validity regarding the '304 Patent and instituted review. In April 2023, we prevailed on behalf of FFP when the PTAB found the '304 Patent invalid.

AT ISSUE/SIGNIFICANCE TO CLIENT

The win preserved FFP's multimillion-dollar market for natural meat cure and maintained its commitment to defend the natural-cure market for the meat-processing industry. The patent holder, Kerry, issued press releases and had specific industry contacts indicating its intent to enforce its patents against not only FFP, but also the meat processors who chose to buy natural-cure products outside of Kerry. This was a clear threat to the burgeoning "clean label," or organic, meat industry nationwide and beyond. FFP refused to stand by and allow the market to have its choices for natural-cure solutions narrowed to a single supplier. Thus, it filed for an IPR of the Kerry patent shortly after it issued the challenge to the patentability of an age-old and well-known process.

(Florida Foods Products, LLC v. Kerry Group & Kerry Luxembourg S.a.r.l (IPR2022-00006 (Patent No. 11,071,304 B2), U.S. Patent and Trademark Office, Patent Trial and Appeal Board (PTAB))

1 Min Read

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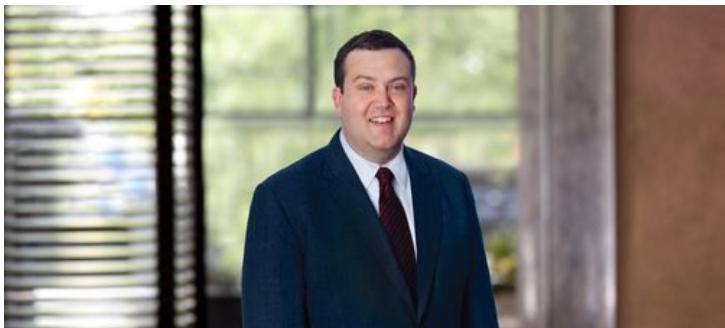
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