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## *Goin' to Surf City? Two Coastal Towns Claim the Title*

### *Huntington Beach Jousts With Santa Cruz, Calif.; A T-Shirt War Heats Up*

BY ROBERT A. GUTH

SANTA CRUZ, Calif. -- Ginger Noland, 72 years old, was surprised last September to get a letter from a Southern California law firm threatening to sue her family business, which sells T-shirts and trinkets in this beach town about 70 miles south of San Francisco.

The lawyers claimed that Noland's on the Wharf was violating a trademark by printing the words "Surf City USA" on a \$17 T-shirt. The rights to that combination of words belong to the Huntington Beach Conference & Visitors Bureau, the letter said. The lawyers demanded that the Nolands stop selling the shirts by the end of the month.

Distressed, Ms. Noland turned to her elder son, Bruce, and asked: "What have you done?"



*Ginger Noland*

What Mr. Noland had done was stoke a long-simmering war between North and South, California-style. Huntington Beach, with its warm weather, sandy beaches and steady waves, has long argued that the Surf City title is its exclusive property, granted to it by the 1963 Jan & Dean song hit "Surf City."

Four hundred miles north, the mellow college town of Santa Cruz is equally adamant that it is the original Surf City. Its historical surfer pedigree dates to 1885, when members of the Hawaiian royal family surfed nearby.

At first, Ms. Noland planned to give in to the lawyers' demands. With an ailing 72-year-old husband to support and her own problem with cataracts, she didn't want a fight. But Santa Cruzans, outraged by the legal threats, turned out to support the family. A local surfer-lawyer phoned Ms. Noland offering help,

free of charge. His firm, a Silicon Valley intellectual-property specialist that has successfully taken on such companies as Microsoft Corp., answered the letter by filing a lawsuit alleging that the Huntington Beach Visitors Bureau trademark isn't enforceable outside the Huntington Beach area.

"The real Surf City is widely acknowledged to be Santa Cruz," said the Santa Cruz complaint. The judge hearing the case, filed with the U.S. District Court in San Francisco, has three times turned down the Huntington Beach motion that the case be moved south. "It will be difficult for my client to get a fair trial in Northern California," says Richard Sybert, an attorney at Gordon & Rees in San Diego who is representing the Huntington Beach bureau.

The Nolands opened the first of four surf shops in 1960 on the Santa Cruz wharf, where tourists stroll among souvenir shops and fish stalls. Ms. Noland and her husband, Ward, managed the business. Their two sons helped out when they weren't out surfing themselves. After Ward Noland was diagnosed with Alzheimer's disease in 1994, Bruce, who is 48, stepped in.

By then, the Surf City spat was building. Despite two existing "surf cities" in North Carolina and New Jersey, a Huntington Beach assemblyman in 1992 tried to push through a state resolution recognizing his city as "Surf City Huntington Beach." Waves of protest from Santa Cruz helped entice a local representative to sink the resolution.

In 2004, the Huntington Beach bureau kicked off a "Surf City USA" promotion. That was the brainchild of Doug Traub, the bureau's president, who envisions Huntington Beach as a tourist destination with Surf City USA events and goods. His plan includes building a surf museum with a lighted 100-foot-tall glass surfboard visible from miles away. Pass-

ing it, you'd get "a little flutter in your heart and you'd say, 'Wow!'" Mr. Traub says.



His first step was to file 12 trademark applications with the U.S. Patent and Trademark Office. So far Huntington Beach has been granted trademarks allowing it to advertise itself as "Surf City USA" and to market scores of Surf City USA branded goods and services, including clothing, volleyballs, bicycles, inflatable pools, handbags, software and concerts. Pending applications cover Surf City manhole covers, parking meters and financial services.

In response, the then-mayor of Santa Cruz parodied the "Surf City" song on local television, and challenged Huntington Beach to a surf-off that would decide the rightful owner of the title. In August 2005, a Northern California state senator submitted a state resolution to have Santa Cruz designated "Surf City USA." Huntington Beach lobbied against it, and the resolution died.

The Nolands fell into the froth when Bruce chose the words to print on a new

T-shirt that reads, from top to bottom, "Surf City, Santa Cruz, California, USA." Mr. Noland says he didn't know at the time that the Huntington Beach bureau had applied for a trademark, though he was aware of a "little fight." The shirts landed on shelves in August 2005.

The Nolands had sold 319 of them when the legal notice arrived a year later, on Sept. 6. Ms. Noland told her son to sell the remaining 85 shirts quickly. She then visited Santa Cruz's tourist board with her tale. On Sept. 22, the board issued a news release detailing the southern threat.

The next day, customers lined up in front of the store and by 11:45 a.m., the shirts were sold out. Mr. Noland rushed to order 1,800 more to sell before the Huntington Beach bureau's Sept. 29 deadline; they sold out, too.

Ms. Noland, meanwhile, mulled a Huntington Beach settlement offer. But the legal lingo confused her, so she returned a call from Ted Herhold, the lawyer offering free help. His firm, Townsend & Townsend & Crew, told her she needn't settle. On Oct. 12, on behalf of the Nolands, the firm filed suit in the San Francisco federal court.

The suit cites a 1927 newspaper article that refers to Santa Cruz as "Surf City." The suit recounts how nephews of Queen Kapiolani of Hawaii -- the unchallenged birthplace of surfing -- surfed the San Lorenzo River on redwood boards in 1885 and how the patron saint of surfing, Hawaii's Duke Kahanamoku, rode waves on Santa Cruz shores in 1912.

The Huntington Beach bureau filed a counterclaim declaring that "Santa Cruz is a somewhat dated seaside town that has no particular prominence in surfing culture." The claim asks the court to declare that the Nolands infringed Huntington Beach's trademark.

The two parties will try to resolve their differences with a court-appointed mediator on April 23. If a settlement isn't reached, the case will go to trial in September next year.

Mr. Sybert, the Huntington Beach lawyer, says he believes the Nolands are pawns of a greater Santa Cruz effort to squeeze publicity out of the case. Ms. Noland denies that and says she's glad she decided to face down Huntington Beach. "I'm fighting the good fight for everyone" in Santa Cruz, she says.

(See related letters: "Letters to the Editor: Uncool Beach Brawl" -- WSJ April 20, 2007)