

Jägermeister defeated by Selva Negra in trademark dispute

In a David vs. Goliath case, herbal liqueur giant Mast Jägermeister is defeated by newcomer Selva Negra, which we represent, in a dispute over its logo. The Hamburg Regional Court ruled that Selva Negra does not infringe the trademark rights to Jägermeister's deer head.

SELVA NEGRA vs. Jägermeister



[Selva Negra](#) is a young company that offers the first agave spirit produced in Germany. The concept behind Selva Negra is to offer a premium product that has references to the Black Forest and Mexico in its design. The visual reference to Mexico, is a reference to the home of [tequila](#) and [mezcal](#), the most famous agave spirits.

On the bottle, in addition to the large lettering "SELVA NEGRA" and other elements, there is a frontal image of a mixed creature with elements of a bull and a deer. The look of the creature is reminiscent of the look of costumes and paintings for the "[día de los muertos](#)", the Mexican Day of the Dead, as it also became known in this country through films such as James Bond and Coco. In addition, the creature wears on its head a [Bollen hat](#) from the Black Forest, which at the same time reminds of headdresses of the Mexican artist Frida Kahlo. Other pictorial elements are also reminiscent of the Black Forest and Mexico.

The frontal image of the animal now called the competition to the scene.



Mast Jägermeister, manufacturer of the well-known herbal liqueur [Jägermeister](#) saw in the animal creature an encroachment on their trademark rights. For its part, Jägermeister has for many years used a frontal image of a hunter's stag with the Jägermeister lettering underneath. Jägermeister has also protected the stag in multiple versions as an isolated trademark.

Jägermeister now took action against Selva Negra's trademark, since the depiction of the frontal animal head on Selva Negra's label interfered, in Jägermeister's opinion, with the trademark rights to Jägermeister's deer head. The animal on the label of Selva Negra is too similar to the deer of Jägermeister and is associated with the deer and Jägermeister by the targeted traffic. In the specific case, Jägermeister based its claims on a German trademark with a black and white version of the round stag emblem.

Jägermeister based its claims, among other things, on the familiarity of its brand. The notoriety was attributed in part to the long service life and a traffic report for an earlier version of the deer logo. Selva Negra's mark exploited the distinctive character and appreciation of Jägermeister's deer head mark. In addition, there was a likelihood of confusion. In addition, claims were asserted under competition law for unfair imitation of the Jägermeister bottle label.

In our opinion, however, Selva Negra's sign does not interfere with that of Jägermeister, since the overall impression of the sign is so clearly different from that of Jägermeister that the relevant public does not mentally associate the signs. No consumer would think there was a connection to Jägermeister when looking at the bottle of Selva Negra. The differences are even clearer when the parties' labels are compared with each other, so that claims under competition law are also ruled out.

In our opinion, there are also doubts as to the use of Jägermeister's deer head trademark that preserves the rights, since Jägermeister only uses the head on its products in combination with the banner with the words Jägermeister.

LG Hamburg: Jägermeister defeated by Selva Negra

The Hamburg Regional Court dismissed the action brought by Jägermeister by judgment of March 3, 2023 - Case no. 315 O 274/21 has now been dismissed.

Although the Regional Court assumed that Jägermeister's sign was well known in Germany, they correctly assessed the signs as dissimilar.

When comparing characters, each character must be compared as a whole. and compare them with each other in terms of their overall impression. Because of the extended scope of protection of a mark with a reputation, it is sufficient in principle that the conflicting signs are associated with each other. For this, it is necessary that the contested sign is attributed to the proprietor of the earlier mark as a result of a partial similarity in essence or a similarity in meaning. It is not sufficient, however, that a sign is merely capable of attracting attention by mere association with another's mark.

The LG Hamburg then concludes that the public does not make a relevant mental association between Selva Negra's mark and Jägermeister's mark because the signs are dissimilar. Thus, there was neither an even partial correspondence in a core of the same essence nor a correspondence in the meaning. Thus, there is also no likelihood of confusion. The Hamburg judges also consequently denied the competition law claims due to the lack of imitation.

Conclusion

Even if one can have understanding for Jägermeister to defend the own protection area for the own deer head brand, Jägermeister has overshoot the mark in our opinion. The signs are clearly recognizable in each component and their overall impression is so different that one cannot speak of an impairment of Jägermeister's deer head mark.

We are pleased that the Hamburg Regional Court has made a clear and unambiguous statement in this regard and that we were able to successfully defend our client. Whether and how the dispute will continue remains to be seen. Jägermeister has announced its intention to appeal.