

GREEN INDUSTRY NEWS

FRANCHISES

Published court decision could boost risks

The published opinion of a Connecticut judge, in a preliminary decision in a comparatively unimportant suit for damages resulting from a leaking roof, may turn out to have an enormous impact on the entire field of franchising.

At the very least, according to Product Liability Digest, the decision is likely to lead to an increase in product liability insurance premiums for franchisors and, as a result, indirectly raise the prices of all franchised goods and services.

According to the article, a standard element in almost every franchise agreement is a license to use the franchisor's trademark. Discussions about the role of trademarks in marketing frequently men-

tion that the trademark owner stands behind his product, that a trademark guarantees the quality of the product, and so forth. Extending this to a franchise situation, it could be said that the trademark owner, in a sense, takes responsibility for the licensee's product, which he must do because of the quality control requirements of the trademark law.

This statement has not generally been taken literally as a warranty, which would create liability for damages. Trademark experts agree that Congress never meant to impose that kind of financial risk on a licensor when it wrote the quality control provisions into the trademark law in 1946.

However, licensing without

supervision by the licensor is the legal equivalent of abandoning the trademark, which means that the owner can no longer enforce his rights in it against anyone whether it is used with or without permission. The public is involved in this because the appearance of the licensor's trademark on uncontrolled products is considered to be a practice that is deceptive to the consumer.

According to the judge's analysis, the license agreement between the licensor and the licensee guaranteed to the public that the product sold under the licensor's trademark by the licensee was of the same nature and quality as it would have been if sold by the licensor. The situation thus met the legal test for "strict liability".

INSECTS

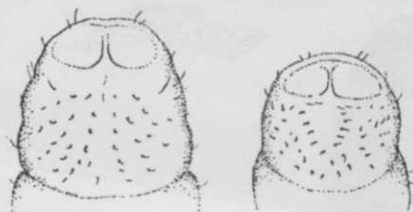
Ataenius has name similar insect

Dr. Harry Niemczyk, Professor of Turfgrass Entomology at the Ohio Agricultural Research and Development Center in Wooster, has informed WEEDS TREES & TURF that the 1978 Committee on Common Names of Insects, from the Entomological Society of America, has approved "black turfgrass ataenius" as the common name for *Ataenius spretulus*.

Dr. Niemczyk has also discovered another beetle that damages turf at the same time *Ataenius* larvae do. This insect has been determined as *Aphodius granarius*. Dr. Niemczyk has found larvae of this species damaging turf in Boulder, Colorado and at two golf courses in Detroit, Michigan. At first glance, according to Dr. Niemczyk, the *Aphodius* lar-

vae appear identical to *Aetaenius*. However, the *Aphodius* are slightly larger and have a somewhat darker head capsule. The V-shaped series of spines located in the raster of *Adophius* is the most outstanding identifying characteristic. (See drawing).

If you come upon an infestation during June or July, which appears to be *Ataenius*, check the larvae carefully to determine the possibility of the other species being present. Dr. Niemczyk would like to



The real *Ataenius* (left) and its look-alike the *Aphodius* (right).

know the extent to which either of these species is present. Contact him at OARDC, Wooster, Ohio, 44691, or phone 216/264-1021.

FERTILIZER

Lakeshore sulfur-coated fertilizers plant opens

The first commercial plant in the U.S. to produce slow-release, sulfur-coated fertilizers began operations under the direction of Ag Industries Mfg. Corp. (AIM) in Columbia, Ala. last month.

The AIM plant is sulfur-coating urea, a water-soluble nitrogen fertilizer compound, along with phosphorus and potash to produce a complete fertilizer.

The AIM corporation is wholly owned by Lakeshore Equipment & Supply Co., Elyria, Ohio, a major supplier to the lawn care industry.

The company said the sulfur