

Owners of upscale Sea Salt wounded by similarly named Miami restaurant

By AISLING SWIFT

Saturday, June 28, 2014

A legal battle is simmering over Sea Salt, an upscale Naples restaurant that contends a waterfront Miami eatery stole its trademarked name and is cashing in on its good reputation.

Sea Salt, which has been lauded by Gourmet, Esquire, Wine Spectator and The New York Times, alleges Sea Salt and Pepper is confusing customers and restaurant suppliers after a Naples attorney asked it to cease and desist and the U.S. Patent and Trademark Office rejected its application.

"A cursory search of the Internet would have uncovered the strong presence of Sea Salt and its use of the Sea Salt trademark," Naples attorney Jeanne Seewald wrote to Sea Salt Miami LLC, which in November opened the 200-seat restaurant and bar housed in a converted industrial warehouse on the Miami River.

It's the second time the 6-year-old Third Street South restaurant has fended off a trademark for "restaurant and bar services." In 2012, a Cape May, N.J., resort hotel restaurant abandoned its federal application after Sea Salt opposed it.

Los Angeles trademark attorney George Gallegos, who has represented restaurants, says branding a name is more important now than years ago.

"Consumers now rely heavily on websites such as Yelp, food blogs and have easy access to national publications, such as The New York Times or Esquire magazine to help make their dining choices," Gallegos said. "It represents your restaurant and the quality and experience a consumer can expect."

Trademark law protects the investment of time, money and talent a restaurateur puts in to develop a brand and reputation by preventing imitators from using a protected name misleading customers and profiting from its success, he said.

"If you want to be successful in today's marketplace, a restaurant owner has no choice but to be proactive in protecting its brand and reputation by filing these types of lawsuits," Gallegos said.

Last week, U.S. District Judge John Steele in Fort Myers gave Miami attorney Robert Zarco until July 1 to respond to the trademark-infringement lawsuit. Zarco could not be reached for comment.

The Miami restaurant's owners, Carlos Miranda and Stephane Dupoux, did not return calls. They're embroiled in two lawsuits against each other and [investors](#). Miami attorney José Espinosa, who applied for their trademark, referred questions to Zarco.

Seewald and co-counsel Michael Shue of Naples also declined to comment.

They filed the [lawsuit in April for Sea Salt's parent company, Nane Jan LLC](#), which is owned by Venetian-born chef Fabrizio Aielli, winner of the 2002 James Beard Foundation Star Chef Award, and his wife, Ingrid. They operated upscale restaurants in Italy, the Caribbean and Washington, D.C., and own Barbatella, several doors down from Sea Salt, which features organic produce from local farms and fish, fresh off local boats.

"Defendant continues to take advantage of plaintiff's goodwill and valuable reputation

... and to convey that its goods and services are of the same high quality and standards as those associated with plaintiff,” the lawsuit says.

The Naples restaurant opened in 2008 and registered its trademark with the state that year. U.S. Patent and Trademark Office records show it applied for a trademark in April 2011. It was granted in March 2013.

Last November, SeaSalt Miami LLC applied for a federal trademark and a month later, opened SeaSalt and Pepper — SeaSalt Brasserie and a bar-lounge, Pepper, prompting Seewald to fire off a [cease-and-desist letter](#).

Although Sea Salt didn't file opposition, the U.S. Patent and Trademark Office denied the Miami application in February, finding services were identical and would cause confusion. It noted consumers focus on the first part of a name and the logo features “and Pepper” in small letters.

So the Naples restaurant wouldn't be confused with the Miami account, court records show, two food suppliers asked it to specify “Sea Salt Naples.”

Sea Salt is asking the judge to issue an injunction to stop the Miami restaurant from using SeaSalt on the building and website. It's seeking the illegally gained profits and revenues, and punitive damages, which are meant to punish wrongdoing and deter others.

A [lawsuit Dupoux filed against his Miami restaurant's parent company](#), Hemingway's Warehouse LLC, says it's making \$300,000 weekly.

