

## Stevia Patent Claims Fall After SweeGen Challenge

By Adam Lidgett

*Law360 (May 24, 2022, 8:53 PM EDT)* -- A California federal judge has agreed that claims in a pair of PureCircle USA Inc. stevia sweetener patents weren't valid, agreeing with SweeGen Inc.'s argument that the claims lacked a valid written description.

In the Monday order, U.S. District Judge James V. Selna granted SweeGen summary judgment on its defense that claims in the two patents-in-suit — U.S. Patent Nos. 10,485,257 and 9,243,273 — were invalid on the grounds that they didn't have enough written description. Patents' written descriptions must convey with reasonable certainty to skilled artisans that the inventors were in possession of a claimed invention.

The patents cover a way of producing chemical compounds called steviol glycosides, according to court documents. The September 2018 complaint said SweeGen was infringing with its Bestevia Reb M sweetener.

The '273 patent, which has the same specification as the '257 patent, discloses a way of converting a glycoside called Rebaudioside D to one called Rebaudioside X by using a specific enzyme as a catalyst, according to court documents.

The judge said that the patents only included limited working examples of that enzyme, known as UDP-glucosyltransferase, and that those enzymes "are not representative of the entire genus."

PureCircle, which describes itself as an "industry pioneer in large-scale high-purity stevia ingredient production and commercialization" filed suit in California federal court, saying SweeGen was infringing on PureCircle's patent with Bestevia Reb M.

SweeGen then asked the U.S. Patent Trial and Appeal Board for inter partes review of one of the patents.

However, in October 2019, the board said SweeGen failed to prove that patent was likely to be found invalid.

"As a holder of core proprietary technologies of wellness ingredients, SweeGen vigorously guards its intellectual property rights and respects those of others," SweeGen CEO Steven Chen said in a statement on Tuesday. "We have always maintained that PureCircle's patents were invalid and its case against SweeGen spurious."

Ingredion Inc., which owns PureCircle, said in a statement to Law360 that it was "disappointed with the court's ruling" and that the company plans "to file an appeal to continue to vigorously defend [its] intellectual property."

The patents-in-suit are U.S. Patent Nos. 10,485,257 and 9,243,273.

PureCircle is represented by Richard T. Mulloy, Catherine Huang and Dawn M. Jenkins of DLA Piper, Stuart E. Pollack of Kilpatrick Townsend & Stockton LLP, and Brent O. Hatch of Hatch Law Group PC.

SweeGen is represented by J.C. Rozendaal, Dennies Varughese, Deirdre M. Wells and Michael Joffre of Sterne Kessler Goldstein & Fox PLLC, and Karin Pagnanelli of Mitchell Silberberg & Knupp LLP.

The case is PureCircle USA Inc. et al. v. SweeGen Inc. et al., case number 8:18-cv-01679, in the U.S. District Court for the Central District of California.

--Additional reporting by Dani Kass. Editing by Kristen Becker.