

Cheese Wiz: Which Cracker Barrel Is It Anyway?

Cracker Barrel Old Country Store, Inc. has sliced it a bit too thin for Kraft and its Cracker Barrel cheese.

Kraft Foods Group Brands LLC has asked a Chicago federal court to find that Cracker Barrel Old Country Store crossed the line when it announced in November 2012 that it will begin selling luncheon meats, bacon, and related food products to commercial outlets outside the Old Country Store locations.

In its complaint, Kraft noted that the two Cracker Barrel marks coexisted because Cracker Barrel Old Country Store restricted its sales to its free-standing restaurants and “it has never before encroached on Kraft’s trade channels by offering any goods or services to consumers outside its restaurant/country store locations and its Internet website nor has it ever before expanded into refrigerated grocery items.” As a result, for 40 years “the parties have maintained distinct businesses and distinct trade channels.”

Kraft’s complaint states that its Cracker Barrel brand of cheeses has public acceptance and “enormous goodwill.” If Cracker Barrel Old Country Store is allowed to use its mark outside its stores, it will “inevitably cause consumers and retailers to mistakenly believe” that its products “are offered for sale by Kraft, that they are related or connected to Kraft’s CRACKER BARREL cheese brand, or that they are licensed by Kraft.”

By expanding into goods that are complementary of Kraft’s Cracker Barrel cheeses, the restaurant chain “will greatly exacerbate consumer confusion.” The use of the phrase “Old Country Store” with Cracker Barrel is not sufficient to distinguish the two brands, the complaint states.

Kraft asked the court for a declaratory judgment finding that Cracker Barrel Old Country Store’s use of the mark outside its restaurants would constitute trademark infringement and unfair competition.

Kraft Foods Group Brands LLC v. Cracker Barrel Old Country Store, Inc., N.D. Ill. No. 13 CV 780.