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A Legal Battle Over a Term of Endearment That's Not So Sweet

Seattle, WA (February 21, 2006) Why are millions of dollars at stake over a common term of endearment, a fragrant flower, or a teeny green vegetable? The words "Sweet Pea" are at the heart of the latest David-vs-Goliath Internet legal battle. At risk are millions of dollars and the future of dozens -- perhaps thousands -- of individuals and small businesses.

Armed with the results of a simple Google search, a Miami attorney has launched a \$16 million lawsuit against 52 of the tiniest businesses on the Internet. The attorney's tools: an intimidating two-inch thick lawsuit, a short timeline to respond in a distant forum, and a threat of a multi-million dollar judgment. The attorney's techniques: pick only the smallest defendants who can't afford to litigate a highly questionable lawsuit. The attorney's goal: to obtain a \$5,000 contingency payoff from each defendant and collect \$260,000.

In January of 2006, attorney Alexander E. Barthet of Miami, Florida on behalf of his clothing company client Sweet Pea Limited, Inc. went to Federal District Court in Florida and filed a complaint claiming that 52 companies or individuals located throughout the United States were violating their trademark. The clothing company's lawsuit contends that using the commonly used words "Sweet Pea" in any form -- not just their stylized version -- on any article of clothing is in violation of their trademark rights and therefore they are entitled to millions of dollars in damages. Most of the defendants are creating original designs using the words "Sweet Pea" graphically on T-shirts and children's clothing.

Small Firms Intentionally Targeted

Notably missing from the list are any large defendants. All the companies being sued are one-person businesses. For example, Nordstrom (Stock Symbol: JWN) sells both the Sweet Pea Limited line of clothing as well as the products of one of the defendants. In addition, a major Internet retailer, CafePress (www.cafepress.com), is the seller, manufacturer and distributor of most of the alleged infringing products. By not first issuing a cease and desist order, the attorney's real intentions were made perfectly clear when a \$5,000 one-time payment was demanded from each defendant.

Intellectual Property Lawsuits are a Growing Concern

Questionable intellectual property lawsuits using the Internet as a tool to find possible defendants are the coming thing in what is often referred to as "litigation extortion." Like some of the ADA lawsuits of years past, this technique is becoming a common way to demand money from innocent and vulnerable people. By claiming questionable trademark rights to very common words, a number of attorneys around the country are seeking out-of-court settlements from innocent defendants who don't have the knowledge or financial resources to defend themselves in a court of law. As these types of lawsuits become more common, they are attracting high levels of concern from organizations such as the Electronic Frontier Foundation (EFF).

About the Defendants

The 52 defendants consist mostly of one person home-based businesses that offer T-shirts, children's or baby clothing featuring various original designs that include the words "Sweet Pea" in some form. While a few manufacture their designs on clothing in small quantities, most offer their designs on products at the popular online merchant CafePress where the items are produced on a made-to-order basis. Most of the defendants have sold very few items. A number of them have not sold anything at all bearing the contested term of endearment.

A suit of this scope and size has been a shock to all the defendants. The ability to either fight it or pay off the plaintiff's attorney is beyond the means of most of them.

The effect of the suit can be seen below in some of their comments:

"Without some publicity to expose preposterous attacks such as this, underhanded individuals will be inspired and allowed to claim "intellectual property" over any common phrase or name as a shortcut to the profits they desire, attacking small business owners in any area - not even those in direct competition... it would be a real blow to our free enterprise system." Allaina H., Illinois

"I started my kid's online store, GiggleWiggles.com, to help pay my mounting debt due to medical bills I got last year after having a baby. And now, thanks to this ridiculous lawsuit, I have to go into further debt just to fight this absurdness because I call my daughter "Sweet Pea" and put it on a T-Shirt." Laura O., California

"We are just the average American family in a small town setting. We had to look at the possibility of paying the Plaintiff's demand for compensation--even though everyone who hears the details of this case can plainly see how ridiculous it is. Five thousand dollars is a devastating amount of money for a family like mine. I stay at home with the babies while my husband works. In our small Kansas town, there isn't a job that could afford me to place my children in childcare--and be able to pay off this amount of money in any kind of timely fashion. But to fight this out in court could cost us the college funds for the girls--even if its dropped before it gets to a real trial. That's what people don't realize and that's what the Plaintiff's law firm is counting on." Kim A., Kansas

About Sweet Pea

In use for hundreds of years on products of all types, "Sweet Pea" is a term of affection or endearment, the name of a flower, the name of a vegetable, and the name of a baby in a "Popeye" cartoon.

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About the Sour Peas

Sour Peas is the name of the ad hoc organization of the 52 Sweet Pea defendants who are working together both legally and publicly to bring this shakedown lawsuit to an end.

For more detailed Sour Peas information, additional media resources, legal details and contact information for interviews visit: www.sourpeas.org.

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