

Another FTC Strike Against “Selfie” Certification Marks

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by Sandra Edelman

We’ve [blogged](#) about recent enforcement actions taken by the FTC against companies using deceptive “selfie” certification marks. These are seals of approval created by or otherwise affiliated with the companies whose products or services are being marketed, without disclosure of the material connection between the certifier and the company.

Last week, the FTC struck again to put a stop to this practice in a [Complaint](#) and proposed [Final Order](#) filed against NextGen Nutritionals, LLC and related parties. The gravamen of the enforcement action against NextGen was deceptive and unsubstantiated weight loss and therapeutic health claims used to promote the company’s diet products. NextGen accompanied its false and unsubstantiated ad claims with “Certified Ethical Site” seals of approval. These seals included a “click to verify” link to content assuring consumers that the website had been “verified to be ethical and trustworthy” by Ethical Site, an organization dedicated to being “the most reliable evaluator of trust in the online business marketplace.”

Related Capabilities

- Trademark, Copyright + Advertising
- Intellectual Property Litigation



Ethical and Trustworthy? Not so much. Turns out that the Ethical Site seals displayed by NextGen were issued by a company owned by the same individuals who owned NextGen. And not surprisingly, there was no disclosure of this material connection. The FTC Complaint alleged that the seals communicated the deceptive representation that Ethical Site was an independent third-party certification program for verification of the ethics and trustworthiness of NextGen’s website content. The stipulated Final Order, as in the previous FTC enforcement actions against “selfie” certification seals, enjoins

any further misrepresentation that “an entity providing an endorsement, seal, or certification is independent of the product or service advertiser.” The Order also imposes a \$1.3 million judgment for NextGen’s various legal violations, most of which will be suspended in light of the defendant’s financial condition.

Given the FTC’s ongoing regulatory focus on misleading certification seals of approval, any company continuing to display “selfie” certification logos would be wise to remove them!