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Ninth Circuit Revives False Advertising Case Involving Product Review Site Given Alleged Undisclosed Connections to Plaintiff's Competitor



In a published ruling, the Ninth Circuit recently held that a company potentially stated a claim for false advertising under the Lanham Act when it alleged that a product review site had significant undisclosed financial connections to a competitor while purporting to be independent.

In *Ariix, LLC v. NutriSearch Corp.*, 985 F.3d 1107 (9th Cir. 2021), a dietary supplement manufacturer lodged a false advertising Lanham Act claim against product review site NutriSearch, alleging that it was rigging its ratings for a competitor in exchange for financial compensation. According to the allegations, the competitor paid hundreds of thousands of dollars to NutriSearch and the website's author, and these payments provided more than 90% of the author's entire income. The Ninth Circuit reversed the district court's dismissal of the plaintiff's complaint and directed the lower court to assess whether NutriSearch made the challenged false or misleading representations "in commercial advertising or promotion."

## **Authors**

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