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BIG GINGER Trademark Dispute

By Dan Kelly on February 17th, 2012

Twin Cities quasi-celebrity Kieran Folliard grabbed headlines this week by suing the owners of [Jameson Irish Whiskey](#), [Pernod Ricard](#), for trademark infringement. Folliard is well known in the Twin Cities for founding a [chain of pubs](#), including Cooper, Kieran's Irish Pub, The Liffey, and The Local. Of these, [The Local](#) serves a locally well-known drink called The Big Ginger®, which consists of whiskey and ginger ale served over ice with wedges of lemon and lime. The Local has traditionally served The Big Ginger with Jameson, and has done so in such quantities that for five years (FY 2006 – 2011), [it poured more Jameson than any other establishment in the world](#). (Think about that for a minute. Not a pub in Ireland, not Boston, not New York, not Chicago, but Minneapolis.) Evidently we are a thirsty bunch here in Minneapolis.

Well, the [friendship](#) may be over. Folliard has moved on to be the proprietor of his own brand of whiskey, [2 Gingers](#), and consequently has divested himself of pub ownership. The Local is now making The Big Ginger with 2 Gingers whiskey and not Jameson. Jameson allegedly offered to buy THE BIG GINGER trademark in 2009, which Folliard's companies declined. Fast forward to last week, when a distributor evidently spotted table tents at another local establishment (local, not Local) promoting a BIG JAMESON GINGER. Folliard has moved quickly, filing a suit this week and moving for a temporary restraining order. A hearing date has not yet been set.

Drink trademarks are very interesting types of trademarks because they involve tastes (quite literally) and often incorporate other branded goods. (We've covered this before [here](#).) Of particular interest in this case is some of the evidence that Folliard's companies have already submitted, like this presser:



**MINNEAPOLIS PUB SETS WORLD RECORD FOR
SELLING MOST JAMESON® IRISH WHISKEY
ON EARTH FOR THE FOURTH YEAR**

"The Local" Irish Pub is Recognized with a Ceremony by Irish Dignitaries

MINNEAPOLIS, MN – May 13, 2010 – The Local Irish Pub in Minneapolis has marked its fourth consecutive year of having sold more Jameson® Irish Whiskey than any other bar in the world – including any pub in Ireland. Owned and operated by Kieran Folliard and Peter Killen, two Irishmen who adopted Minneapolis as their hometown, The Local utilized their trademarked drink "The Big Ginger" to secure this record four-peat.

The Local, a traditional-style Irish pub that prides itself on providing an atmosphere of hospitality and a sense of authenticity that the Irish are famous for, sold 775 cases of Jameson in 2009, which adds up to 25 bottles of the Irish whiskey every day.

"We couldn't have accomplished this feat without the help from our loyal Irish whiskey drinkers and our signature drink the Big Ginger (Jameson and ginger ale)," said Folliard. "The Big Ginger has solidified itself as a crowd favourite—people ask for it by name—and it has become popular with everyone from the new whiskey drinker to the connoisseur."

How about that? According to the proprietors themselves in 2010 (and 2009 and 2008), a Big Ginger consists of *Jameson* and ginger ale—a claim repeated over and over through the years and many press reports.

The initial allegations in this case do not appear to reflect well on Jameson, but that is always the case with a complaint or opening brief—it is one side of the story. Look for this one to become really interesting on the merits.

