

Bo Muller-Moore <bo@eatmorekale.com>

re: confusion between Eat More Kale and CFA

1 message

Lori Theriault <lori@crazygreenstudios.com>
Reply-To: Lori Theriault <lori@crazygreenstudios.com>
To: "bo@eatmorekale.com" <bo@eatmorekale.com>

Sun, Aug 19, 2012 at 5:40 PM

Dear Bo,

I'm writing to add my support to your cause and to state unequivocally that I have never confused your business, **Eat More Kale**, with Chick Fil-A or any of its poorly worded advertising campaigns. I haven't eaten there since high school, but I do see their ads, and while the English minor in me shudders each time I see the ad they claim will confuse patrons who might be seeking a finely made t-shirt (I can't even re-print it, it's just not right), it's never confused me. I believe CFA lawyers are going way over-board in protecting something they really have no right to claim, as there is no significant similarity in either the wording or intent behind their illiterate ad campaign and your small business of 11+ years. You're a t-shirt printing company, they are a fast food chain. It's not at all confusing, and nobody who has seen my Eat More Kale sticker on my car or in my studio has asked if it has something to do with chicken or CFA, so I have yet to witness anyone experiencing any confusion as well.

Thanks for all your hard and good work, and for standing up as a shining example of American entrepreneurship, social, and corporate justice!

Lori Theriault

* * * * *

Lori Theriault
Crazy Green Studios
The Village Potters
Gallery • Studios • Teaching Center
191 Lyman Street
Asheville, NC 28801

Bo Muller-Moore <bo@eatmorekale.com>

Trademark for Eat More Kale

1 message

Angela Sanders <angela@sanderssoundsystems.com>

Sun, Aug 19, 2012 at 5:32 PM

To: BO@eatmorekale.com

Dear Sir/Madam:

I understand that the latest ruling against Eat More Kale is based upon the idea that we consumers would be confused if it was allowed to copyright its name. For the past 11 years, I have not been confused, and certainly as a result of all the publicity, I am never going to be confused that a t-shirt vendor promoting a healthy lifestyle has anything to do with a fried food fast food chain. This appears that a corporation has more clout with "our" patent office than a small business. It should be equal.

Kind Regards,

Angela Sanders

Conifer, CO

Bo Muller-Moore <bo@eatmorekale.com>

Support for Eat More Kale

1 message

Sandi Oswalt <skoswalt@mac.com>

Sun, Aug 19, 2012 at 5:19 PM

To: BO@eatmorekale.com

I am a happy customer of Eat More Kale and I can honestly say I have never been confused by the similarity to the Chick-Fil-A logo, Eat Mor Chikin.

It is pretty clear to me that when I want a cool t-shirt that recommends the eating of a healthy green I am not going to head to a fast food joint. In the same respect, I am going to seek out a chicken sandwich from a small business selling cool t-shirts. I think the products and the target markets are significantly different.

The USPTO Non-Refusal to Register states "because all the marks are constructed with the wording "EAT MORE." I consider this statement questionable as one logo is constructed with the wording "Eat More" while the other is constructed with the wording "Eat Mor". These are clearly different wording constructions. The USPTO goes on to state: "The question is not whether people will confuse the marks, but whether the marks will confuse people into believing that the goods and/or services they identify come from the same source." I am an educated consumer and I can clearly state that I am not confused that the two products come from the same source.

I sincerely hope the USPTO reconsiders it's position and grants the request of Robert Muller-Moore.

Sandi Oswalt

Bo Muller-Moore <bo@eatmorekale.com>

I am not confused

1 message

Gail Holland <wormtowngirl@gmail.com>

Sun, Aug 19, 2012 at 5:12 PM

To: BO@eatmorekale.com

To Whom It May Concern,

I have been following the legal dispute between Chick-fil-a and the creator and producer of the Eat More Kale t-shirts and I am writing this letter to explain how it is simply not a given that consumers will be confused by these two slogans. Since Chick-fil-a has chosen to misspell two words in their slogan (Eat Mor Chikin), it doesn't seem reasonable to assume that a reasonable person would be confused by a gimmicky, misspelled slogan for another using all words spelled correctly. Since the Chick-fil-a slogan has gone out of its way to make the phrase different from any normal use of the words to make them "their own" it seems far-reaching for them to assume that people can't tell the difference between Chick-fil-a's words and normally spelled, Standard English words. It insults the intelligence of the public to assume that they would confuse chicken with kale. In any event the fonts are completely different - what person would think that Eat More Kale had anything to do with Chick-fil-a's distinctive lettering?

