



# Frito-Lay sued for labeling its GMO-filled snacks as “All Natural”

Rady Ananda  
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Less than a year after Frito-Lay announced plans to make half their products without “any artificial or synthetic ingredients,” the \$13 billion company was sued last week in federal court for fraudulently marketing the snacks that contain genetically modified ingredients.

Somehow, “artificial” and “synthetic” doesn’t include “genetically modified” in Frito’s mind.

In its April 2011 “Seed-to-Shelf” disclosure campaign, Frito-Lay promised to inform consumers about each individual snack’s ingredients, even setting up an app for smartphone users to swipe the product’s barcode and read about it. Ann Mukherjee, Frito-Lay’s senior vice president and chief marketing officer, gushed:

“What better way to share the story behind Frito-Lay snacks than by giving consumers a look inside our Flavor Kitchen to see first-hand the all natural ingredients and real foods that inspire the products we make?”

Real foods? All natural? Even Monsanto defines genetically modified organisms as unnatural, which the lawsuit quoted:

“Genetically Modified Organisms (GMO) – Plants or animals that have had their genetic makeup altered to exhibit traits that are not naturally theirs.”

The World Health Organization agrees, defining GMOs as “organisms in which the genetic material (DNA) has been altered in a way that does not occur naturally.”

The lawsuit names only one plaintiff, Julie Gengo of Richmond, California, but includes all those who purchased Frito’s products which bear the “ALL NATURAL” label. Last August, the law firm Milberg LLP invited potential litigants to contact them.

Though Gengo holds a BS in Electrical Engineering, she earns a living as an independent marketer for such organizations as Berkeley Playhouse/Julia Morgan Center for the Arts, Vital Systems, Bay Area

Green Tours, Oxfam America and Slow Money Northern California. She describes herself as “an ongoing environmental, and healthy foods advocate.”

In early 2009, she wrote Genetically Modified (GM) Foods – Another Reason to Buy Organic, warning people that Frito-Lay uses GMOs. According to the complaint, since 2007, she regularly bought the company’s Tostitos and Sun Chips believing they were “all natural” as indicated in advertising and on the package.

On Dec. 20, Frito’s “Naturally Delicious” webpage still boasts:

“All Frito-Lay snack chips made with natural ingredients start with all-natural corn or potatoes and healthier oils. For our flavored LAY’S®, TOSTITOS® and SUNCHIPS® products, we are using all natural seasonings that don’t have artificial or synthetic ingredients.”

But because they contain GMOs from genetically modified corn and genetically modified soy, in five separate counts, plaintiff charges Frito-Lay with fraud, deception, unfair competition and false warrants under several laws including the federal Magnuson-Moss Warranty Act.

Based in New York City and specializing in class-action lawsuits on behalf of investors and consumers, Milberg LLP also has offices in Los Angeles, Tampa and Detroit. Founded in 1965, the firm now employs about 75 attorneys.

After two successful class action suits against military contractors Raytheon and General Electric, in 2006 Milberg was the target of a criminal probe by the US Dept of Justice. The firm and some of its partners were indicted on 20 criminal counts including bribery, racketeering and fraud. The DOJ press release alleges the firm participated “in a scheme in which several individuals were paid millions of dollars in secret kickbacks in exchange for serving as named plaintiffs in more than 150 class-action and shareholder derivative-action lawsuits.”

Four of Milberg LLP’s partners served time in prison, and the firm paid \$75 million in fines before the DOJ dropped the matter, reports Wikipedia.

Frito-Lay North America is a wholly-owned subsidiary of PepsiCo, Inc. Though Pepsi uses genetically modified sweeteners (high fructose corn syrup) in its soft drinks, it does not label them for U.S. consumers, adhering to the US regulator policy of hiding GMOs from the public.

In 2009, the US Food and Drug Administration proposed rules banning GMO labels. Despite government policy of keeping GMO food ingredients secret from the public, citizens are advancing toward requiring full disclosure.

- House Rep. Dennis Kucinich (D-OH) recently introduced H.R. 3553, the Genetically Engineered Food Right to Know Act and H.R. 3554, The Genetically Engineered Safety Act, which would prohibit the open-air cultivation of genetically engineered pharmaceutical and industrial crops.
- The Frito-Lay lawsuit was initiated in California where a GMO-label law has been proposed for vote in the November 2012 election.

- In Ohio, a district court overturned the ban on labeling milk as free from artificial hormones last year. The FDA approves the genetically modified additive, which has been linked to cancer and lower milk quality. Developed by Monsanto, rBGH is banned in Canada, the European Union, Japan and Australia.

I have to admit I still enjoy a bag of Fritos every now and then, a victim of high school euphoric recall when we would smoke a bowl and then eat Fritos, washing them down with cold chocolate milk. (What a body rush.) Still, I want the packages labeled. A better snack is hand-made eggrolls, with completely organic ingredients and sauce. You can find that recipe in *Cooking Close to Home*. I even found a package of eggroll wraps (at Whole Foods Market) that advised the product was made without GMOs. Na na na to the FDA.