Sprinkles is frosted over cupcake newcomer Sprinkled Pink

By Kimi Yoshino, Los Angeles Times Staff Writer

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Starting a business is no piece of (cup)cake. Just ask two of the newest bakeries to open in Southern California.

Beverly Hills-based Sprinkles -- pioneer of the cupcake-only shop and purveyor of miniature morsels beloved by celebrities -- is turning up the heat on competitors allegedly treading on its trademarked name and dot motif.

The Beverly Hills-based chain, which has taken legal action against other rivals, demands a name change by the Montecito bakery.

Three-year-old Sprinkles most recently set its sugary sights on Sprinkled Pink Cupcake Couture in Montecito, Calif. The shop has received a letter from Sprinkles of Beverly Hills insisting that it change its name.

An opening party in July at Sprinkled Pink Cupcake Couture in Montecito, Calif. The shop has received a letter from Sprinkles of Beverly Hills insisting that it change its name.
Sprinkles is frosted over cupcake newcomer Sprinkled Pink - Los Angeles Times

"They're going too far," said Jones, who hasn't decided how to respond to the letter. "I'm sure they're protecting themselves, but there's a whole big United States out there. There's room for other cupcake shops. They shouldn't be bullying around or picking on little people like us. . . . I really honestly don't think they invented the cupcake."

According to Slafsky, all the "sprinkles" and "dots" affiliated with cupcakes are commonly used in the context of frosting and whether the dot truly sets Sprinkles apart.

Doug Lichtman, a UCLA law professor who specializes in intellectual property, said "any business is able to protect the exclusivity of marks that genuinely identify the business." The question is whether Sprinkles can lay claim to a word that is not unique to their business. The law says that if you're a trademark owner you have a duty to enforce your rights," Slafsky said. "These are small-business people themselves. They've worked really, really hard to build a successful business, and it's frustrating for them when other folks feel comfortable copying their original creations and their original brands."

Magnolia Bakery in New York kicked off the gourmet cupcake craze earlier this decade, and when Charles and Candace Nelson opened Sprinkles in 2005, they brought the fervor to the West Coast. Since then, Sprinkles has expanded to Newport Beach, Dallas and Scottsdale, Ariz., and has several more stores in the works. People are so cuckoo for the confections that they're devouring cupcake cookbooks, cupcake-shaped jewelry and anything else adorned with the cute concoctions.

Sprinkles, on the other hand, has a sleek, modern look. Its $3.25 cupcakes are frosted smooth, with sparse embellishments -- only sprinkles or coconut -- and the trademarked "modern dot," a circle-in-a-circle piece of candy that sits atop every Sprinkles cupcake, helps eaters tell the difference between flavors like lemon coconut and red velvet.

In Southern California, Sprinkles has spawned a wave of imitators, including Dots Cupcakes in Pasadena, Yummy Cupcakes in Burbank and Frosted Cupcakery in Long Beach. Jones said she had been baking cupcakes "underground" for almost three years and delivering them to Montecito, including to the wedding-rehearsal dinner this summer of former "Bachelor" star Andrew Firestone and his model bride, Ivana Bozilovic. But with three kids and twice-weekly commutes from Bakersfield to Montecito, Jones decided to move once she had built up the clientele to open a storefront.

Her sweet shop is dripping in hot pink, and her $3.50-a-pop cakes have whimsical names such as Peanut Butter Yumptious and Whipple Scrumptious. They're stuffed with cookie dough and peanut butter cups and are "ooey-gooey yummy," Jones said.

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Sprinkles demanding that she change the name of her bakery, which she registered when she got her business license in 2003.

"If anyone had ever been to Sprinkles, they would never mistake my store or my cupcakes," Jones said.

That's what the owners of Famous Cupcakes in North Hollywood said, too, after Sprinkles sued them last month for using dots in its packaging and throughout the store.

All told, lawyers for Sprinkles said, they have sent about a dozen similar letters to shops around the country and filed three lawsuits, including one last month against Famous Cupcakes in North Hollywood for using dots in its packaging and throughout the store.

The trademarked "modern dot," a circle-in-a-circle piece of candy that sits atop every Sprinkles cupcake, helps eaters tell the difference between flavors like lemon coconut and red velvet.

The dot, along with Sprinkles' trademarked name, are the chain's meal ticket, said attorney John Slafsky. Both have been copied "countless times" around the U.S. and in Britain, Singapore, Japan, Malaysia and Dubai. Only in the most egregious cases has Sprinkles taken action, he said.

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According to Slafsky, all the "sprinkles" and "dots" affiliated with cupcakes are leading to "marketplace confusion" for hungry consumers.
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