I wish to go on record as saying that I would never be confused by these two slogans and I doubt any reasonable person would be.

Sincerely
Gail Holland-Dufault
Worcester MA

Bo Muller-Moore <bo@eatmorekale.com>

Eat More Kale

1 message

Kim Logan <kimlogan@saber.net>
To: BO@eatmorekale.com

Sun, Aug 19, 2012 at 5:13 PM

Hi,

As an Eat More Kale t-shirt customer and happy product wearer, I want to chime in on the Chick-Fil-A trademark issue. Perhaps it's because I'm from the west coast but I had no clue about any trademark conflict because until a few weeks ago I had never heard of Chick-Fil-A much less any slogan they might have. To me, Eat More Kale stands entirely on its own for my message shirt and I have been wearing it since before I knew there was an issue.

If "Eat More..." can be owned by Chick-Fil-A, can McDonald's own "I'm _____ it" where you fill in the blank with hatin' it or singin' it or leavin' it or anything-ing it? Maybe Progressive Insurance can own the name Flo since she represents their agency with her identifiable hair style and attire. Perhaps Dos Equis can really have the world's most interesting man as their spokesperson.

Our country is based on the right of every citizen to express themselves and, while there are agreed upon limits to that freedom usually in proportion to the potential for harm, it is difficult to find the harm to Chick-Fil-A by allowing the production of message apparel and accessories that have a statement that stands on its own. It is also a matter of concern that a message that stands on its own could conceivably be censored.

Thank you for continuing to work towards a successful resolution.

Best wishes,

Dr. Kimberly M. Logan

Bo Muller-Moore <bo@eatmorekale.com>

Trademark support

1 message

Bonnie Ward <bonnie-ward@comcast.net>
To: "bo@eatmorekale.com" <bo@eatmorekale.com>

Sun, Aug 19, 2012 at 4:56 PM

Dear Eat More Kale:

My daughters and I love your Eat More Kale t-shirts but even more than that, we love your message. Kale is a great veggie, and we take your message to heart, eating not only more kale but more green leafy vegetables overall.

We do also enjoy Chick-fil-A, but even my little one says 'Mom, the chicken people are nuts! No way are the Eat More Kale shirts confusing people!! Even kid's know the difference. And besides, the chicken people don't spell their slogan correctly anyway.'

We love Eat More Kale and really do not understand why the Cathy family and Chick-fil-A is doing this. NO ONE confuses kale and chicken !!!!!

Bonnie Ward and family
27 Blackford Drive
Exeter, NH. 03833-4599

Sent from my iPhone

Bo Muller-Moore <bo@eatmorekale.com>

To the USPTO

1 message

Tracey West <purewest@verizon.net>
To: BO@eatmorekale.com

Sun, Aug 19, 2012 at 7:32 PM

To the USPTO:

I am confused by the recent preliminary ruling against the small business that produces Eat More Kale t-shirts. I shop in health food stores often and have seen the "Eat More Kale" slogan for years. I had no idea that Chik-Fil-A's slogan was "Eat Mor Chikn," (or however they have decided to spell it).

I do not see how these two slogans could possibly confuse any customer. One is a giant fast food chain that doesn't spell correctly, and the other is a small business that sells to people like me who enjoy vegetables and generally don't eat at fast food restaurants. These two businesses are nothing alike and the idea that a consumer would be confused by the "Eat More Kale" slogan is quite ludicrous. Please allow this t-shirt company to continue to do business as usual instead of getting in their way.

Sincerely,

Tracey Hancock
Pearl River, NY

Bo Muller-Moore <bo@eatmorekale.com>

Confused

1 message

susan bannon <suzeypurple@gmail.com>
To: BO@eatmorekale.com

Sun, Aug 19, 2012 at 8:12 PM

Bo,

I am confused, no, baffled by the lunacy that this entire situation is. You make shirts, CFA makes chicken, am I correct?

Why is this an issue? I use the same words, eat, kale, chicken & more on a weekly, if not daily basis. I'm never confused when I use them. Even if I use them in the same day, for different topics.

And I wear shirts just about every day, too.

Please let our government know that we appreciate how hard that they work every day for us. But, I think that we are ready to move on on to a new topic. Like, why is CFA allowed to use such nasty chemicals in there food, like MSG?? And shouldn't they be required to change there grease more often? I can't drive past a CFA without smelling burning. Seems kinda nasty.

So, in closing, I just want to let you know that clothing and food don't really confuse me.

