

U.S. Wins WTO Complaint Against EU Food-Name Rules

Nov. 18 (Bloomberg) -- The U.S. and Australia won a trade complaint that European Union rules protecting regional and traditional food names such as "feta" cheese and "Parma" ham discriminate, according to people familiar with the decision.

A preliminary World Trade Organization ruling may allow U.S. companies such as Kraft Foods Inc. and General Mills Inc. to market trademarked foods that share identical names with the EU's geographical indications, as well as letting Idaho potato or Florida orange growers register their own products in the EU.

Unlike company-specific trademarks, designations by the EU, which counts 450 million consumers, indefinitely protect food and drink names with links to a region of origin. That covers Parma ham, named after the Italian city, which is also a brand used by Maple Leaf Foods Inc. of Canada, and Rioja wine, also marketed by Latin American producers, the European Commission says.

"Brand equity is one of the most important assets of our companies," said Sarah Thorn, manager for international trade at the Grocery Manufacturers of America, which represents Kraft, General Mills and other U.S. food companies. She said she hadn't seen the WTO decision.

In a finding disclosed to governments two days ago, the WTO said EU rules that protect the names of origin of more than 600 fruits, cheeses, meats, fish, oils, beers, breads, olives and mineral waters discriminate against non-European producers because they can't register their products in the bloc.

Not Clear Cut

The ruling isn't a clear-cut rejection of the EU's system, said Arancha Gonzalez, the commission's spokeswoman on trade.

"It's a little bit too early for the U.S., or the EU, to claim victory on this one," she said by telephone from Brussels. The EU's protection system "would allow the panel to say that our system is compatible with WTO rules." Gonzalez declined to comment further on the confidential ruling.

The EU rules, in place since 1992, limit Norman camembert and Breton cider to those French regions; Lubeck marzipan to the German town; Clare Island salmon to County Galway, Ireland; Cornish clotted cream to the English county of Cornwall; Kalamata olives to Greece; and "Newcastle Brown Ale" to the English city.

The WTO agreed with the U.S. and Australia that any EU protections of place names for foods can't be applied in translation, according to the people who read the decision.

Budweiser Battle

The world's biggest brewer, Anheuser-Busch Cos. Inc., has been fighting in more than 50 countries with a Czech brewer over the name "Budweiser."

Paul Byrne, a spokesman for Anheuser-Busch, declined to comment, saying the company hadn't seen the ruling. Neena Moorjani, a spokesman for the U.S. Trade Representative's office, also wouldn't comment.

Both the U.S. and EU can comment on the decision before the WTO publishes the ruling within the next few months. At that point either side can appeal, a process that can take three months or more.

The EU has prodded negotiators at the WTO to adopt and apply universally its system for protecting food names. That's a move the U.S. opposes.

"European countries are much more protective of place names, and they want to spread that around the world," said Albert Trampusch, a lawyer at the law firm Burns Doane Swecker & Mathis in Alexandria, Virginia.

'Unique Protection'

The EU system "recognizes the right of local producers to a name, based on history, tradition and know-how," said David Thual, secretary general of ORIGIN, a Geneva-based international organization representing a million food producers worldwide including Kenyan coffee growers. "It's a unique protection, because unlike a trademark, it lasts forever."

Budejovicky Budvar NP, a Czech brewer that brews a "Budweiser" beer, has been fighting with Anheuser-Busch in about 50 countries over the use of the Budweiser trademark.

Budvar, based in a town called Ceske Budejovice in Czech and Budweis in German, claims brewers have used the name for hundreds of years. Anheuser-Busch argues it has used the trademark since 1876, 19 years before Budvar was established.

Budvar registered its own product for EU protection this year, now that the Czech Republic has joined the bloc. The two companies have been fighting over the name after failing to agree on a takeover in the 1990s.

The wrangling over Budweiser prompted an initial U.S. complaint at the WTO in 1999 that was revived last year.

One of 10 nations to join the EU in May, the Czech Republic is the only new member to have registered a product under the EU's system. All three Czech registrations are beers, according to the commission's Web site.

The European Court of Justice, Europe's highest court, said Nov. 16 that Anheuser-Busch may stop its Czech competitor from using the name in Finland and referred the case back to a Finnish court for a final decision.