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# The Hydrox Resurrection

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## < Episode 652: The Hydrox Resurrection

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DAVID KESTENBAUM, HOST:

My dad is the kind of guy who does not buy a lot of stuff for himself. But when I was a kid, there was this one indulgence he had. He would go to the supermarket and bring home a package of these particular cookies - Hydrox cookies - which looked - well, they looked a lot like Oreos. But my dad insisted they were different - better - these were perfect cookies. People thought of Hydrox as the Oreo knockoff, but they were not. Hydrox were the original sandwich cookie. You know, two chocolate wafers with cream in the middle. They'd been around for almost a hundred years. And then, one day in 1999, the Hydrox cookies disappeared. The company stopped making them. Oreos, it seemed, had won the cookies wars, and my dad was very sad. But earlier this year, I saw a little news story about a man who, now 16 years later, was hard at work trying to take possession of the Hydrox name. He was trying to discover whatever the secret formula had been. He was trying to bring the cookie back.

(SOUNDBITE OF MUSIC)

KESTENBAUM: Hello and welcome to PLANET MONEY. I'm David Kestenbaum.

ROBERT SMITH: And I'm Robert Smith. There is a huge garbage dump of failed products out there - cookies, luxury cars, toys, technology, sneakers. Most businesses spend their lives trying to stay out of this dump. But there are some people who want

to dig in, who want to look for buried treasure.

KESTENBAUM: Today on the show, one man digs up a very old cookie.

SMITH: It's alive. It's alive.

KESTENBAUM: A cookie, some people say, is much better than that other one.

SMITH: What - the Oreo?

KESTENBAUM: Don't say its name.

SMITH: Something that go with an Oreo cookie - O-R-E-O.

(SOUNDBITE OF MUSIC)

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(SOUNDBITE OF MUSIC)

KESTENBAUM: Ellia Kassoff grew up in one of those families where if a package of cookies from the supermarket somehow made it into the house, it was hard to think about anything else. It just sat there in your mind. We have cookies from the supermarket in the house. He couldn't believe it. His mom was into health food.

ELLIA KASSOFF: She literally went through the whole - all her recipe books and crossed out sugar and wrote honey, crossed out flower, put whole wheat. I mean, that's - that was when - we were, like, the first ones to go to health food stores in the '70s (laughter). So it was a big thing for me to have a Hydrox in the house.

SMITH: The whole treasure hunting thing started as sort of a lark. When Ellia got older, he was working as a recruiter for tech companies. He was making good money,

but then he noticed that his favorite childhood candy - Astro Pop - went away.

KESTENBAUM: They were these little lollipops shaped like rockets.

SMITH: So Ellia called up the CEO and said, can I buy the rights to make this thing, this Astro Pop? And the CEO said sure. And so Ellia brought Astro Pops back from the dead.

KESTENBAUM: And he thought, you know what? This is what I want to do. I'm going to find all these iconic brands and bring them back to life. I'm going to build this little empire, which is when he decided to go for Hydrox, the original sandwich cookie. The cookie that, at one point, had been on store shelves across the country. Immediately, though, there was this problem. The name Hydrox was trademarked, originally by the company Sunshine that had made the first cookies over a hundred years ago. Sunshine had been bought by the elves, Keebler, which had been gobbled up by Kellogg's. So Kellogg's, this huge company, controlled the trademark on the name.

SMITH: Ellia looked into trademark law, and he learned that if someone owns a trademark but isn't using it, there is a chance you can snag it.

KASSOFF: We had to show proof that they weren't using it.

KESTENBAUM: You called Kellogg's and be like, hey, are you guys going to do anymore Hydrox?

KASSOFF: It's - it is a methodology that we have. It's kind of a little proprietary thing...

KESTENBAUM: Oh, come on.

KASSOFF: ...Because if other people knew how to do it (laughter).

KESTENBAUM: I wasn't going to let that stop me. So I called up a trademark expert, Mark McKenna at Notre Dame, and I asked him, is this right? Can someone just waltz in and grab a hundred-year-old trademark, suddenly own this whole history? It

seemed a little weird 'cause a trademark is like a kind of property. And if you think of this like land...

SMITH: Like, hey, I notice you haven't mowed your lawn for a while, so I'm just going to take a little part of your property.

KESTENBAUM: Yeah, it seems crazy, right? McKenna said, I'm thinking about trademarks wrong. They're a funny kind of property.

MARK MCKENNA: So the idea is that, you know, trademarks are not property in a full sense like other things. So trademark rights really exist for the purpose of helping producers signal something to consumers that, you know, we are the source of this product.