Thanks a bunch,

Susan Bannon

Bo Muller-Moore <bo@eatmorekale.com>

Why Kale Isn't Chicken

1 message

Nikki Senecal <nikki.senecal@gmail.com>

Mon, Aug 20, 2012 at 8:50 AM

To: BO@eatmorekale.com

Some things I have picked up as an eater of kale and Chik-fil-A sandwiches:

- Kale is not chicken. My brother-in-law, a Google programmer (smart guy) and vegetarian will eat kale. He will not eat chicken. As I understand it, chicken is considered meat.
- Chikin is a cutesy spelling of "chicken" because, apparently, cows can only spell phonetically. At least the "Eat More Kale" guy can spell. (Really, what are we eating at Chik-fil-A? Because a filet of chicken would be spelled with a T.)
- The day a fast food restaurant actually serves kale? Hell Freezes Over. So I am not concerned with people being confused by that.
- This whole thing brings to mind Fox's attempt to defend "Fair and Balanced" from being used by Al Franken. Calling the motion "wholly without merit, both factually and legally," the judge, Denny Chin of United States District Court, said that a person would have to be "completely dense" not to realize [Franken's] cover was a joke, and that trademark protection for the phrase "Fair and Balanced" was unrealistic because the words are so commonly used. Anyone who's never heard the phrase "Eat more _____" has never had a grandmother. Or is completely dense.

Eating More Kale,
Nikki Senecal

Bo Muller-Moore <bo@eatmorekale.com>

I am not confused by Eat More Chikin and Eat More Kale

1 message

grace ahmed <grace.ahmed@gmail.com>
To: BO@eatmorekale.com

Mon, Aug 20, 2012 at 8:53 AM

I am a Vermonter, and I eat kale from a local Community Supported Agriculture program. I do not eat many chicken sandwiches, because there is not a single Chik-fil-a franchise in my state.

I have been known to eat food, and even eat more food on occasion, but I have never once eaten a T-shirt. This is due either to my own wisdom, or the fact that T-shirts are not sold in restaurants like chicken sandwiches are.

For a T-shirt maker in Vermont to be denied a trademark based on the idea that it could cause confusion with a national restaurant chain is silly. The markets are different. The products are different. The only thing the Eat More Kale has in common with the trademarked phrase "Eat More Chikin" are the words, "eat more" and existing on the same planet.

Thank you for your sensible consideration of this issue.

Wishing you more kale,

Grace Ahmed
Burlington, Vermont

Bo Muller-Moore <bo@eatmorekale.com>

USPTO

1 message

Simply Elegant Windows <simplyelegantwindows@comcast.net>

Mon, Aug 20, 2012 at 8:55
AM

To: BO@eatmorekale.com

Dear Bo,

I'm writing to let you know how disappointed I am with our USPTO that they are denying your request to trademark 'Eat More Kale.' People understand the difference between a meat/vegetable and a t-shirt/chicken product. I think it absurd to believe these two very different marks, 'Eat More Kale' and 'Eat Mor Chikin,' would "confuse people into believing that the goods and/or services they identify come from the same source," as stated by the USPTO.

Good luck!

Lynn McGovern

548 Hooksett Road

Auburn, NH 03032

Bo Muller-Moore <bo@eatmorekale.com>

In support of Eat More Kale

1 message

mattisonhome@comcast.net <mattisonhome@comcast.net>

Mon, Aug 20, 2012 at 8:45 AM

To: BO@eatmorekale.com

Dear Bo,

First - I want to commend you on both the speed in which I received my t-shirt AND the quality. The fit and feel are outstanding! I love it.

I ordered my "Eat More Kale" t-shirt for several reasons. I first saw your website when doing some reading on the documentary "Forks over Knives". I've been really trying to clean up my eating recently, and since I've also been working on my recipe for Kale chips, I found the slogan amusing and a reminder to eat more healthily.

On a separate occasion, I was researching the Chick-Fil-A gay marriage controversy recently in the news. When I saw references to Eat More Kale in my google searches, I *couldn't figure out why there would be a link between you*. Needless to say, since I am a Kale eating northerner, I was unaware that their slogan was Eat Mor Chikn. When I read that they were attempting to serve a cease and desist order, I thought it was preposterous! They've used deliberate misspelling as a marketing ploy to help you remember the brand. If they were going to expand on their brand, it would be something like Eat Mor Taters, or some other food product phonetically spelled. Conversely, because you are playing to a completely different customer base, yours would be spelled out, as in "Eat More Organic Broccoli". So, while it is a stretch to say the two companies are in the same business (since marketing materials are designed to get people to buy their main product), you are in two completely separate and distinct markets.

