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Victoire! L'Oreal Beats Suit Alleging Deceptive 'Paris' Representations On US-Made Products

by Ryan Nelson

A New York federal court agrees the defendant has a right to use its L'Oreal Paris brand name and clearly states on the back of beauty products where they were made, such that reasonable consumers would not be misled by the "Paris" references or French-language descriptions on front labels.

L'Oreal USA, Inc. successfully dismissed litigation on 27 March concerning "Paris" references and French language on its products' front labels, which plaintiff Veronica Eshelby alleged deceive consumers into paying a premium for products that aren't actually made in France.

"Beauty products that are made in France, and specifically in Paris, are widely regarded as high-end, luxury items," according to Eshelby's amended class action complaint filed on 18 March 2022, one month after her initial complaint in New York's Southern District.

L'Oreal sells beauty products in the US that bear "a prominent 'Paris' marking" on the front label, along with descriptions in French text, such as "Fini Mat" (Matte Finish) and "Sans Huile" (Oil-Free). According to Eshelby, "This suggest to consumers that these products are imported from France, where the French-language descriptions would be useful to French consumers."

She continues, "The truth however is that Defendant's Products are not made in Paris or in France. They are not even sold in France. … Instead, the Products are made (and even designed) for the US market by L'Oréal USA (based in New York) and manufactured in its factory in Arkansas, or elsewhere in the US or Canada."

Eshelby claims that hoodwinked consumers are overpaying for L'Oreal products. She cites violations of numerous state consumer protection laws, breach of express warranty, breach of the Magnuson-Moss Warranty Act, negligent misrepresentation and unjust enrichment.

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She aims to represent multiple classes, including all persons who purchased in the US during the applicable statute of limitations a L'Oreal Product – ie, a product sold in the US that bears the Paris Representation but is not made in France – seeking injunctive relief, damages, restitution, attorneys' fees and costs, among other relief.

L'Oreal offered its synopsis of the case in its 24 May 2022 motion to dismiss. "Veronica Eshelby alleges that she believes all L'Oreal Paris brand products are manufactured in France because the word 'Paris' is in the brand name and Paris is in France."

The firm further noted, "Eshelby does not claim that the product labeling here is literally false: she does not claim that the word 'Paris' was a representation that the product was made in Paris, and indeed, she acknowledges that the back of the label disclosed the actual country of manufacture."

According to L'Oreal, the case should be dismissed for failure to state an actionable claim.

> *"The front label is not so misleading that a reasonable consumer who cared about the country of manufacture should not be expected to look at the full packaging for a disclaimer, which was clearly and correctly provided on the labels of each product Eshelby purchased."*

US district judge Analisa Torres agrees. She writes, "A mere reference to Paris is insufficient to deceive a reasonable consumer regarding the manufacturing location of a product." Torres points to case law in which federal courts have determined that imagery and references to Hawaii or Jamaica are not in themselves enough to confuse consumers about the origin of certain beers or snacks.

The judge recognizes that "L'Oreal Paris" is a brand name. "The company was founded in Paris, and its global headquarters is still located in Paris. The word 'Paris' always appears in stylized text underneath the word 'L'Oréal,' in the same font and color as the word 'L'Oréal,' such that a reasonable consumer would understand that 'Paris' is part of the brand name 'L'Oréal Paris,'" Torres says, and "L'Oréal has a right to use its brand name to correctly indicate that its products belong to the L'Oréal Paris brand."

The judge also observes that the French-language descriptions, which contributed to Eshelby's

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mistaken impression that L'Oreal Paris products necessarily are manufactured in France, are preceded by English text, which is often larger or bolded in comparison.

In any event, "The front label is not so misleading that a reasonable consumer who cared about the country of manufacture should not be expected to look at the full packaging for a disclaimer, which was clearly and correctly provided on the labels of each product Eshelby purchased."

Eshelby alleged that reasonable consumers would be misled by L'Oreal's product labels, based on results from her consumer survey. However, the court notes, "Eshelby did not reference or rely on the results of this survey in drafting her complaint and did not attach any survey results to her complaint. The survey results, therefore, shall not be considered on a motion to dismiss."

The judge goes on to pick off Eshelby's claims one by one, including her claims on behalf of a putative class, and denies her leave to amend her complaint, which the judge maintains would be futile.

The plaintiff, if she disagrees with the judgment, must file a notice of appeal within 30 days of the decision.

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