John Wayne Heirs Sue Over 'Duke' Bourbon

MICHAEL BIESECKER, Associated Press

DURHAM, N.C. (AP) — John Wayne's heirs are taking Duke University to court to assert the family's right to market bottles of bourbon branded with the late movie star's nickname, Duke.

A federal lawsuit filed last week is the latest salvo in a long-running legal duel between the North Carolina university and California-based John Wayne Enterprises over commercial products featuring the name. The late actor used the moniker since childhood, when he adopted the name of the family dog.

Lawyers for the university say allowing the Wayne estate to use the name could cause confusion and "diminish, dilute and tarnish" the value of the name, for which both parties hold trademarks.

Messages seeking comment Wednesday from John Wayne Enterprises were not returned.

The bourbon is labeled with an image of Wayne holding a rifle with "Duke" emblazoned over it in bold letters. The phrase "A man's gotta do what a man's gotta do" is included on the back side of the bottle.

"Duke University does not own the word 'Duke' in all contexts for all purposes," the family's lawyers said in the lawsuit. "Duke is a common word that has been used for centuries in a wide array of commercial and other applications wholly independent of Duke University. Yet by the actions alleged herein, Duke University seems to think it owns the word 'Duke' for all purposes and applications."

Duke University is named for a wealthy family of Durham tobacco barons who in the early 1900s endowed what had been a small rural college affiliated with the Methodist church. It made the first legal move against the Wayne heirs when it opposed their 2005 trademark application to use the name Duke for a restaurant. When the actor's family filed last year to use the name to market alcoholic beverages, the university objected once again.

The private university declined to disclose how much it brings in each year through licensing merchandise featuring the Duke name and its Blue Devils mascot.

"While we admire and respect John Wayne's contributions to American culture, we are also committed to protecting the integrity of Duke University's trademarks," said Michael Schoenfeld, a spokesman for the university. "As Mr. Wayne himself said, 'Words are what men live by . words they say and mean.'"

The United States Patent and Trademark Office lists more than 250 active trademarks that include the word "Duke," including jazz legend Duke Ellington and

a brand of mayonnaise.

Originally named Marion Robert Morrison, Wayne died in 1979 and remains one of Hollywood's most recognizable stars, with an official Facebook page that has 2 million likes. He appeared in more than 175 films over a 50-year career, including iconic roles in such Western classics as "Stagecoach," ''The Searchers" and "True Grit."

The Duke also enjoyed a stiff belt of whiskey.

"I never trust a man who doesn't drink," Wayne is quoted as saying, according to his official website.

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