

QUARTZ

Craft beer's recent spate of lawsuits has beer drinkers hopping mad

Samantha Drake | 4 hours ago

When Port Brewing sued Moylan's Brewing of Novato, California in 2010 for using a distinctive Celtic cross tap handle design, Port's Tomme Arthur didn't expect craft beer fans to respond with an online flash mob of anger.

“[W]e heard from hundreds of Craft Beer Enthusiasts who were outraged that we needed to sue anyone let alone another Craft Brewery. It was one of the most gut wrenching vitriolic laced days I have ever been a part of,” Arthur, the co-founder and chief operating owner of Port Brewing, wrote in a [1,000-word statement](#). Based in San Marcos, California, Port Brewing is best known for its The Lost Abbey craft beer.

The reaction from craft beer fans was so strong that Arthur felt compelled to explain his company's legal position—but he ultimately made no apologies. “The bigger and healthier the Craft Brewing business gets, the harder it is to be unique and distinctive. Intellectual Property is something that all breweries (small and big) need to value. It's one of the biggest assets we can own,” he said in his online statement.

“Our current policy is to actively police new applications across beer, wine, and spirits and proactively converse with applicants whose marks we think could be stepping on our toes,” Arthur explains in a recent email to Quartz. “Our consumer base is passionate. We appreciate that. But trademarks have to be defended, which

isn't always easy to communicate to fans.”

Port Brewing ultimately dismissed its lawsuit after the United States Patent and Trademark Office (USPTO) granted the brewery trademark protection for the tap handle design, according to Arthur.

Trademark disputes have drawn enough unwanted attention that attempting to educate outspoken fan bases has become part of craft breweries' media strategies. “Consumers may be drawn into loyalty situations without all the facts at hand,” Arthur acknowledges. Therefore, craft brewers are using their company websites, Facebook pages, and Twitter accounts to get their side of the story out.

Court of public opinion

As craft beer brands proliferate, brewers are increasingly turning to the courts or the USPTO to protect their trademarks—and beer enthusiasts aren't happy about it. Craft beer fans are taking to social media and using online petitions to pressure the plaintiffs into resolving their disputes out of court. In some cases, it's working.

Lagunitas Brewing Co.'s trademark lawsuit against Sierra Nevada Brewing Co. is probably the most dramatic example of craft beer fans' power.

In its complaint, filed on Jan. 12, 2015, Lagunitas argued that the Chico, California-based Sierra Nevada's forthcoming Hop Hunter IPA label and packaging used bold, black lettering for the “IPA” that looked too much like the IPA lettering on the Lagunitas IPA. The letters' similar design and spacing could confuse consumers, alleged Lagunitas. Craft beer fans pounced on the news of the lawsuit in an unexpected storm of Twitter criticism.

[@lagunitasT](#) probably the lamest IP lawsuit in the history of the Beer business. Have fun with that one. You just lost a loyal customer.

— Bill Kerr (@wjkerr) [January 14, 2015](#)

Tony Magee, founder and CEO of Lagunitas, based in Petaluma, California, dropped the lawsuit just one day after filing the action, even as he cited the business reasons underlying the complaint. “Today, January 13th 2015, has been the worst day ever in 23 years of growing my brewery. Worst. Growing a biz involves defending a biz ...” Magee tweeted. He declined to be interviewed for this article.

The craft beer industry is booming. The industry generated \$19.6 billion in 2014 and made up 11% of the total US beer market, according to the Brewers Association. There are 4,144 craft breweries in the United States, up from 3,000 in 2014, with an average of two craft breweries opening every day, the Brewing Association reported in November 2015.

An increasing number of breweries mean more names, logos, and designs needing trademark protection from the competition. And the fact that, for trademark purposes, beer, wine, and spirits are all lumped into one category makes coming up with non-infringing names and designs exponentially more difficult.

At the same time, the craft beer industry is growing up. Established craft breweries are transitioning from struggling start-ups to mature businesses. Yet, the industry's image of a laid-back group of beer connoisseurs persists. The Brewers Association points out that craft brewers tend to be very involved in their communities and connect with their customers through charitable work, volunteerism, event sponsorship, and product donations.

But craft brewers' efforts to build community spirit might be coming back to haunt them. With fans not hesitating to express their opinions publicly, craft brewers are finding they have some explaining to do.

