

KIND Sues Clif Bar over Similar Packaging



Photo: KIND

NEW YORK (KIND) — KIND filed a lawsuit against [Clif Bar](#) [1] in federal court in Manhattan seeking to prevent Clif from releasing its Clif MOJO snack bars in packaging which mimics the unique and distinctive packaging of KIND bars.

In addition to mimicking KIND's products in its choice of flavor names, ingredient combinations and product features, the new MOJO packaging copies several key elements of KIND's distinctive trade dress (many aspects of which are the subject of the federal trademark registrations pictured below). A few of those key elements include the rectangular transparent window on the front panel that reveals a large portion of the bar itself; a horizontal stripe along the front of the packaging calling out the flavor name and description of the product line (e.g. Fruit & Nut); two vertical color stripes at both ends of the bar; and a bulleted list of key health attributes set against a black background.

Clif's line of MOJO snack bars have consistently lost market share to KIND's industry-leading healthy snack bars for years. In response, rather than innovating as KIND has done, Clif is poised to launch the MOJO bars in packaging that abandons the traditional look and feel of the Clif and MOJO brands (pictured below) and instead coopts the look of KIND. As stated in the lawsuit, the new MOJO trade dress reflects a new and dramatic leap over the line in what appears to have been a calculated progression of incremental changes, designed each time to get closer and closer to the trade dress of KIND bars and farther and farther from the package design elements that would associate the product with the Clif brand.

"Clif is a long-standing and well-respected competitor in the nutritional bar marketplace, which makes this imminent release of a copy-cat product particularly disappointing," explained Daniel Lubetzky, KIND founder and CEO.

Since launching a decade ago, KIND has worked hard to innovate and create products whose ingredients you can see and pronounce[®]. Consumers have embraced those KIND products in rapidly increasing numbers. "KIND will vigorously defend its hard earned goodwill and brand value against anyone that seeks unfairly

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to dilute or detract from the KIND brand,” stated Justin Mervis, KIND Vice President and General Counsel. Mervis adds “KIND is committed to preventing the harm to consumers and retailers that will result if the MOJO line is launched in confusingly similar packaging. Consumers stand to be misled by the deceptive packaging of the new MOJO bars, and retailers will suffer if sales of the top-selling KIND brand are cannibalized by an infringing product.” Finally, Mervis shared that “while KIND welcomes competition, KIND insists that such competition be fair and not based on consumer deception.”

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Links:

[1] <http://www.foodmanufacturing.com/videos/2013/08/history-clif-bar>