



Drinkware Dispute: Testing Claims with Early Consumer Surveys

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The product category is part of a large, competitive consumer marketplace rife with commercial disputes. Our litigation survey consulting team was engaged early in this matter, when the client was evaluating legal theories and the use of survey evidence.

The Case Challenge

A drinkware brand was concerned about competitors marketing similar products to the same customers, raising questions of trademark infringement and unfair competition. The brand needed to understand consumer perceptions of the drinkware product designs at issue and whether their claims would be supported by consumer survey evidence.

The Expert Solution

Our team was retained to provide litigation survey consulting services regarding drinkware products. This exploratory survey approach offers custom research into consumer attitudes, perceptions, and behaviors relevant to litigation, rather than producing evidence for expert testimony in court.

To evaluate the brand's questions, we conducted surveys addressing legal theories such as likelihood of confusion and secondary meaning. This provided insight into how consumers responded to the drinkware product designs and claims at issue, which theories were most likely to be supported by survey evidence, and what type of additional research (if any) was warranted.

The surveys also included measures to assess different trademark litigation strategies and legal theories under consideration by the brand. The surveys were tested among the consumers

most pertinent to each legal theory, with results remaining confidential since no testifying expert was involved.

The Outcome

In this case, litigation survey consulting helped the brand better understand whether consumer research could inform or support its claims and how the findings could guide next steps in the litigation strategy. Our team's early research enabled strategic decision-making and identified specific survey elements that proved to be useful.

Trusted Litigation Survey Consulting for Trademark Matters

Litigation survey consulting can be especially valuable in cases like these, when corporate legal teams need answers to consumer perception questions before deciding whether to retain a testifying expert or commission a full evidentiary survey. Because this work is exploratory and strategic, it offers a lower-risk way to evaluate legal theories and make data-informed decisions while matters are still developing.

Litigation survey consulting can also help legal teams explore questions such as:

- Do consumers respond to a particular statement, trademark, or packaging as expected?
- What type of consumer survey is most appropriate for the matter at hand?
- How do different types of consumers respond to a given theory of the case?
- Is the trademark famous enough for survey respondents to remember it without seeing it?
- How strong is the evidence likely to be across different topics?

When more than one legal theory or survey approach is available, the IMS litigation survey consulting team can help clients weigh those options, narrow their focus, and determine which path is most likely to be productive.

This case study represents work conducted by the expert team at MMR Strategy Group, which joined IMS in May 2025 to form our dedicated Litigation Surveys & Consumer Science division.

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