So, besides ordering my shirt as a reminder to stay the course on my diet, I also ordered in in support of your company. I like to support local companies in my community. You are a little farther afield, but you are a small company trying to earn a fair profit providing a quality product. Well done.

I also ordered my shirt in support of "the little guy". I am so offended that our government would even consider this suit seriously. I'm tired of the big box stores wiping out local merchants. Our politicians keep saying that the small business is the backbone of America. Well, if that is so, the laws should support that. The folks at the USPTO should have taken one look at the filing, and denied it, flat out. If the patent office feels Chick Fil A needs protection, then limit it to their spelling of Eat Mor in the specific font they use.

So, I will wear my "Eat More Kale" shirt with pride. When people ask about it (and they do), I explain the whole story. Good luck, sir.

Bo Muller-Moore <bo@eatmorekale.com>

NOT confused

1 message

anne slusher <abslush@gmail.com>

Mon, Aug 20, 2012 at 9:01 AM

To: BO@eatmorekale.com

I am a resident of Kansas and live approximately 15 miles from a Chic-Fil-A which I eat at about once every 2 weeks. If I were to see someone wearing an "eatmorekale" tshirt...I would NEVER be confused thinking it was talking about CHICKEN or Chick-Fil-A. Kale and chicken are completely 2 different things.

I am a female, know my directions, and am NOT confused thank you very much.

Signed,

Anne Slusher

Bo Muller-Moore <bo@eatmorekale.com>

No CFA Confusion

1 message

Sharon Foster Jones <allantajones@live.com>
To: bo@eatmorekale.com

Mon, Aug 20, 2012 at 8:36 AM

I am not the least bit confused by Eat More Kale and Eat More Chickin. The saying "Eat More ____" has been around a long time, and Chick Fil-A did not invent it. In fact, that is the joke of the CFA ad: cows using an established saying to save their own hides. The fact that the joke exists only proves the saying has been around longer than the cows.

**Sharon Jones
Atlanta, GA**

Bo Muller-Moore <bo@eatmorekale.com>

EMK vs EMC

1 message

Van DeLisle <vandelisle@yahoo.com>

Mon, Aug 20, 2012 at 8:17 AM

Reply-To: Van DeLisle <vandelisle@yahoo.com>

To: "BO@eatmorekale.com" <BO@eatmorekale.com>

Greetings from Chicago-

"Eat More Kale" is not "Eat Mor Chikin".

And honestly, I had never even heard of "Eat Mor Chikin" before I bought my first "Eat More Kale" t-shirt.

I also have never eaten at Chick-Fil-A and I never intend to.

What is it with all this political talk about helping small businesses, when we allow a really BIG business to bully a really SMALL business like "Eat More Kale"?!

Where are our priorities?

Get back, Loretta!

Van DeLisle

Bo Muller-Moore <bo@eatmorekale.com>

The "Eat More" controversy

1 message

Judy Tomer <judy.tomer@gmail.com>

Mon, Aug 20, 2012 at 10:43 PM

To: BO@eatmorekale.com

Dear Bo, good luck in fighting the big \$ folks.

Regarding the "eat more" whatever controversy: in the mid to late 1970's there were bumper stickers that said "Eat More Possum". From time to time we've all been told to eat more fruit, eat more veggies, eat more fish, etc. Even though I'm now 66 y/o & becoming a tad more forgetful, I've never yet confused possum w/veggies w/fish /kale w/fast food chicken, etc. I think that Chick Filaa is acting like a bully in stating that no one in this country can say "eat more ..." whatever except for them. This is especially true since their logo has a cow & has misspelled words, e.g. "mor" instead of "more" & "chikin" instead of "chicken". Now, if your T shirts had a cow saying "eat kale", then I'd say that Chick Fila had a case against you. But you don't use a cow & you don't misspell the word "more" & you're not using their font or type size or colors, etc. Clearly you're not making a knock-off product. If you did use their spelling, font style, tupe size, & had a cow, then I'd say that Chick Fila had a good case against you. But you don't do any of this, & so in my view they have no case.

Good luck in this fight. I'm thoroughly disgusted w/large corporate America & Chick Fila's behavior has only reinforced my opinion. Fortunately, there are no Chick Filas in SE Michigan (that I know of), so I don't have to be faced daily w/a reminder of their bully nature. This case is more than a fight between you & CFA, it's really about how large corporate America treats the rest of us. I hope the rest of us win.

