

Implications of the Oatly Milk appeal for Dairy Alternative Producers

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The Oatly milk appeal case stems from a legal dispute concerning the labelling of oat milk products marketed by Oatly AB. The crux of the matter revolves around whether the term “milk” can be used to describe non-dairy beverages derived from plants, such as oats, without causing confusion among consumers.

Dairy UK argued that it was unlawful to use the term ‘milk’ in a trademark “in relation to products that are not mammary secretions.”

The High Court however overturned the decision made in an IPO hearing and found it was wrong to declare Oatly’s “Post Milk Generation” mark invalid. The use of the term “milk” to identify a product as being milk is prohibited however in this case the prohibition was not engaged as the trademark did not purport to market the goods as milk.

This is an important decision and demonstrates that producers of alternative products have flexibility when producing and marketing plant based alternatives. So, although oat-based drinks cannot be marketed as ‘oat milk’, the term ‘milk’ may still be used in marketing, provided the products are not held out as being ‘milk’. Businesses however should continue to comply with labelling regulations and industry standards to avoid potential legal challenges and penalties.

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