

Legal Alert

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"It's Not Milk" vs "Post Milk Generation" – two legal orders, two different perspectives

On 11 February 2026, the Supreme Court of the United Kingdom ruled that the *POST MILK GENERATION* trademark is invalid for oat-based food products and beverages, and that the word "milk" may not appear even in an advertising slogan of an oat-based beverage producer. This approach is entirely different from that presented by Polish courts, which have held that a modified, graphic reference to milk does not infringe the regulations. Both judgments concern the same EU regulation, yet the conclusions are completely different.

Poland: "Not Milk" Is Acceptable

On 30 January 2024, the Voivodeship Administrative Court in Gliwice heard a case concerning an oat-based beverage, the label of which contained the phrase "*to nie mleko*" (ENG: "it's not milk"), where the letter "o"¹ was replaced with a graphic of a white liquid droplet.

The Voivodeship Inspectorate of Agricultural and Food Quality found that such labelling misled consumers by suggesting that the carton contained milk of animal origin, and that it constituted an attempt to circumvent EU regulations.

The Voivodeship Administrative Court disagreed with that position. It emphasized that the regulations must be interpreted through the lens of a consumer who is at least reasonably diligent, aware, and inquisitive, and that the assessment must take into account all information available at the point of purchase. The packaging bore the full product name "*Oat Beverage with Added Calcium and Vitamin D*", the phrases "*plant-based delicious*" and "*oat-based*", as well as images of oats. The court held that "*nie mleko*" (ENG: "not milk"), on one hand, clearly communicates that the product is not milk and, on the other, through association, conveys that it is a plant-based substitute with a similar use. It is difficult to identify any misleading effect in such circumstances.

United Kingdom: "Post Milk Generation" – The End of an Era

The case concerned the trademark "*POST MILK GENERATION*", registered by Oatly in 2021 for oat-based products. Dairy UK Ltd, a dairy industry association, filed an application for its invalidation.

After a lengthy legal battle, the Supreme Court of the United Kingdom ultimately upheld the decision declaring the trademark invalid.²

The key question was: *what does the word "designation" mean in EU Regulation 1308/2013*?³ Oatly argued that the term refers exclusively to the product name and that "*Post Milk Generation*" is not a product name. **The Supreme Court of the United Kingdom rejected that interpretation and held that the prohibition covers any use of the term in marketing, including as part of a trademark or advertising slogan.**

The court also found that "*Post Milk Generation*" does not describe a characteristic of the product (e.g. the absence of milk), but rather describes the consumers themselves, i.e., a younger generation expressing concerns about the dairy industry.

What Does This Mean for the Industry?

The example described above highlights how different approaches may be taken regarding a similar set of facts. When preparing labels and marketing communications for food products, including those of plant origin, it is worth examining the regulations from a broad perspective. We will be happy to assist you in this regard!



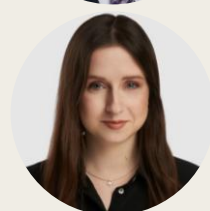
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¹ Judgment of the Voivodeship Administrative Court in Gliwice of 30 January 2024 (ref. no. III SA/GI 664/23).

² *Dairy UK Ltd (Respondent) v Oatly AB (Appellant)* (access: 6 March 2026).

³ Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organization of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007.