- Judy Tomer, 3415 Norwood Street, Ann Arbor MI 48104

Bo Muller-Moore <bo@eatmorekale.com>

Comment on your trademark case

1 message

Hilton Dier III <hiltondier@gmail.com>
To: BO@eatmorekale.com

Mon, Aug 20, 2012 at 7:58 PM

Hi Bo,

My sweetheart Gwen Roolf forwarded me your email asking for comments on the ruling by Carynn Glasser. I looked up her ruling online and spent some time picking it apart. I have pasted in the response below, and attached it in docx format.

Here's a tip, related to my response: You should have your lawyers request from Chick-Fil-A their rules for the use and presentation of their trademark. All big companies have these. This being a company run by a highly religious CEO, there are probably all sorts of rules about where and how the logo can be used. More importantly, their marketing people will have a set of rules about the composition of the graphic design associated with "Eat Mor Chikin." You can point out that their own rules prevent their mark from being displayed in a different font or without all the associated imagery.

Good luck!

Hilton Dier III

To Caryn Glasser, in reference to your ruling on:

U.S. TRADEMARK APPLICATION NO. 85412053 - EAT MORE KALE

I would like to comment on your ruling on this case. Excerpts from the ruling are in italics.

"The marks are compared for similarities in their appearance, sound, connotation and commercial impression.

The goods and/or services are compared to determine whether they are similar or commercially related or travel in the same trade channels.

"Comparison of the Marks"

Regarding the first part of the test, applicant's mark is highly similar in connotation and commercial impression to registrant's mark because all the marks are constructed with the wording "EAT MORE."

The comparison fails the first part of the test, both in terms of the absolute text, and more importantly in terms of the overall presentation. In terms of text, the applicant's mark has the wording "EAT MORE." The registrant's mark has the wording "EAT MOR," consistently and deliberately misspelled for humorous effect and narrative content. Even assuming that an observer would not read to the third word of a three word phrase, there is a differentiation.

"Regarding the issue of likelihood of confusion, applicant should consider the following: The question is not whether people will confuse the marks, but whether the marks will confuse people into believing that the goods and/or services they identify come from the same source.

For that reason, the test of likelihood of confusion is not whether the marks can be distinguished when subjected to a side-by-side comparison. The question is whether the marks create the same overall impression. The focus is on the recollection of the average purchaser who normally retains a general rather than specific impression of trademarks." (Emphasis mine)

Here the comparison fails again. Search for the "EAT MOR CHIKIN" slogan in the physical world or as an image online and you will find the following:

- 1) It is always misspelled.
- 2) It is never in a formal typeface. It is always presented as crudely painted, with paint dripping from the letters.
- 3) It is always painted in black on a white background.
- 4) The three words are always presented in a horizontal line.
- 5) It is always presented with the anthropomorphic image of a Holstein cow. The text never appears without one or more cows, which are a dominant graphical element. The cows are represented as either supporting a placard with the slogan or in the act of painting the slogan.
- 6) In practice the slogan always appears with the distinctive red script Chick-Fil-A logo.

In contrast, the "EAT MORE KALE" mark:

- 1) Is always spelled correctly.
- 2) Always appears in a formal typeface. That typeface was created by Mr. Muller-Moore and is not used by anyone else.
- 3) Always has the words stacked in three lines.
- 4) Presents the words on a variety of background colors
- 5) Never presents the words with any associated representational image.
- 6) Always presents the words in isolation, without any corporate logo.

To return to the key point, ***"The focus is on the recollection of the average purchaser who normally retains a general rather than specific impression of trademarks."*** The graphic designers working for Chick-Fil-A have done an excellent job of distinguishing their advertising from all others. Their successful intent is to communicate a narrative of anthropomorphic cows attempting to communicate in written English in order to deflect meat eaters from consuming their flesh.

The message of Mr. Muller-Moore's product is a purely verbal imperative to eat a leafy green vegetable. Its only graphic elements are the typeface and positioning of the words, each of which are in stark contrast to the Chick-Fil-A presentation.

To re-emphasize: The Chick-Fil-A text never appears as mere text, but always as part of a distinctive overall graphic design.

The comparison of these two marks also fails the second test: "The goods and/or services are compared to determine whether they are similar or commercially related or travel in the same trade channels."

The goods are not commercially related. In the case of Mr. Muller-Moore, the products are clothing. In the case of Chick-Fil-A, the clothing with the "EAT MOR CHIKIN" slogan on it is not the primary product, but merely advertising materials, in the same category as pamphlets or printed drink containers. A brewer that distributes beer coasters with the company logo on them is not in the business of printing and selling beer coasters. Likewise, Chick-Fil-A is not in the clothing business. It is well known as being in the business of selling prepared food, focused on chicken products, through a chain of franchised restaurants.

