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Chicken Chain Says Stop, but T-Shirt Maker Balks



Joseph Sywenkyj for The New York Times

Bo Muller-Moore in his T-shirt studio in Vermont. Chick-fil-A claims a trademark violation.

By JESS BIDGOOD Published: December 4, 2011

For Bo Muller-Moore, a folk artist from Vermont, the T-shirts he hand-screens with the slogan "Eat More Kale" are a dream fulfilled: a quirky project that has emblazoned this leafy mandate across the chests of people worldwide, and one he wants to trademark.

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So when Chick-fil-A, the fast-food chain that says it sells 537 sandwiches a minute with the help of the slogan "Eat mor chikin" (the words have been penned by cows), sent him a cease-and-desist letter this fall, Mr. Muller-Moore decided to fight the company,

setting off a groundswell of local support and national media attention.

"This is corporate bullying," Mr. Muller-Moore said. His lawyer, Daniel Richardson, sent Chick-fil-A a letter in November, contesting its claim that the slogan "is likely to cause confusion of the public and dilutes the distinctiveness of Chick-fil-A's intellectual property."

Chick-fil-A does not have any stores in Vermont. The closest one is in Nashua, N.H., about 120 miles from Montpelier, where Mr. Muller-Moore, an Alabama native, has lived for years. He began making the shirts in 2000, at the suggestion of a local farmer. The few dozen printed at first have swollen into thousands of orders filled every year, he said, but he still works out of the overflowing studio above his garage, buying his art supplies nearby.

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"Someone called me a Vermont institution, and it made me blush," said Mr. Muller-Moore, who has received plenty of local help. His legal representation has been pro bono; a local soup purveyor put a [petition on Change.org](#); and a onetime aide to former Gov. Jim Douglas is assisting him with public relations. And the current governor, Peter Shumlin, has also thrown his support behind the cause and was planning to appear with Mr. Muller-Moore at a news conference.

Mr. Muller-Moore has also taken to [Facebook](#) to rally fans of his work, who posted on his wall, sent supportive e-mails and put more than 16,000 signatures on the petition in just over two weeks. Their motivations varied, he said.

"There are certainly the purists and they think of kale as this superfood," Mr. Muller-Moore said. "I think other people see it as more of this local food movement. I think, in Vermont, other people see it as a shirt printed by Bo down the road."

For those supporters, the message is simple: Don't mess with Bo, and don't mess with Vermont. "I think I've given away enough stickers and shirts around here that Vermonters take this very personally," Mr. Muller-Moore said.

It is a place that prides itself on an artisanal, local business culture and, Mr. Muller-Moore says, is "very supportive of its artists and what it deems as its own."

In 2009, the [Rock Art Brewery](#), in Morrisville, Vt., received a letter from Hansen Beverage Company, which owns Monster Energy drinks, saying the microbrewery's Vermonster beer violated their trademark.

Matthew Nadeau, the brewery's president and co-founder, said one of the state's largest beverage stores immediately boycotted Hansen's beverages. "This is the biggest store in the state and they're standing behind us, so we knew we weren't going to fight alone," Mr. Nadeau said.

That story spread on social and traditional media and Vermont's senators, Bernard Sanders and Patrick J. Leahy, got involved. Mr. Leahy wrote legislation that required the government to survey how trademark law is used by large corporations, though Mr. Nadeau lamented that it was not distributed widely enough to solicit many responses from small businesses. The two sides eventually came to an agreement without litigation, and Rock Art continued to use the Vermonster name.

Chick-fil-A sent Mr. Muller-Moore a warning once before, in 2006, but did not pursue that matter. Now, Mr. Muller-Moore and Mr. Richardson are awaiting a response from the company, and they plan to continue with their trademark application.

In a statement, Chick-fil-A said, "We must legally protect and defend our 'Eat mor chikin' trademarks in order to maintain rights to the slogan."

But Mr. Richardson does not think the company's argument would hold up in trademark court. "We believe it's pretty clear, the issue of dilution and confusion aren't really triggered here," he said. "There's no one out there that's going to come forward and say, 'I thought I was buying a Chick-fil-A product but I got this T-shirt.'"

For Mr. Muller-Moore, the fight is about those T-shirts, and his small business — not kale. Although he does not mind kale.

"If it's cooked well, it's good," he said. "If it's cooked poorly, no thank you."

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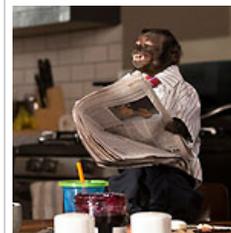
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