## Grocery Stores Stuck in the Middle

## By Reg P. Wydeven August 19, 2018

When I was a kid, I loved Oreo cookies. I liked to twist them apart, lick out the creamy center, then devour the crunchy cookies. And I loved to smile with blackened teeth for about ten minutes after eating them.

When my daughter got to be a toddler, we would eat Oreos together, just like families do in their sappy commercials. After we discovered that my son had food allergies, however, I was worried that he wouldn't be able to enjoy our family ritual.

Thankfully, however, Nabisco introduced Golden Oreos, which swapped out the chocolate cookies with a vanilla variety. My son was not allergic to them, so we enjoyed them as a family without having to worry about blackened smiles.

Then Nabisco tried to outdo Baskin Robbins' 31 flavors by introducing new varieties of Oreos, including lemon, pumpkin pie, candy corn, caramel apple, mint, peanut butter, candy cane, birthday cake, watermelon, and more. Oreos dominate the cookie aisle, but their biggest competitor believes they're resorting to unfair tactics to do so.

While Oreo is certainly the more popular sandwich cookie, it wasn't the first. In 1908, Hydrox cookies were introduced. Marketed as two biscuits with a creamy center, they were very popular, especially because they were Kosher. Oreos were released in 1912, and they tasted slightly sweeter than Hydrox. And because their name didn't sound like an all-purpose cleaner, Oreos' popularity soared, as did their sales.

Fast forwarding a century, cereal-giant Kellogg's acquired the rights to Hydrox cookies and rebranded them as "Droxies." They hoped to shed the chemical-sounding name while still reminding consumers of the original moniker. The plan crumbled, and Kellogg's stopped selling them.

Because the brand lay dormant, Leaf Brands acquired the rights to the name and relaunched Hydrox cookies in 2015. Their efforts were thwarted, however, by alleged sabotage on the part of Nabisco.

Earlier this month, Leaf Brands filed an official complaint with the Federal Trade Commission accusing Mondelez International, the conglomerate that owns Nabisco, of an orchestrated effort to hide Hydrox cookies on grocery shelves.

According to Hydrox, a buyer for "one of the largest store chains" in the U.S. warned them that "Mondelez is going to hide your cookies all over our stores to make sure you don't get any sales, in hopes of being discontinued."

As proof of their claims, Hydrox posted photos on their Facebook page showing their cookies tucked behind other cookies or moved onto shelves outside customers' direct line of sight. Hydrox asserts that, in some instances, its dedicated shelf space was replaced with "another flavor of Oreo or Nutter Butters."

Leaf Brands ships Hydrox cookies to stores and grocers then stock them on the shelves. Because Nabisco is a juggernaut of many brands of cookies and crackers, their own delivery people put them on the shelves. For this reason, Leaf Brands believes Oreo distributors have the opportunity and motive to obscure Hydrox cookies.

When asked for comment, a Mondelez spokesman told Gizmodo that Mondelez is "confident that this accusation has no merit. The Oreo brand is an iconic one, with a proud and rich history of delivering great tasting products and exciting innovations to our consumers for more than a century. This focus, and our commitment to operating with integrity, has made Oreo America's favorite cookie."

I hope an FTC investigation shows these allegations aren't true, for I believe there's room on the shelf for all cookies. You can tell I'm a cookie lover because of my creamy middle.

This article originally appeared in the Appleton Post-Crescent newspaper and is reprinted with the permission of Gannett Co., Inc. © 2018 McCarty Law LLP. All rights reserved.