The two types of clothing do not travel through the same trade channels. Nobody actually purchases a Chick-Fil-A t-shirt from the company or a distributor. Such articles are promotional giveaways at franchises and corporate sponsored promotional events. In contrast, Mr. Muller-Moore sells his products online and through conventional clothing outlets.

In summary:

The two marks give dramatically different general visual impressions, alerting the potential purchaser that the two marks

come from different sources. They are differentiated by spelling, message, font, representational imagery (or lack thereof), and overall graphic design, as well as the use of the specific corporate name. The Chick-Fil-A mark only appears as part of a distinctive visual package that can't be confused with a purely textual admonition to "Eat More Kale."

- The products are not in the same category; clothing vs. food.
- The two types of clothing do not use the same trade channels.

Best Regards,

Hilton Dier III

Middlesex, VT

--

Hilton Dier III
Renewable Energy Design
Partner, Solar Gain LLC
453 East Hill Rd.
Middlesex, VT 05602
Tel:

↳ **Response to U.S. TRADEMARK APPLICATION NO. B5412053 - EAT MORE KALE.docx**
20K

Bo Muller-Moore <bo@eatmorekale.com>

Confusion??? ...I'm confused!!!!

1 message

Mike Bender <bannerguy@wingrider2.com>

Mon, Aug 20, 2012 at 3:03 PM

To: bo@eatmorekale.com

Bo,

I have been purchasing and wearing your wonderful t-shirts for about 10 years. Needless to say, I love your shirts! I have had several designs over the years, but the shirt I've purchased the most is the "Eat More Kale" design.

EVERY time I wear one of the "Eat More Kale" t-shirts I get a comment from someone - and these comments usually come from complete strangers! People at the grocery store, at the hardware store, at the car wash... To say that your design brings a smile to people's faces is an understatement. In fact, I have had so many comments from people while wearing your shirts, that my new "t-shirt standard" is that if I don't get a comment from someone while wearing a t-shirt, it goes back in the drawer! And so far, your shirts are all still in the t-shirt rotation!!

In the ten or so years that I've been wearing your shirts I have NEVER had someone ask me about Chick-Fil-A or there slogan - NEVER!! And as I mentioned, I have had hundreds, maybe thousands of people comment on the shirt!

So to say that "Eat More Kale" will confuse people with the Chick-Fil-A slogan of "Eat Mor Chickin" is absolutely ridiculous!! What the preliminary ruling against your trade mark application does is CONFUSE ME!!! There is absolutely no sense or logic in this ruling!

Best of luck in your pursuit of justice - let's hope there's still some left in this country!!

Mike Bender
Baltimore, Maryland
(formerly from Cleveland, OH)

Bo Muller-Moore <bo@eatmorekale.com>

I am not confused

1 message

Vickie-Lee (Kili) Wall <vlwall@gmail.com>
To: Bo Muller-Moore <bo@eatmorekale.com>

Mon, Aug 20, 2012 at 2:15 PM

I see no way to confuse kale with "chikin". Nor "EAT MORE KALE" with "eat mor chikin". Why is there no confusion? Because I'm not a complete freaking moron, that's why. Seriously. Using the misspelled and vaguely illiterate trademark "eat mor chikin" somehow is supposed to mean Chick-fil-A owns the words "eat" and "more"? What an absolutely ridiculous notion. How, exactly, does anyone with even 1/2 a functional brain confuse a fast food chain with a t-shirt artist? I've never eaten a T-shirt in my life, and I'm not about to start now just because Chick-fil-A's lawyers apparently think some of us are dumb enough to do so.

There is 0% confusion between Chick-fil-A and their "eat mor chikin" schtick and Mr. Muller-Moore's "EAT MORE KALE" design.... none, zip, nada. The only "confusion" is in the minds of Chick-fil-A's lawyers, who apparently feel compelled to earn their retainers -- even if it means pursuing such ludicrous suits. Last I knew Chick-fil-A doesn't even have any stores in Vermont where Mr. Muller-Moore prints his shirts.

How is this confusing?

The word "eat" -- used in both, but a generic word for something we all do daily, and none of us (at least that I've ever heard of) does to a T-Shirt (the closest anyone I know has come to eating a t-shirt is spilling some kind of sauce on it while eating).