SMITH: So trademarks are different than a patent or, like, owning the rights to a song. A trademark is this really practical thing. It serves these two purposes. One, it prevents confusion for consumers. So if you buy a Coke and you buy - it says Coke on there with a little R - that means registered trademark - you know that you are about to get pure Coke goodness from that can.

KESTENBAUM: 'Cause Coca-Cola's the only one who's allowed to use the Coke name. The other thing a trademark does is it makes it so Coca-Cola doesn't have to worry about fakes, doesn't have to worry about someone putting out crummy Coke with the same, you know, label on the can. It means they can spend a lot of money on advertising and not worry that someone else is just going to free ride on all that work they're doing building up the brand.

SMITH: Yeah, it's kind of cool. The trademark is this relationship between a company and its customers. And so if that relationship is broken, if the company stops using the trademark, there isn't really anything to protect anymore. The trademark is deemed abandoned.

KESTENBAUM: Is that the legal term, abandonment, like, as if you, like, left a dog by the side of the road or something?

MCKENNA: That's right. It's a doctrine of abandonment.

KESTENBAUM: So I could, in theory, just grab up, like, Enron.

MCKENNA: (Laughter) I'm not sure Enron would be one you'd want.

SMITH: Yeah, you could put it on, like, a box of pasta. Enronzoni (ph) or something like that. The San Francisco treat. The energy trading treat. The bankruptcy treat. (Laughter) I think it works.

KESTENBAUM: So in order for Ellia to get the Hydrox trademark, he had to show that Kellogg's had no plans to use it. And Ellia was sort of cagey about this, but I pulled up the documents that he filed. And one of the things he cites is a Wikipedia entry. OK. But also he includes this letter from Kellogg's. Basically, he wrote to Kellogg's saying, hi, I understand you're still making Hydrox cookies. Can you tell me if you only make them as topping crumble or whole cookies? Where can I find them?

SMITH: So he's pretending to be a customer saying, like, oh, I really love Hydrox. Where are they?

KESTENBAUM: And he got a formal letter back with the Kellogg's logo on the top and says thank you for contacting us. We are sorry to tell you that this item did not have enough fans and was discontinued.

SMITH: They just said it right there. They just, like, tossed this out to a fan, but, of course, Ellia is thinking that's it. That's what I need.

SMITH: Yep. So Ellia sent this in to the trademark office, and he had to send the documents to Kellogg's also.

KASSOFF: Kellogg's had to be notified. So we had to send the paperwork to their attorneys and say you're on notice that you're not using Hydrox and you're going to lose the trademark. And they never replied.

KESTENBAUM: About a year later - he says this stuff takes time - Ellia got an email

from the U.S. Patent and Trademark Office saying, OK, you can use Hydrox.

How did that feel when you got that saying it's yours?

KASSOFF: Oh, my God. It's - woohoo, I can't believe it's mine.

KESTENBAUM: You all of a sudden control this cookie (laughter) something that, like, your dad used to bring home, right?

KASSOFF: It is a very bizarre feeling.

KESTENBAUM: I called Kellogg's, by the way, and did not hear back.

SMITH: It's like they don't care.

KESTENBAUM: I think they may just not care.

(LAUGHTER)

SMITH: So Ellia finally had the name, but only the name, just those six letters - H-Y-D-R-O-X. He didn't get the logo. He didn't get the packaging. He definitely did not get a copy of the secret recipe.

KESTENBAUM: He was going to have to figure how to make the cookie by himself. He was going to have to do a bunch of detective work. And where were you going to get your hands on a cookie that went away in 1999? Craigslist.

KASSOFF: I went online and I found - someone had a sealed Hydrox cookie package from 1998, and they were selling it on Craigslist in upstate New York (laughter). And I'm like, well, I'm going to buy that thing.

SMITH: This research cost him \$7. A few days later, the package arrived in the mail, a package of 15-year-old cookies. He says they looked fine - didn't actually taste them because he was interested in what was on the package - the ingredient list.

KESTENBAUM: And I know if I read this I would be like, man, cookies are

complicated. Here's some ingredients - enriched flour, wheat flour, niacin, reduced iron, thiamine, mononitrate, vitamin B1, riboflavin, cocoa, also degerminated yellow cornflower.

SMITH: The key ingredients were really the coca and the vanilla because Hydrox - everyone keeps saying this when they talk about Hydrox - it had this darker chocolate taste than Oreo did. And he looked around for a while and he found a place that could get him the original cocoa.

KESTENBAUM: And he found a place that had provided the vanilla for the original cookies and was going to sell it to him.

Is it vanilla number 6532 or something? Like...

KASSOFF: Yeah, I mean, it really is that specific. Yeah, I mean, fortunately, we, you know, the vanilla manufacturer had, you know, they still had all their records of what vanillas they used and - for years and years and years.

KESTENBAUM: What company makes the vanilla?

