The purpose of this 2.5-day course is to present principles involved in testing product performance and surveys to assess advertising messages. This knowledge base is necessary in order to provide solid evidentiary support needed in the event of a claims dispute. Claims support is a critical business focus for many companies in categories with aggressive competitors.

Invited speakers include NAD attorneys, litigators, in-house counsel, and an arbitrator to help present these cases and engage discussion. The course speakers have decades of experience as instructors, scientific experts, jurors, and litigators in addressing claims with significant survey and product testing components. National Advertising Division® (NAD®) and litigated cases will be used to examine and challenge the information discussed.

The Scientific Team
- Dr. Daniel M. Ennis
- Dr. Benoît Rousseau
- William J. Russ

The Legal Team
- Jennifer Santos
- LaToya Sutton
- Zheng Wang

Litigation/Arbitration
- Lauren Aronson
- David G. Mallen
- Larry Weinstein

In-House Counsel
- Carrie Kovalerchik
- Kristin Marchesiello

The course is held within walking distance of historic Colonial Williamsburg which is a living-history experience of several hundred restored or re-created buildings from the 18th century. Visit www.colonialwilliamsburg.org for detailed information.

THIS COURSE WILL ALSO BE PRESENTED VIA

ZOOM

If you are unable to attend in person, this course will also be live streamed via Zoom. If you attend virtually, you will be sent a link by email to join the meeting with the speakers and other attendees. All supporting materials will be mailed to you before the event, so please register early to allow for sufficient shipping time.

TUESDAY (MAY 24, 9am - 5pm ET)

9:00 – 10:00 | Advertising Claims Support
- Introduction and scope of the course
- Claims support in product/brand development
- Admissibility of expert testimony
- Surveys in false advertising and trademark cases
- Efficacy, perception, and materiality

10:10 – 11:00 | Claims and False Advertising; Internal Counsel Perspective
- Three ways an ad can be false
- A typical false advertising lawsuit
- Puffery, falsity, and injury examples:
  - The Procter & Gamble Co. vs. Kimberly-Clark (2008)
  - Schick vs. The Gillette Co. (2005)
- To sue, challenge, or negotiate - an internal counsel’s perspective

11:10 – Noon | Arbitration and ASTM Sensory Claims Guide
- The arbitration process
- Review of the ASTM Claims Guide
  - Evolution of the Guide content
  - Choosing a target population, product selection, sampling and handling, selection of markets
- Claims: Superiority, unsurpassed, equivalence, non-comparative

12:10 – 1:00 | Test Method, Design, Location, and Participants
- Test options: Monadic, sequential, direct comparisons
- Test design issues: Within-subject, matched samples, position and sequential effects, replication
- Choosing a testing location and test subjects
1) NAD Case #5425 (2012) Church & Dwight Co., Inc. (Arm & Hammer Sensitive Skin Plus Scent)
2) NAD Case #5782 (2014) The MOM brands Company (Malt-O-Meal Cereals)
3) NAD Case #6041 (2016) Unilever United States, Inc. (Suave Essentials Body Wash)

2:10 – 4:00 | NAD Mock Hearings; Overview of the NAD
- NAD Mock Hearing #1: MillerCoors - Miller Lite vs Bud Light
- NAD Mock Hearing #2: General Mills - Yoplait vs Chobani
- Advertising self-regulation and the NAD process
- Preparing for an NAD hearing
4) NAD Case #5129 (2009) MillerCoors, LLC (Miller Lite Beer)
5) NAD Case #5715 (2014) General Mills Inc. (Yoplait Blended Greek Yogurt)

4:10 – 5:00 | Sensory and Hedonic Methods
- Methods: Difference, descriptive, hedonic
- Data: Counts, ranking, rating scales
- “Better” and “Greater”, hedonic, sensory, and technical claims
- Attribute interdependencies
6) NAD Case #5866 (2015) Kimberly-Clark Corp. (Huggies Natural Care Wipes)
7) NAD Case #5874 (2015) and NARB Panel #207 (2016) Chattain, Inc. (Nasacort)
8) NAD Case #5984 (2016) French’s Food Company (French’s Tomato Ketchup)

WEDNESDAY - outline continues on next page...
Setting action standards for consumer-perceived differences
Linking expert and consumer data
Clinical vs. statistical significance
Litigated Case: S.D.N.Y. 2012 Church & Dwight Co., Inc vs. Clorox Co. (cat litter)
9) NAD Case #5974 (2010) Comcast Communications, Inc. (Xfinity Internet, Television & Telephone Services)
10) NAD Case #6025 (2010) Bausch & Lomb, Inc. (PeroxIClear Contact Lens Peroxide Solution)
11) NAD Case #6131 (2017) Too Faced Cosmetics, LLC. (Better Than Sex Mascara)

Answering questions
Purpose of conducting surveys: Events and behaviors, attitudes and beliefs, subjective experiences
How respondents answer questions: Optimizing and satisficing
Filters to avoid acquiescence and no opinion responses
Survey questions: Biased, open-ended vs. closed-ended
Steps to improve survey questions

A survey must include: Sample, design, questionnaire, analysis
Reliability and validity:
Ecological, external, internal, face, construct
Bias: Code, position
Task instructions – importance and impact
Data collection methods
Target universe and size, controls, biased questions, improvements in design and analysis
Design Issues: Monadic vs sequential monadic (within subject), separating open-ended questions from close-ended
The stimulus is the label or ad, not the product itself
Why open-ended questions are not a good basis for quantification
Common design flaws

