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The (Trademark) Battle Over Krusty Krab

BY [AMANDA NATIELLO](#) / ON APRIL 16, 2016

Who lives in a pineapple under the sea? SpongeBob SquarePants, of course, in the world of Bikini Bottom. In the popular children's television show, which will make the move to the Chicago stage later this year, SpongeBob works for Mr. Krabs as "Vice Assistant General Manager in charge of certain things" at the Krusty Krab, a pivotal location in the show.^[1] The Krusty Krab is known for its Krabby Patties, a burger of sorts whose secret ingredients make it impossible to acquire outside of Bikini Bottom. That is, unless Viacom, Nickelodeon's parent company, opens one on land.

Following the success of its Bubba Gump Shrimp Co., based on the restaurant Bubba and Forrest dreamed of opening in *Forrest Gump*, Viacom wants to capitalize on the success and popularity of the Krabby Patty by potentially opening restaurants offering SpongeBob fans the chance to taste the fabled food. With such a cult following and interest in the product, why hasn't Viacom opened a Krusty Krab already? Viacom is considering the possibility, but a Houston investment company may stand in its way. In January of this year, the media conglomerate filed a trademark infringement suit against IJR Capital Investments in the southern district of Texas.^[2] The investment company has yet to open any Krusty Krab franchises, but it plans to open its Kemah, Texas location later this year, as well as a location in Los Angeles. IJR Capital Investments is so set on opening these restaurants, in fact, that they have registered their mark with the United States Patent and Trademark Office.^[3] In response to the complaint, Javier Ramos of the investment firm says that Viacom failed to meet the thirty-day deadline for filing a protest to the trademark application, and that had Viacom planned to open their own Krusty Krab franchises they should have registered the name themselves.

In its complaint, Viacom asserts that IJR Capital Investments "directly infringed [its] registered trademark 'Krusty Krab' by using the mark in connection with its restaurant name . . . which creates a high likelihood of confusion as to the source of the infringing mark," and provides the trademark registration number.^[4] Not only has Viacom registered the mark already, contrary to Ramos' statement, but they have also used the Krusty Krab name and mark in commerce through Krusty Krab play sets, cake decorations, aquarium ornaments, food items, and more. Defendant's lawyers have responded to the complaint by denying any infringement, and stating that the defendant "declines to cease use" of the name Krusty Krab. As with the case of the Bubba Gump Shrimp franchises, Viacom is not averse to licensing its trademarks to those willing to operate restaurant franchises; however, when someone infringes on its rights, Viacom will not hesitate to litigate.

In 2013 in the Southern District of New York, Viacom brought suit against YouTube for copyright infringement in a battle of media giants.^[5] Viacom alleged that YouTube was

committing “brazen” and “massive” copyright infringement by allowing users to upload Viacom-owned videos without consent, and filed a \$1 billion lawsuit against the online video site in 2007. YouTube was granted summary judgment on the grounds that the Digital Millennium Copyright Act’s safe harbor provision protected Google and YouTube from copyright infringement claims, and the case moved all the way up to the Second Circuit.^[6] After several appeals and seven years in court, the matter settled in 2014. Seeing as Viacom was not shy about pursuing a failed copyright infringement claim against Google and YouTube, it will have no problem standing up against a little investment firm in Texas. Considering the strength of Viacom’s claim, and that Texas has seen a similar case before, IJR might want to reconsider fighting it out.

Following the success of *Talladega Nights*, Rick’s Cabaret International in Fort Worth, Texas opened a “Ricky Bobby Sports Saloon & Restaurant,” named after the film’s colorful protagonist racecar driver.^[7] Columbia Pictures filed the suit for trademark infringement, citing the use of Ricky’s car, the “smokin’ hotties,” and other identifiable elements of the film as their grounds for filing suit. Although the judge granted the defendant’s motion to dismiss in this case, Viacom not only has a strong case of its own, but also has proven that it won’t take a loss lying down. One thing is for sure: this is sure to be a long albeit entertaining legal battle, so stay tuned for the next episode.

^[1] Gordon Cox, *‘SpongeBob SquarePants’ Musical Targets Broadway with Supergroup Songlist*, Variety (Aug. 31, 2015, 10:00 AM), <http://variety.com/2015/legit/news/spongebob-squarepants-musical-broadway-1201581781/>.

^[2] Eriq Gardner, *Viacom Sues Owner of “Krusty Krab” Restaurant for Violating ‘SpongeBob’ Rights*, Hollywood Reporter (Jan. 29, 2016, 3:51 PM), <http://www.hollywoodreporter.com/thr-esq/viacom-sues-owner-krusty-krab-860480>.

^[3] Phaedra Cook, *Viacom Sues Houston Firm, Says It Can’t Use the Krusty Krab Name From SpongeBob SquarePants*, HoustonPress (Feb. 2, 2016), <http://www.houstonpress.com/restaurants/viacom-sues-houston-firm-says-it-cant-use-the-krusty-krab-name-from-spongebob-squarepants-8119827>.

^[4] Viacom Intl., Inc. v. IJR Capital Investments, LLC, No. 4:16-CV-00257 (S.D. Tex. filed Jan. 29, 2016)

^[5] Viacom Intl. v. YouTube, Inc., 940 F.Supp.2d 110 (S.D. New York. 2013)

^[6] Jonathon Stempel, *Google, Viacom settle landmark YouTube lawsuit*, Reuters Tech. (Mar. 18, 2014, 11:13 AM), <http://www.reuters.com/article/us-google-viacom-lawsuit-idUSBREA2H11220140318>.

[7] Eriq Gardner, *Sony Wants to Put the Brakes On a 'Ricky Bobby' Saloon*, Hollywood Reporter (Mar. 7, 2014, 11:26 AM), <http://www.hollywoodreporter.com/thr-esq/sony-wants-put-brakes-a-686772>.