

Iceland

4 December 2016

Iceland continues to seek peaceful coexistence with Iceland

Iceland Foods notes with regret the statement issued by the Icelandic Ministry of Foreign Affairs on the evening of Friday, 2 December - <https://www.mfa.is/news-and-publications/iceland-issue-a-matter-of-principle> - in which it rejected Iceland Foods' attempt to achieve an amicable resolution of the Iceland word mark issue and expressed its determination to press ahead with legal action.

Iceland Founder & CEO Malcolm Walker said: "We very much regret that the Icelandic Government was not willing to hold any serious discussion with us on ways in which we might co-operate to our mutual benefit.

"While we have no wish to engage in a public argument with our friends in Iceland (the country), it is important for people to understand that a number of their comments on this issue are factually incorrect. In particular, their claim in a statement of 24 November that 'Over the past years Iceland has made multiple efforts to negotiate with Iceland Foods with the hope of reaching a fair solution and avoiding legal action. These conciliatory efforts have unfortunately been met with unrealistic and unacceptable demands by the supermarket chain leaving Iceland with no choice but to proceed with a legal resolution to the situation.'

"Nothing could be further from the truth. In fact, they have made no direct approach to us whatsoever about trademark issues since 2012, which is why we sent a small delegation to Reykjavik on Friday to try to achieve a resolution. This got nowhere because it rapidly became clear that the Icelandic authorities have no interest in reaching a compromise.

"We have no real idea why this has suddenly become such a major problem for Iceland (the country). Iceland Foods had Icelandic majority shareholders and Icelandic representatives on its board for seven years to 2012. At no point in all those years did any representative of Iceland (the country) raise the slightest concern about our company's branding.

"Recent claims that we have sought to prevent Iceland using the name 'Iceland' to promote tourism to the country are simply nonsensical. All we have ever sought to do – and will continue to do – is to prevent other food and retail companies from representing themselves as 'Iceland' in ways that could cause confusion with our brand.

"For the record, we set out below a history of our involvement with Iceland (the country) and of the actions we have taken to protect our rights.

“The one absolute certainty about legal action is that it will take up a great deal of time and cost a large amount of money, and that ultimately the only real beneficiaries will be lawyers. That is why I once again urge the Government and people of Iceland to talk to us to achieve the sensible coexistence agreement which I am sure is well within reach and very much in the best interests of all parties and their stakeholders.”

For the record we set out below a short history of Iceland Foods, and of the events which we believe have led to the recent dispute.

- Iceland Foods was founded with the opening of a single shop in Oswestry, Shropshire, in November 1970. The name “Iceland” was suggested by the founder Malcolm Walker’s wife Rhianydd.
- Originally co-owned by its two founders, Iceland Foods acquired external shareholders to fund its expansion and then became a UK public company through a successful flotation on the London Stock Exchange in 1984.
- Iceland Foods (latterly renamed The Big Food Group) remained a quoted company until it was acquired by Icelandic investors, led by Baugur, in February 2005.
- After Baugur entered administration in February 2009, a 77% shareholding in Iceland Foods passed to the Icelandic banks Landsbanki and Glitnir, which also became insolvent.
- The resolution committees of the failed banks sold their holdings in Iceland Foods in a £1.5bn management buyout in March 2012. Iceland Foods is now co-owned by its executive directors and the investment company Brait.
- Iceland Foods today has almost 900 company-owned stores in the UK, Republic of Ireland, Czech Republic and Iceland (the country). In addition to our three directly owned Iceland stores in Reykjavik we sell Iceland branded food through 10 to 11 convenience stores throughout Iceland (the country). We also sell through franchised Iceland stores in territories including Spain, Portugal, the Channel Islands and the Isle of Man, and have a global export business supplying our Iceland branded products to more than 30 countries throughout the world.
- We employ 23,000 people directly and probably as many again in supply industries.
- Our turnover is £2.7 billion per year and we have more than five million customers per week coming through the doors.
- The Icelandic government announced in September 2016 that it was considering taking legal action that would seek to invalidate our key registered trade mark (which covers the UK and EU) and which is detailed here: <https://www.ipo.gov.uk/tmcase/Results/4/EU002673374>.
- It further announced on 24 November 2016 that such legal action had been launched.

- The above press release was issued, and the legal action initiated, without any prior approach to Iceland Foods.
- Our Community Trade Mark affords protection for Iceland Foods throughout the EU for most of the range of goods we sell, plus domestic appliances (which we have sold in the past).
- Our protection in this specific registered mark goes back as far as October 1994 (and our rights in the brand in general go all the way back to the commencement of Iceland's operations in 1970) The specific mark was filed on 19 April 2002, registered on 9 December 2014, and is based on an earlier UK mark (2000048A), which was filed on 31 October 1994.
- The Icelandic government's action was apparently triggered by our opposition (based on the rights in our mark) to an application to register "Inspired By Iceland" in the same categories of goods as our mark.
- The Icelandic government did not approach us about this application, and did not disclose its involvement with it. The applicant was "Islandsstofa".
- Islandsstofa had already registered "Inspired By Iceland" before: see <https://www.ipo.gov.uk/tmcase/Results/23/WE00001094966>
- We did not oppose that application because it did not cover goods or services which conflict with our own.
- We opposed Icelandstofa's latest attempt to register "Inspired By Iceland" (see <https://www.ipo.gov.uk/tmcase/Results/4/EU014350094>) because it does cover goods which conflict with our own: namely meat, poultry, game, eggs, milk, coffee, tea, bread, beers, non-alcoholic beverages and fruit juices.
- Had Iceland Foods allowed this mark to be registered, the applicant could have opened "Inspired By Iceland" supermarkets anywhere in the UK and EU. It was therefore inevitable that we would have to oppose this application, not least because we have an important and growing business of our own called "The Food Warehouse By Iceland."
- Given that the Icelandic government did not contact us to discuss, or claim the applications as their own, we had to assume that Icelandstofa was a commercial operation. Had we known that the Icelandic government was behind the application, we would have been very happy to have a conversation with them to explore ways in which their desire to promote Icelandic products could coexist with our established rights as owners of the Iceland brand.
- We continue to believe that there is scope for an amicable settlement of this issue, and indeed to explore ways in which Iceland Foods could do more to promote the sale of Icelandic products in its stores outside Iceland (the country) and further develop our already successful business there.

- We very much hope that the Icelandic authorities will allow further conversations to achieve this to take place.

ENQUIRIES:

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For more information on Iceland Foods, please visit www.iceland.co.uk