



AT THE BAR WITH BOWDITCH

A Legal Blog for the Craft Brewing Community

Brewer Body Slams Pro Wrestler over Trademark

BY AIVI NGUYEN • JUNE 17, 2016

While in the midst of [a legal battle with MillerCoors](#), Pabst Blue Ribbon found itself having a bone to pick with the WWE (World Wrestling Entertainment, Inc.).

On May 27, 2016, the WWE released this John Cena shirt for sale:



Photo: [Pabst Blue Ribbon Twitter](#).

Later that day, PBR tweeted an image of Cena wearing the shirt next to an image of him wearing a PBR t-shirt, writing “[A message to @JohnCena & the @WWE: We have a chokehold called the Cease and Desist. Pretty sure we see you.](#)” The tweet included a middle-finger emoji in the text.

The next day, the WWE took the shirt off the market, though it denied that it infringed on PBR’s rights, saying “as a content creator, WWE respects trademarks and intellectual property, and therefore will not proceed selling the merchandise, despite it being an original design clearly within fair use.”

Trademark infringement is defined by the U.S. Patent and Trademark Office as the “unauthorized use of a trademark or service mark on or in connection with goods and/or services in a manner that is likely to cause confusion, deception, or mistake about the source of the goods and/or services.”

The question is whether Cena’s t-shirt could actually cause “confusion, deception, or mistake” among the public. Looking at the shirt, are people likely to think that they are buying a PBR shirt? Or that PBR endorses Cena? The answer is probably no. This conclusion is strengthened by the fact that most of Cena’s past t-shirts have been plays on other logos outside of wrestling, like the Boston Celtics or John Deere. In each case, it seems fairly clear that the shirts are

meant to be a sort of spoof on longstanding logos, not an attempt to misleading fans. In fact, Cena's shirts seem to pay homage to the logos from which they liberally borrow. What do you think? Should Pabst have reacted so angrily to Cena's t-shirt?

Although the issue of possible infringement of a brewery's trademark by a pro wrestler appears to be a novel one (and maybe a stretch), disputes among brewers about trademark ownership and infringement are growing increasingly commonplace as the craft brewing industry grows. When designing new branding, from t-shirts to bottle labels to a brewery logo, due diligence is indispensable. Check out a previous post covering brewery intellectual property infringement [HERE](#), and an article on the same topic [HERE](#).