KASSOFF: I can't really divulge that.

KESTENBAUM: Really?

KASSOFF: Because it's - yeah, well - OK, they're in Texas, that's all I can tell you.

SMITH: Dude, the guy is so secretive, especially for, like, sending all these secret notes to Kellogg's and such. I guess he's worried that someone's going to snatch his, like, hard work or something.

KESTENBAUM: I think the whole cookie business is this way. Like, everything's, like, trade secrets. No one talks about how they make anything. So Elia has got the ingredients, right? He then needs a food scientist, so he finds one, and he finds a lab to make some prototype cookies. But then he's got this other challenge. Like, how do you know you got it right? I mean, you can recreate the logo 'cause you have photos, but

how did the cookie actually taste? Like, taste is a funny thing to try and remember.

SMITH: So he had to find some experts. One was Linda Miller, grew up in South Carolina eating lots of Hydrox.

LINDA MILLER: Hydrox meets all your needs - comfort, great taste, available whenever you need it. It was. I mean, I think that was the best life there was.

KESTENBAUM: The Hydrox life.

MILLER: Yes.

KESTENBAUM: A brand is a powerful thing.

I mean, there's the cookie itself, but when Linda sees the whole thing together - like, the name, the package, the taste - all of a sudden she's thinking of her first dates with her husband. This was one of the things they bonded over - Hydrox.

SMITH: And, you know, I didn't really appreciate this as a kid that people would have such strong feelings, but now that we bring this up, I guess we were an Oreo family. We were an Oreo family from way back. That's just what we bought.

KESTENBAUM: We were a Hydrox family. People really picked sides. You were one or the other. And for Linda, it's not just like she feels like Hydrox are better than Oreo. She doesn't like Oreos. She says they're gross.

MILLER: Once you've had a Hydrox, you don't want anything else because it's just a fake.

KESTENBAUM: But they're both cookies and they're pretty similar, you know...

MILLER: No, no.

KESTENBAUM: The chocolate wafers on the outside and some cream in the middle.

MILLER: (Laughter) No, they're not similar. They're not.

KESTENBAUM: They are similar.

MILLER: OK, well, they're the same color.

KESTENBAUM: You sure a big part of it isn't just the memories that this brings back?

MILLER: I'm positive. Have you had a Hydrox cookie, David?

KESTENBAUM: Not in probably 20 years. Ellia enlisted Linda and her husband, Roger, as taste testers, and one day, Linda says, some prototype cookies showed up in the mail.

MILLER: Oh, it was very secret. It was just in this plain envelope (laughter). Let's see. I think - what - there were four cookies each. Four cookies of A, four cookies of B. We were taste testing.

KESTENBAUM: And how did they taste?

MILLER: Well, you know, one was better than the other and that's all I'm going to tell you.

SMITH: You Hydrox people are, like, some sort of secret society plotting a revolution or something.

KESTENBAUM: You wish you could belong to it. When you talk to people like Linda, you think maybe Hydrox actually has a chance. Maybe it does taste better. I remember it tasting better.

SMITH: And yet, there is the fact that Hydrox went away. It failed.

KESTENBAUM: Yeah, I never really knew what the story was. It was just like one day it wasn't there in the supermarket anymore. So I tracked down someone who does know the story, Carolyn Burns. She was head of marketing of the cookie division when Hydrox was made at Keebler. You know, the place with the elves.

CAROLYN BURNS: Those of us that worked at Keebler for any length of time actually

take great pride in being elves.

KESTENBAUM: Carolyn says Hydrox died for a couple reasons. One is the thing that Ellia Kassoff worked so hard to get - the name. A hundred years ago when Hydroxy was launched, it was meant to invoke purity, like water, hydrogen dioxide. But by the 1990s, she says that was not what the name made people think of.

BURNS: It just sounded like a cleaning agent, you know, like...

KESTENBAUM: Hydrox sounded like something you cleaned out the sink with or the floor.

BURNS: Exactly. Like, Clorox - Hydrox, Clorox, you know, and then hydrogen. It just - yeah, it sounded very chemical-like.

KESTENBAUM: Sales were dropping year after year. She says they tried to save the cookie. They rebranded it as Droxies and they reformulated it, but that just didn't stop the slide. At some point, she says, it did not make sense for Hydrox to take up shelf space at the supermarket. I mean, stores want stuff on their shelves that people are bringing up to the cash register. And at some point, sales just fell below that threshold.

What do you think about the idea of bringing it back now? Does it stand a chance?

BURNS: No.

KESTENBAUM: (Laughter) Why not?

BURNS: It doesn't.

BURNS: Why not? Oreo dominates that market and spends a lot of money investing in that brand.

