

Kona coffee growers' lawsuit targets fakes

Potential class action challenges big retailers to prove authenticity.



AS PART of their lawsuit, some Kona coffee growers in Hawaii have hired scientists to determine whether coffee labeled "Kona" is the real thing or not. (Richard Read Los Angeles Times)



KONA plants, grown on the Big Island, produce distinctive red beans. (Marco Garcia For The Times)

BY RICHARD READ

SEATTLE — Kona coffee, prized for what Mark Twain once called “a richer flavor than any other,” grows on the cloud-wreathed western flanks of Hawaii’s Big Island volcanoes.

The distinctive red beans are handpicked on hundreds of small family farms in six square miles of the Kona district, their taste shaped by the volcanic soil and mountain elevation, rainy summers and dry winters, morning sun and afternoon clouds.

National retailers capitalize on the legendary brew, charging a premium for coffee labeled “Pure 100% Kona” and adorning packets with images of volcanoes, beaches and Hawaiian lei and hibiscus.

But growers Bob and Cea Smith say many people who think they’re drinking Kona coffee are being ripped off.

The Smiths and other farmers on the slopes of the Mauna Loa and Hualalai volcanoes have long suspected that competitors falsely label cheap commodity beans, flooding the market, depressing prices and damaging Kona’s reputation.

Now they say they have a way to suss out the counterfeit joe: chemistry.

Much of the coffee sold nationally as Kona fails a laboratory test for what the growers say are the telltale chemical signatures of the real stuff.

The test is at the heart of a lawsuit filed by the Smiths and owners of two other nearby farms accusing Amazon, Costco, Walmart and 18 other companies of selling bogus Kona.

The case, filed earlier this year, has been plodding along in U.S. District Court in Seattle, whose metro area is home to Amazon and Costco. The plaintiffs, who are suing for unspecified damages, a halt to sales and a national advertising campaign setting the record straight, hope to qualify the case as a class action representing all Kona growers.

Challenging the retailers to disclose where they get their Kona coffee, the lawsuit claims that while 2.7 million pounds of authentic Kona coffee beans are grown each year, more than 20 million pounds labeled “Kona” are sold at retail.

“That is physically impossible,” the [complaint](#) says. “Someone is lying about the contents of their ‘Kona’ products.”

Nike, Louis Vuitton and Columbia Sportswear strive constantly to crack down on knockoff shoes, bags and apparel. Fake food products tend to get less attention, in part because the producers of the real stuff often lack resources to pursue counterfeiters.

The Vermont Maple Sugar Makers’ Assn. periodically asks the U.S. Food and Drug Administration to snuff out imitators. The Ginseng Board of Wisconsin guards against imposters who slap the state’s name on root grown in China. Makers of Napa Valley wine and New Zealand honey also fight fakery.

Science has played a key role in exposing fraud. Scottish researchers have used carbon dating to prove that aged Scotch single-malt whiskey was younger than advertised.

The Kona farmers hired scientists to determine various chemical ratios in genuine Kona coffee. The ratio of manganese to nickel, for example, averages less than 40 to 1.

Coffee that varies significantly from that and other chemical ratios is not Kona, the lawsuit says.

Take packets labeled as “100% Hawaiian Kona Coffee” by Gold Coffee Roasters Inc., a company based in Jupiter, Fla. The beans, branded Hawaiian Gold, are advertised as having been cultivated on a 900-acre Kona district plantation called the Parry Estates.

But a scatter diagram presented in the suit shows its ratios of barium to nickel and strontium to zinc fall far outside the norms for Kona.

The suit presents similar graphs for samples from other defendants, including the Kroger Co., of Ohio; Copper Moon Coffee, of Indiana; L&K Coffee Co., of Michigan; Cameron’s Coffee and Distribution Co., of Minnesota; and Boyer’s Coffee Co., of Colorado.

The growers’ attorneys said in the suit that some of the tested samples labeled as blends might contain Kona, but so little as to be deceptive. Hawaii requires that Kona blends contain at least 10% of the real stuff, but the law only covers sales within the state.

The findings are not peer-reviewed and the lawsuit does not identify the scientists, whom attorneys for the growers declined to make available for interviews.

Representatives of the companies named in the suit either did not respond to requests for comment or, citing pending litigation, declined to comment.

But in court filings, the defendants promised to show that the plaintiffs' "purported 'science' is not reliable or enlightening." They have yet to elaborate.

Kroger, Albertsons, Safeway and Bed Bath & Beyond said in legal filings that as retailers — as opposed to manufacturers — they're off the hook.

"The mere fact that the retailer defendants stock and sell a product does not make them responsible for statements on the product label," their lawyers wrote.

But what appears to be the main argument of the defense focuses on geography.

Kona is a place name, not a trademark, defense attorneys wrote. Boyer's Coffee Co. argued that "Belgian waffles," "Kentucky bourbon" and "Peking duck" are also legally unprotected words that don't mislead consumers.

The Kona growers' claim resembles French vintners' efforts to limit the word Champagne to sparkling wine produced in the region by that name. More than 120 countries define Champagne that way. But under a 2006 agreement with the European Union, U.S. producers who labeled bottles as Champagne before then are still permitted to do so.

To be labeled as Kona and sold in Hawaii, coffee must have been grown within the district and meet quality standards.

The Smiths, Hawaii natives both descended from sugar cane workers, bought their five-acre farm on Mauna Loa's slopes in 1988.

Through their lawyers, they declined to be interviewed. But they maintain a website that describes doings at their perch two miles up a four-wheel-drive road, 1,869 feet above a bay where British explorer Capt. James Cook landed in 1779.

The couple fence out wild pigs and discourage human visitors, preferring the company of chameleons, finches and cardinals. A stainless-steel roasting machine sits on the farmhouse porch, processing batches of just 10 pounds to yield a delicate, mellow flavor in the cup.

Growing the coffee is expensive, because Kona's rugged terrain defies modern farm machinery. On their [website](#), the Smiths proudly attest that bulldozers have never compacted their loose, natural soil.

In a 2015 post, Cea Smith described continuing frustration of local growers who felt harmed by competition from fakes.

"Almost every one of us can give instances of consumer outrage and indignation when they have learned that the 'Kona Coffee' they had bought is not 'Kona Coffee,'" she wrote.