The word "more" vs. the non-word "mor" -- a real word compared to a trademarked pseudo-word, apparently synonymous, but not identical -- I'm going to guess that the word "walk" would not give someone rights to the word "stroll" either. Nor "walk" and "wok", even though they could sound the same.

Chikin' vs. Kale -- a bastardization of the word "chicken" (an animal last time I checked) vs. a green, leafy, and highly nutritious vegetable -- I've eaten some seriously weird foods, but so far have been able to easily distinguish my vegetables from any dead animals in a dish.... if someone can't make such a distinction, perhaps they need some remedial lessons in what is what..... I can certainly distinguish the difference between food and a T-shirt (even when my t-shirt has food on it).

No similarity, no valid comparison.

Now let's look at the products:

Chick-fil-A -- a fast food joint serving up mass-produced, highly processed and adulterated "food" at hundreds of locations throughout most of the country

Mr. Muller-Moore -- a T-Shirt artist, working out of a small space in Vermont and hand silk-screening T-Shirts one at a time

Chick-fil-A -- to purchase and consume their products, you go to one of their "restaurants" place your order and eat what they give you

Mr. Muller-Moore -- to purchase his products, you order off of a website and he makes the shirt and mails it to you.... after which you WEAR the shirt.

From the ingredient list on Chick-fil-A's site, I don't think I'd want to eat their "food" fresh -- I definitely wouldn't want to consume it after it made it's way through the US Mail. And I can't think of ANY circumstances under which I'd want to consume one of Mr. Muller-Moore's T-Shirts -- wear them? yes, chow down? No, absolutely not.

Again -- no similarity, no valid comparison.

Bo Muller-Moore <bo@eatmorekale.com>

No Confusion

1 message

christinalord1@netzero.net <christinalord1@netzero.net>

Mon, Aug 20, 2012 at 3:00 PM

To: BO@eatmorekale.com

Dear Bo/Chick-Fil-A:

I am an educated professional, and I would like to state for the record that there is no confusion with the slogan "Eat More Kale" vs. the slogan "Eat More Chickin". Any person, educated or not, would be able to differentiate between the two.

Thank you,
Christina

Mom reveals 1 simple wrinkle trick that has angered doctors...

Bo Muller-Moore <bo@eatmorekale.com>

Chikin

1 message

dara buchele-collins <darabtrfly@hotmail.com>

Mon, Aug 20, 2012 at 12:26 PM

To: bo@eatmorekale.com

To whom it may concern,

As someone who lives in Colorado, halfway across the country from Bo and his Eat more Kale business, but in a State where Chik-Fil-A does business, I was NEVER confused that these were separate businesses, or for that matter that one referred to Kale, and the other to 'Chikin'. Chik-Fil-A pursuing this litigation against a small business that has a vaguely similar motto is frivolous and ridiculous. Bo should be allowed to continue to run and grow his business and to trademark his logo, as there is no possibility of confusion. Furthermore, Chik-Fil-A's actions in this matter as well as other recent issues have convinced me that this is not a business that I will patronize ever again. They are damaging their business model with their unethical strange practices, and for that matter their stupid misspelled chicken campaign is damaging to the education and intelligence of our nation.

Thank you for your consideration in this matter,

Dara Buchele-Collins
Crested Butte, CO

Bo Muller-Moore <bo@eatmorekale.com>

To the patent office

1 message

Ron Maloney <rmaloney2@satx.rr.com>

Mon, Aug 20, 2012 at 12:13 PM

To: BO@eatmorekale.com

Please forward on my behalf. Thank you.

To whom it concerns:

I am a Chick-Fil-A customer in South Texas who is upset by the chain's overzealous protection of its marketing slogan against a small businessman who is engaged in the T-shirt business in Vermont.

I do not see the "Eat More Kale" and "Eat Mor Chikin" slogans as similar or confusing, particularly in light of the fact that both companies engage in different businesses, that one product is meat and the other a vegetable and; especially in light of the unique way the chicken chain spells the words "mor" and "chikin." I cannot accept that it could be confusing to anybody else.

The chicken chain has long used a unique and very funny advertising campaign where cows, which look an awful lot like the holsteins I believe are trademarked by a Vermont artist named Woody Jackson, exhort people to "Eat Mor Chikin." It features a bunch of goofy motifs and horrible spelling, which I guess is the chain's version of how holsteins would spell, if they could write. "Eat More Kale" does not engage in any advertising using the cow motif.