KESTENBAUM: I asked Ellia Kassoff about that, the fact that his little company was going up against Oreo, going up against big cookie.

Is it true Oreo is the best-selling cookie in the United States?

KASSOFF: Actually, it's the best-selling cookie in the world.

KESTENBAUM: In the whole world.

KASSOFF: Yeah.

KESTENBAUM: Can you beat Oreo?

KASSOFF: Beat - beat - I think from a flavor perspective, absolutely.

KESTENBAUM: (Laughter) I mean from a sales perspective.

KASSOFF: You know what? I - that's - I would love to and I think we have an opportunity, especially with millennials that love original products.

KESTENBAUM: Are you serious? They're the No. 1 cookie in the world.

KASSOFF: Hey, you got to aim high.

KESTENBAUM: The truth is Ellia doesn't have to beat Oreo. The world has changed a lot since Hydrox went away. For one thing, Ellia can sell them on Amazon, so it's OK if they just have a smaller market share with, like, a thousand people in each state. It doesn't have to justify being on the shelves of major stores.

SMITH: And supermarkets have changed. When we were kids, there was only one or two of every kind of cookie. The competition was all or nothing. It was really like will Oreo survive or will Hydrox survive? And, David, I just went to a convenience store very near our studios. Like a tiny convenience store and here are just the kinds of Oreos I saw on the shelf. There's the regular Oreo, there's the Oreo Golden, Oreo Double Stuf, Golden Double Stuf, Oreo Mega Stuf, which is something bigger than double stuff, Mint Oreos, Oreo Thins.

KESTENBAUM: I get it. A lot of cookies.

SMITH: A lot of cookies.

KESTENBAUM: So if you had a name like Hydrox, which has some recognition, give you a little bit of edge, that could be worth it. I asked Ellia if he could send me a cookie and he said no. I'm going to send you a box. Do we get the box?

SMITH: We got the box. I have it down here. I have kept this closed because I want to capture the moment when your childhood dreams all come back to you.

KESTENBAUM: All come crashing down.

SMITH: (Laughter) So let's open this up. Here you go - Hydrox cookie.

KESTENBAUM: Oh, look at that. It says Hydrox on it.

SMITH: Before you eat it, tell me what you remember it tasting like.

KESTENBAUM: It was a thinking man's cookie.

SMITH: No but what it tastes like.

KESTENBAUM: (Laughter) Not so sweet, like the chocolate flavor was very present. I remember the filling being more centered.

SMITH: (Laughter) It looks like maybe they're still getting production issues out of the way. But go for it. Like, this the moment. You want some milk? I brought some milk.

KESTENBAUM: OK, yeah, let me clean my palate.

SMITH: OK, let me get you some milk - milk.

KESTENBAUM: Look at it. This is exciting. I haven't had one in such a long time.

I thought I remembered what they taste like. (Laughter) I'm not so sure I remember anymore. It's good. This brings back memories of me watching Saturday morning cartoons. I used to grab cookies before anyone woke up.

SMITH: Wait a second. Let me try it. It tastes like an Oreo (laughter).

KESTENBAUM: You mean Oreos taste like Hydrox.

SMITH: (Laughter) This is a lot of work to put in to resurrecting a cookie that was already basically there.

(SOUNDBITE OF MUSIC)

SMITH: So what's next for Ellia?

KESTENBAUM: Right, well, Hydrox is available on Amazon now. He's hoping to get it in a bunch of stores. He says Kroger and Wal-Mart and other places are interested. He's looking for the next thing to bring back. Right now, he's in the middle of a legal battle with Macy's over a bunch of defunct department stores - Abraham and Strauss, Jordan Marsh and Filene's. He's trying to open up online versions with those names.

Let us know what brand you'd like to bring back. You can actually go to the trademark site and search. It'll just say alive or dead next to it.

SMITH: It literally says alive or dead for the brand, so you can bring back - I don't know - Levitz, the furniture company.

KESTENBAUM: PalmPilot.

SMITH: PalmPilot - this is your chance to find gold in that trash heap.

KESTENBAUM: You can send us an email. We're [planetmoney@NPR.org](mailto:planetmoney@NPR.org). Our show today was produced by Jess Jiang and edited by you, Robert Smith. Thank you, Robert.

SMITH: You are welcome. And if you're looking for another show to listen to, try Latino USA. You can hear from artists and immigrants and others who are changing American landscape. Great stories on Latino USA, now at [NPR.org/podcasts](http://NPR.org/podcasts) and on the NPR One app. I'm Robert Smith.

KESTENBAUM: Wait, I got to say happy birthday dad. Happy birthday, Dad. There's a

package in the mail.

SMITH: Don't tell him what it is.

KESTENBAUM: OK. I'm David Kestenbaum. Thanks for listening.

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