Consumer takeaway surveys: NAD perspective, critique of cases
12) NAD Case #5849 (2015) T-Mobile USA (More Data Capacity)
13) NAD Case #5926 (2016) Comcast Cable Communications (Xfinity Cable TV)
14) NAD Case #6009 (2016) Epson America, Inc. (Epson EcoTank Supertank Printers)

Independent research on the Bayer Advanced fertilizer case
15) NAD Case #6033 (2016) Bayer CropScience US (Bayer Advanced 3-in-1 Weed and Feed for Southern Lawns)

Hypothesis testing
Determining statistical significance and confidence bounds
Communicating claim requirements to the business side
Litigated Case: S.D.N.Y. 1994 Avon Products vs. S.C. Johnson & Son, Inc. (Skin-So-Soft)
16) NAD Case #5569 (2013) InterHealth Nutraceuticals (Zychrome Dietary Supplement)
17) NAD Case #5755 (2014) The Procter & Gamble Co. (Olay Sensitive Body Wash)
18) NAD Case #6236 (2018) Abbott Nutrition (Similac Human Milk Fortifier)

4:10 – 5:00 | Test Power
The meaning of power
Planning experiments and reducing cost
Sample sizes for claims support tests
Managing Risks: Advertiser claim, competitor challenge
19) NAD Case #6065 (2017) Shell Oil Co. (Shell V-Power NiTRO+ Premium Gasoline)
20) NAD Case #6164 (2018) The Procter & Gamble Co. (Finish® Quantum® Max Automatic Dishwasher Detergent)

10:10 – 11:00 | Testing for Equivalence and Unsurpassed Claims
How the equivalence hypothesis differs from difference testing
ASTM requirements for an unsurpassed claim
The paradox of finding support for superiority, unsurpassed, and equivalence; the need for a minimum standard for superiority
FDA method for qualifying generic drugs: The TOST
22) NAD Case #6037 (2016) Mizkan America, Inc. (RAGU Homestyle Traditional Sauce)

11:10 – Noon | Ratio, Multiplicative, and Count-Based Claims
The difference between ratio and multiplicative claims
Examples of multiplicative claims
Count-based claims (e.g., “9 out of 10 women found our product reduces wrinkles”)
26) NAD Case #5107 (2009) Ciba Vision Corp. (Dailies Aqua Comfort Plus)
27) NAD Case #5416 (2012) LG Electronics USA, Inc. (Cinema 3D TV & 3D Glasses)
28) NAD Case #5484 (2012) Reynolds Consumer Products (Hefty® Slider Bags)
29) NAD Case #5779 (2014) S.C. Johnson & Son, Inc. (Scrubbing Bubbles Heavy Duty Cleaner with fantastik & Scrubbing Bubbles Bleach 5-in-1 All Purpose Cleaner with fantastik)
30) NAD Case #5934 (2016) Rust-Oleum Corp. (Painter’s Touch Ultra Cover 2X Spray Paint)

12:10 – 1:00 | “Up To” Claims and Conclusion
Definition and support for an “up to” claim
FTC opinion on windows marketers claim
“Up to” energy savings claim at the NAD
31) NAD Case #5876 (2015) The Procter & Gamble Co. (Finish® Quantum® Max Automatic Dishwasher Detergent)

The Institute for Perception
This course has been developed for attorneys specializing in advertising law, market research managers, product developers, in-house counsel, sensory and consumer scientists, and packaging/product testing specialists.
In-person attendance at the Williamsburg Lodge .....$1,975*
Live stream attendance via Zoom..........................$1,575*

* The Institute for Perception offers a 10% discount to each additional registration when registered at the same time, from the same company, and reduced or waived course fees to non-profit entities, students, judges, government employees, and others. Continuing Legal Education (CLE) credits will be sought upon request. This program qualifies for Certified Food Scientist contact hours (CH). CFS Certificants may claim 16 CH for their attendance.

Register online at www.ifpress.com/courses where payment can be made by credit card. If you qualify for a discount or need information about payment by invoice, please contact us at mail@ifpress.com or call 804-675-2980 before registering.

Register Online: www.ifpress.com/may-2022-program

Fee includes:
► Printed slide manual and NAD Case studies
► A printed copy of our book, Tools and Applications of Sensory and Consumer Science and PDF downloads of the following 2 books: Readings in Advertising Claims Substantiation, and Thurstonian Models: Categorical Decision Making in the Presence of Noise
► Food and beverage refreshments each day, plus lunch and dinner on Tuesday and Wednesday.

COURSE VENUE and LODGING:
The course will be presented at the Williamsburg Lodge
310 South England St.
Williamsburg, VA 23185

Lodging and travel are not included in the course fee and participants must make their own reservations. Reduced room rates are available to attendees.

Williamsburg Lodge: Cozy Queen at $189 and Deluxe King at $209 (plus parking fee & taxes)
Williamsburg Inn: Superior Room at $439 (plus resort fees & taxes)

Please contact us for online room reservation information. To inquire about 3-day pre and post room availability, please call 1-800-261-9530 and identify yourself as being with the “Institute for Perception” event.

TRANSPORTATION: Williamsburg, VA is located about 45 minutes from Richmond International (RIC) and Norfolk International (ORF) airports, and about 20 minutes from Newport News/Williamsburg International (PHF). All airports are served by Uber, Lyft, commercial taxis, and rental car companies.

CANCELLATION POLICY: Registrants who have not cancelled two working days prior to the course will be charged the entire fee. Substitutions are allowed for any reason.

S P E A K E R S

For detailed biographical information on the following speakers, please visit www.ifpress.com/courses.

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