The Lagunitas lawsuit was one of the first instances of craft brewer-on-brewer legal aggression that drew national attention, probably because it involved two nationally known craft beer giants, explains Alva Mather of Griesing Law in Philadelphia. “It was a wake-up call for the industry,” Mather, who represents alcohol industry clients, but was not involved in the Lagunitas litigation, tells Quartz.

Magee put considerable effort into preparing Lagunitas' lawsuit, but was caught off-guard by the consumer reaction and decided pursuing litigation wasn't worth the backlash, says Mather.

David vs. Goliath

A strong sense of community, combined with the passion people have for things that are handcrafted, encourages craft beer fans to speak their minds, says Greg Avola, co-founder of craft beer social media platform [Untappd](#). The fans feel a real connection with the people who make craft beer," Avola tells Quartz. "They feel like they're part of the company as a whole."

Additionally, craft beer fans generally think litigation is a tool used by big corporations, not small brewers, says Avola. And they definitely don't like to see a David vs. Goliath scenario in which a larger craft brewer is perceived to be bullying a smaller one, he adds.

Take for example the recent case of Bell's Brewery. In March of 2015, the Galesburg, Michigan brewery filed a trademark challenge against much smaller Innovation Brewing of Sylva, North Carolina. After hearing about the action, a group of irate Innovation supporters launched a [Change.org petition](#) demanding Bell's Brewery withdraw its challenge.

In the petition, 700 craft beer enthusiasts known as The Secret Beer Group call on "like-minded people who think craft beer is about togetherness and not crushing small business to boycott Bell's Brewing until they drop this trademark dispute." The petition has drawn 5,582 supporters, but so far Bell's Brewery isn't budging.

At issue is Innovation Brewing's name, which Bell's Brewery argues could cause confusion with its own slogan "bottling innovation since 1985." The two brewers have each made their positions public online. Innovation founders Nicole Dexter and Chip Owen posted their six-point defense on the brewery's [Facebook page](#), while Bell's Brewery vice president Laura Bell addressed the dispute on the

[company's blog](#). A spokesman for Bell's declined to comment on the pending action.

Collaboration not litigation

Craft beer fans obviously have high expectations of their favorite brewers. It doesn't help that back in 2006 two small brewers set a lofty conflict resolution standard with their near-legendary creation of Collaboration not Litigation ale.

Like many craft brewers, Russian River Brewing in Santa Rosa, California, is partial to thematically named beers and offers brews such as Redemption, Perdition, Benediction, Sanctification, Supplication, Damnation, Temptation, and Consecration. After Russian River added a Belgian-style ale named Salvation to the line-up, owner Vinnie Cilurzo realized Avery Brewing in Boulder, Colorado also made a beer called Salvation.

Cilurzo says he introduced himself to Avery Brewing's owner Adam Avery at the Great American Beer Festival and pointed out the name problem. Avery visited Russian River and the brewers "noodled around" with various blends of the two Salvations before coming up with the new ale they dubbed "Collaboration not Litigation," Cilurzo tells Quartz. Avery Brewing, which has the larger distribution capacity of the two breweries, still makes and distributes Collaboration not Litigation and Russian River sells the ale at its brew pub.

"Just a phone call"

Negotiation is always preferable to litigation, which costs time, money and may harm a brewer's reputation. Griesing Law's Mather points out, however, that while a litigious brewer might see a temporary dip in sales on its local turf, there's no evidence that suing another brewer hurts sales in the broader market.

It's also important to note that plenty of craft brewers resolve their differences quietly and out of the public eye. Approaching another brewer about a potential trademark conflict may not be easy, but it doesn't have to be contentious, says

Cilurzo of Russian River. “Usually, it’s just a phone call and we’re good.”

Sometimes this means one party agrees to change the name of a beer or even its brewery. For example, Foolproof Brewing Co. of Pawtucket, Rhode Island, changed its name from High Jinx Brewing just before opening in 2012, citing concerns by unnamed sources over potential market confusion and trademark infringement.

But in an industry growing as rapidly as the craft beer business, not every disagreement will be resolved amicably. At this point, legal actions are inevitable, no matter how much craft beer enthusiasts may hate it. “I get that the consumer feels it’s not in the spirit of the industry,” Cilurzo says. “But at the end of the day, it’s a business and trademarks are part of our business.”

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