

# Anheuser-Busch Can Run Miller, Coors ‘Corn Syrup’ Ads (1)

By Blake Brittain

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- Ads mocking corn syrup in Molson beers not misleading
  - Molson itself lists corn syrup as ingredient
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The Seventh Circuit struck down a Wisconsin district court’s decision that barred Anheuser-Busch from implying Molson Coors’ Coors Light and Miller Lite contain corn syrup, in a case based on an ad campaign AB debuted during Super Bowl LIII.

AB’s ads aren’t false or misleading because Molson admitted that corn syrup is an ingredient in its beers, the court said.

The Western District of Wisconsin granted Molson a preliminary injunction that prevented AB from implying Coors Light and Miller Lite contain corn syrup in television, billboard, and print advertising—although it was allowed to advertise the beers are made using corn syrup without implying that corn syrup is in the beer itself. It later blocked AB from using “no corn syrup” on its Bud Light packaging because it could imply that Molson’s beers contain corn syrup in the context of the full campaign.

Molson appealed the decision not to also bar AB from advertising that the beers are “brewed with,” “made with,” or “use” corn syrup. AB appealed the packaging injunction. But the U.S. Court of Appeals for the Seventh Circuit said none of the injunction should stand.

“To the extent that the injunction prevents Anheuser-Busch from stating that Miller Lite or Coors Light ‘contain’ corn syrup, it is vacated,” the court said. “Because Anheuser-Busch has never stated this, or said that it wants to do so, that aspect of the order is advisory.”

“This case is and always has been simple,” Judge Frank H. Easterbrook said.

Molson itself has listed corn syrup as an “ingredient” in the beers, and its own managers testified that the beer “contains” everything on the ingredients list. Molson failed to show how a list of “ingredients” differed from what the beers “contain.”

“By choosing a word such as ‘ingredients’ with multiple potential meanings, Molson Coors brought this problem on itself,” the court said. “If Molson Coors does not like the sneering tone of Anheuser-Busch’s ads, it can mock Bud Light in return. Litigation should not be a substitute for competition in the market.”

And the court said AB has never explicitly advertised that Molson beers “contain” corn syrup.

“True, it has made statements from which some consumers doubtless infer that some corn syrup avoids fermentation and makes it into the beer,” the court said. “Still, Molson Coors’s own statements yield the same inference.”

The Seventh Circuit remanded for the district court to determine whether its decision ended the proceedings or any issues remained for trial.

Judges David F. Hamilton and Amy J. St. Eve joined the opinion.

Quarles & Brady LLP represents Molson. Dowd Bennett LLP, Godfrey & Kahn SC, and Barack Ferrazzano Kirschbaum & Nagelberg LLP represent AB.

The case is Molson Coors Beverage Co. v. Anheuser-Busch Cos., 7th Cir., No. 19-02200, 5/1/20.

**(Updated with additional reporting.)**

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