

# What It Means To You

Legal News You Can Use — from Salmas Law Group • Attorneys At Law

## Will the Real Serrano Ham Please Stand Up?

Have you ever had serrano ham? It originated in Spain hundreds of years ago when seasoned pork legs were hung for months from restaurant ceilings to cure. Today, Spanish Serrano ham is still made the same way. Quaint? Yes. Clean? Probably not. Commercially efficient? No.

American producers, seeing the demand for serrano ham, responded with modern food technology to develop methods that produce the same product, but in a fraction of the time—and a fraction of the cost. In response, a Spanish trade group is petitioning various world bodies for a law prohibiting “Serrano ham” from appearing on anything but Spanish pork. And if that puts U.S. producers out of business and costs Americans’ jobs, so much the better.

Maybe you don’t like serrano ham. But how about cheddar cheese, swiss cheese, mozzarella, parmesan, romano, roquefort, darjeeling tea, bologna (and boloney), cognac, champagne, bordeaux, chablis, Budweiser brand, sauternes, chianti, marsala, salami, port wine, dijon mustard, cappuccino, and Irish cream? Each of these food names, *along with 4800 others*, is the subject of petitions to have the word outlawed for general use.

Would this affect California business? Considering agriculture is our number one industry, the answer is yes. As the nation’s largest cheese producer, having to sell “yellow cheese” instead of “cheddar” would be particularly devastating. And what about California champagne? Consider your daughter’s wedding reception. What label do you want sitting on the table in front of your relatives: “Champagne” or “Sparkling Wine?”

U.S. food manufacturers are facing a whole new kind of competition. Ironically, it’s not better or cheaper products they’re battling, but more exclusive, pricey ones. There is a movement among trade groups in foreign countries to obtain “certification mark” status for the names of products that historically originated in their regions in order to prevent the use of those names by competitors in other countries. They file a petition with the trademark office in a given country, and if no one challenges it, the word most

likely becomes the property of the region that filed the petition. Then the inefficient foreign producer doesn’t have to compete as hard. He can charge a premium price for a product he calls “authentic” because only he can use the original name.

The foreign trade groups claim they’re protecting old world traditions of food production. But what they’re really doing is trying to make modern technology illegal and competition sinister. Food manufacturers compete by finding ways to produce their products more efficiently and cost effectively to give consumers the best mix of quality and price. However, rather than improving their processes to stay competitive, foreign trade groups have chosen to use politics to attempt to eliminate competition.

When one of these regionalizations of a generic word becomes law, three things increase: the product’s price, the consumer’s confusion, and U.S. manufacturer’s anxiety. The cost to re-educate the public about the value and quality of a new product name would be astronomical and not necessarily a winning proposition. Many U.S. companies feel overwhelmed by the claims of these foreign trade groups and elect not to challenge them in court, which amounts to relinquishing their market share to foreign producers who will now manufacture and distribute under the name the U.S. company used to establish its public identity. At Salmas Law Group, we are fighting to keep “manchego,” a type of cheese produced by our client, Cacique, Inc., in the public domain. Although a Spanish association of dairies has succeeded in monopolizing “manchego” in other countries, here in the U.S., we’ve stopped them in their tracks.

What can we all do to stay alert? Have someone monitor your trademarks. If a problem arises, be sure that your trade association knows about it. And, as consumers and voters, we can be aware of what happens when globalization runs amuck. It’s good when tariffs are lifted and there’s an opportunity for free trade and a larger selection of products. But at its worst, globalization can create artificial barriers that stifle competition and dull the cutting edge of technology.

# DID YOU KNOW

Starting January 1, 2004, an employee taking family care leave under the federal Family Medical Leave Act (FMLA) or the California Family Rights Act (CFRA) is eligible to receive up to six weeks of wage replacement benefits.

An employer can change an existing leave program, and even diminish benefits, as long as the new program complies with the FMLA and CFRA by meeting or exceeding the minimum requirements.

An employee who is on family care leave can be terminated as part of a company-wide workforce reduction. In other words, if the decision to terminate an employee on family care leave has nothing to do with that leave and is based on other legitimate business factors, that decision should be upheld by the courts.

Let them leave to take care of the family, but do not let them take advantage of you.

**Salmas Law Group**  
1880 Century Park East, Suite 420  
Los Angeles, CA 90067  
Tel. 310.556.0721 Fax 310.788.8923  
Email: AMiller@Salmas-Law.com  
Website: www.Salmas-Law.com