

CORPORATE FOCUS

Orange Growers Feel Squeezed by Patent

Florida Group Wants Tropicana's Exclusive Right to Blend New Varieties Revoked

By **BETSY MCKAY**

HAROLD MCTEER, a citrus grower in Winter Haven, Fla., had high hopes when he agreed to plant some experimental varieties of oranges. Brought from Brazil and adapted to the state's climate and soil by researchers at the University of Florida, the oranges held the promise of lower costs for juice producers, as well as extending the production season for fresh oranges.

Six years later, though, Mr. McTeer worries he won't be able to get a decent price for his 20-acre crop. The juice producer he sells to nearby can't use the oranges because Tropicana Products Inc. has a patent for their exclusive use in making its Pure Premium orange juice. Mr. McTeer, for his part, doesn't have a contract with Tropicana, a unit of PepsiCo Inc. "What do I do with these 20 acres of trees that are coming on?" he asks.

Mr. McTeer and other growers are hoping an answer will come this month. That's when attorneys for Florida Citrus Mutual, an industry trade group that last year filed a complaint with the U.S. Patent and Trademark Office about the Tropicana patent, say they expect the office to decide whether to revoke the patent. A spokeswoman for the patent office said only that a decision is expected "in the near future."

'Tying' Growers' Hands

The office agreed to step in after Florida Citrus Mutual complained that Tropicana had patented a technology commonly used in the juice business, and that it was claiming exclusive rights to research that had been conducted with funds from the growers. Florida Citrus Mutual, of Lakeland, Fla., represents more than 11,000 growers in the state.

"Tropicana is tying the hands of growers," says Andy LaVigne, executive director of Florida Citrus Mutual.

Tropicana, for its part, says it is merely trying to protect an investment it made to conduct several years of research and testing on the new varieties of oranges. "We feel our ingenuity should be rewarded with this patent," says Mark Dollins, a spokesman for PepsiCo's Quaker Oats and Tropicana units. He wouldn't specify the amount of the company's investment.

The matter is of no small importance both to the growers and juice producers. Tropicana, Coca-Cola Co.'s Minute Maid and other juice producers are seeking cost savings in the increasingly competitive not-from-concentrate orange juice market, which recorded \$932 million in sales in the first half of this year. "Not from concentrate" juice is pure juice that hasn't been reconstituted from concentrate.

Growers have been hit with a five-year lull in prices because of a glut of oranges around the world. Both sides also are trying to make their businesses more efficient as they potentially face increased competition from Brazil.

Self-Imposed Tax

Work began on the four new varieties of oranges more than a decade ago, when a horticulturist from the University of Florida's Citrus Research and Education Center identified and brought them back from Brazil. Using a fund made up of a self-imposed tax the growers pay on each box of oranges they sell, the researchers tested the oranges for juice quality and adapted them for use in Florida.

In the mid 1990s, Bill Castle, the horticulturist, says he showed his initial work to several juice producers. Scientists from Tropicana took an immediate inter-

est. The two sides collected sets of complementary data, Dr. Castle says, gathering samples from the same experimental orange grove and analyzing them in their labs. Tropicana also arranged for the new varieties to be propagated for further testing in groves of its growers, Dr. Castle says.

The four new varieties of oranges are considered a potential breakthrough for the not-from-concentrate orange juice business in Florida because they offer a better quality orange than is currently available in the early picking season, from October through January. Normally during that period, to maintain a consistent product year round, juice producers must blend fresh juice from early-season Hamlin oranges, which are pale in color, with more brightly colored, sweeter Valencia orange juice stored at great expense from the previous growing season.

Tropicana—already the dominant player in the chilled-juice business, with a 34% share—applied for and won a patent in November 2000 on the exclusive right to blend the new oranges with the paler Hamlin oranges, reducing or even eliminating the need to store the Valencia juice. The move promised huge cost savings: A single tank for storing orange juice costs about \$1 million, according to industry experts.

Ambersweet Experiment

Blending juice, Florida Citrus Mutual argues, is a common technology in the orange-juice business, done to ensure consistency in taste and color of the juice year round. Neither Minute Maid nor Citrus World, producer of Florida's Natural Juice, formally joined Florida Citrus Mutual's complaint, but both support the move.

Tropicana has concluded contracts with several growers for the new oranges. But overall, the number of trees planted in the state remains small. Others are hesitant to plant the new oranges not only because there is only one buyer, but also because research has yet to be completed documenting precisely how productive the trees will be. An experiment several years ago to produce an orange with similar characteristics as the new varieties failed. The trees bearing that variety, called ambersweet, couldn't produce enough fruit.

Testing so far shows the new varieties to be about 80% as productive as Hamlins, Dr. Castle says. Mr. McTeer, who lent his acres for the University of Florida's research, agrees that the new varieties are promising. "This is no ambersweet," he says.