Robert Muller-Moore has been engaged in his business for more than a decade. Chick-Fil-A has been around a lot longer than that, but had no stores north of the mid-Atlantic states when Mr. Muller-Moore began his small, local business. A trademark would be important to the small businessman's continued survival and I think his use of the word "more" instead of "mor" is clearly enough of a difference that the two should be considered separate and distinct marks and slogans.

Thank you.

Ron Maloney
Kingsbury, Texas

Bo Muller-Moore <bo@eatmorekale.com>

kale vs chicken

1 message

Jan Salzman <jansalz@sover.net>
To: BO@eatmorekale.com

Mon, Aug 20, 2012 at 11:41 AM

I am not confused. 'eat more chicken' is different, substantially, from 'eat more kale'. It remains kafke-esque that this is even a problem...

Rabbi Jan Salzman

Burlington, Vt.

Bo Muller-Moore <bo@eatmorekale.com>

Trademark

1 message

Cyndy Bell <emberbell@yahoo.com>
To: BO@eatmorekale.com

Mon, Aug 20, 2012 at 11:22 AM

Hello Bo,

I would like to take a moment to say that I am not likely to confuse a fast food company that sells chicken with a T-shirt entrepreneur who makes and sells shirts. Maybe if you misspelled the word "MORE" on your shirts, I could see that Chick-fil-A has a valid point...but that's not the case. I hope that this ruling will go in your favor and that you will be able to continue supporting the local economy and your family with your business.

Regards,
Cyndy Bell

Bo Muller-Moore <bo@eatmorekale.com>

In support of Eat more kale

1 message

Diana DeMarco Brown <diana.demarco@gmail.com>

Mon, Aug 20, 2012 at 11:27 AM

To: BO@eatmorekale.com

I have supported Bo's site ever since I found out that he sold a Kale themed shirt, since its my absolute favorite veggie. I have gone on to purchase another shirt from his site and have my eyes set on his "compost" tshirt.

I was shocked when I learned that CFA was challenging him over brand confusion. I am not a CFA customer, but I do see their ads and famous slogan everyday on PBS when I watch TV with my daugther. Despite my exposure to both, I never noticed the similarities. Perhaps that's because the grammar, spelling, font, design and intention are completely different. Whereas the CFA slogan is positioned as the cows' petition to eat different animals, Bo's slogan is simply a call to health and eating more greens.

I am horrified that our government would allow CFA to try to squash this small business that poses no threat to them or their business. There aren't even very many CFA's in New England, where the t-shirt company is based.

Honestly, there is no realistic basis to the claim that their might be brand confusion. In fact, there is probably little to no shared audience between the two companies. And even the least educated person knows that Kale isn't Chikin (which really should be spelled "Chicken", but that's CFA's business.)

Please allow this small businessman to continue his work without legal action hanging over his head.

Sincerely,
Diana DeMarco Brown

Bo Muller-Moore <bo@eatmorekale.com>

Letter to Caryn Glasser, USPTO

1 message

Ashley Pound <ashley@ashleypound.com>
To: BO@eatmorekale.com

Mon, Aug 20, 2012 at 11:07 AM

Dear Ms. Glasser.

Having gone through the trademark process a number of times, I'm aware of how challenging it is for you to weigh the various considerations before making a judgement; however, I'm deeply concerned about the non-final decision to deny Robert (Bo) Muller-Moore the right to trademark his long-time slogan and business name "Eat More Kale" on the grounds that any slogan using the generic words "Eat More" infringes on Chik-Fil-A's slogan "Eat Mor Chikin."

No corporation should have the right to deny other businesses the use of these very generic words when combined with other, unrelated terms in a unique and completely unrelated slogan. Thousands of Eat More Kale fans will tell you that there is no competition between Bo's t-shirt business and Chik-Fil-A, nor is there any confusion about the difference between their products. Your denial of his trademark will give Chik-Fil-A the ammunition to shutter the business he has worked so hard to build for over a decade.

The presence of Eat More Kale has had no impact on Chik-Fil-A's ability to do business—except for the negative publicity the corporation is generating, itself, by bullying a non-competing micro-business—but it has huge impact for Bo and his ability to support his family.

To many of his supporters, including me, this decision smacks of corporate influence, and we are concerned not only that one businessman's rights are being violated but that the USPTO decision has broader repercussions for small businesses that can't defend themselves against corporate bullies with millions of dollars. I hope you will reconsider your decision and do the right thing, regardless of pressure from Chik-Fil-A and their high-paid lawyers and lobbies. Thank you.

Best,
Ashley Pound

ATTN: Caryn Glasser, USPTO
CC: Daniel P. Richardson, Esq.,