

SHAKEN & STIRRED

The Right Stuff (by Law)

By JONATHAN MILES
Published: July 2, 2009

"What's in a name?" Shakespeare famously asked. In the case of the Dark 'n' Stormy, a Bermudan cocktail that's been making a quiet resurgence in New York City bars and restaurants in the last couple of years, it's two ounces of Gosling's Black Seal [rum](#) and a fizzy hit of ginger beer.



Michael Appleton for The New York Times
Not just a little this and that.

And, by law, nothing but.

That's according to two trademark certificates on file with the [United States Patent and Trademark Office](#), which — in an exceptionally rare instance in the cocktail world — dictate the precise ingredients and amounts required to call a Dark 'n' Stormy, well, a Dark 'n' Stormy.

"We defend that trademark vigorously, which is a very time-consuming and expensive thing," said E. Malcolm Gosling Jr., whose family has owned Gosling's since its founding in Bermuda in 1806. "That's a valuable asset that we need to protect."

Related

Recipe: Dark 'n' Stormy (July 5, 2009)

Drinks like this one undergo something like a wiki process: a tweak here, a substitution there, and the drink is reimaged.

"The temptation is always to add something of your own," said Jordan Salcito, the mixologist at Gilt at the New York Palace Hotel in Midtown, whose own Dark 'n' Stormy sticks to the lawful recipe save for the dash of fresh lime juice she adds to brighten the flavors.

Where Mr. Gosling — and his legal team — draw the line is the presence of other rums in a so-called Dark 'n' Stormy, which was invented in Bermuda just after World War I. "People will try one with some other rum, and then say, what's the big deal with this drink?" he said. "That's a real concern."

During a phone interview, this reporter described a Dark 'n' Stormy-theme advertisement, in the current issue of Imbibe magazine, from the makers of Zaya rum. "Now I have to pursue that," Mr. Gosling said wearily. Speaking more broadly, about competing rum companies piggybacking on the Dark 'n' Stormy revival, he said, "They're really just trying to cheat and to capitalize on our investment."

Yet this is something more than corporate gamesmanship. Gosling's Black Seal — as dark as motor oil and with a distinctively charred flavor — tastes like no other rum, in the way

SIGN IN TO
RECOMMENDSIGN IN TO E-
MAIL

PRINT

REPRINTS

SHARE

ARTICLE TOOLS
SPONSORED BY

that Campari tastes like no other digestif. In a further effort to sanctify the formula, Gosling's created its own brand of ginger beer, in May, called Gosling's Stormy Ginger Beer. This came after years of an unofficial partnership with Barritt's, a Bermudan brand of ginger beer; Mr. Gosling declined to characterize the nature of the split, but said no specific ginger beer was ever cited in the company's trademark registrations. "We would never tie ourselves down that tightly," he said.

Ms. Salcito, at Gilt, said she was unaware of the trademark until contacted by this reporter. Pondering the legality of adding lime juice, she wondered aloud about the way the drink is listed on Gilt's cocktail menu. "We might have to go with an ampersand," she said.