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[Cupcakes Are So 2010...or Are They?](#)

August 5, 2011 by [Sharon Armstrong](#)

Okay, I'll admit it—I'm not a huge fan of cupcakes. Cake is one of those desserts that is often served (and consumed) for obligatory purposes; it is served at weddings and birthdays and other occasions to signify a celebration. The problem, in my humble opinion, is that you're supposed to eat it. And let's face it, the world is crowded with mediocre cake. Cupcakes? Well, cupcakes are just little pieces of overpriced cake.

I know I'm missing something though because, over the past few years, cupcakes have become the food craze of all food crazes. Serious Eats reported that [searches for cupcakes surpassed searches for bacon](#) on Google. While I might want [the cupcake trend to die](#), I am plainly in the minority of dessert-eaters in my view. Cupcakes strike many a sweet-tooth-fancy these days, and they are serious, serious business.

Case in point: a few weeks ago, [Sprinkles Cupcakes](#), Inc.—a bakery based in Beverly Hills that claims to be the first cupcake bakery in the world—sued [Pink Sprinkles](#), LLC for trademark infringement and related causes of action. In addition to its location in Beverly Hills, which it opened in 2004, Sprinkles owns numerous locations around the country – including an outpost in New York—and is planning to open stores internationally; Sprinkles also owns a number of trademark registrations for its name and mark. Pink Sprinkles began operating in Connecticut “years after” Sprinkles. Pink Sprinkles advertises itself as “Fairfield’s first cupcake boutique in Brick Walk Promenade.” That’s a lot of firsts.

Readers of this blog know that one of the benefits of a federal trademark registration is that the registration provides nationwide priority dating back to the date of filing. Putting aside issues of proof and relying only on Sprinkles’ allegations, it would seem that Sprinkles would be the winner here. However, Sprinkles’ registrations and priority don’t mean that this case is a slam dunk. Regardless of priority, Sprinkles will still need to support a likelihood of confusion between its use of its mark and Pink Sprinkles’ use of its mark. So the question is, is confusion likely? Take a look at the parties’ websites and judge for yourself.

