

January 2015

I welcome this opportunity to introduce myself and address some of the issues around the Fire Cider trademark. My name is Brian Huebner, my sister Amy, her husband Dana, and I started Shire City Herbals in January of 2011.

In late August of 2011, after getting all of the pieces in place, we received our wholesale license. I started reaching out to coops, health food stores and cafes in our area. Over the next year and a half, the three of us appeared at numerous festivals, farmer's markets, conducted instore demos and made other public appearances. We gave out tens of thousands of samples and introduced our product to the general public. In March of 2012, we started the application to trademark "Fire Cider". After an 8 month investigation, the USPTO agreed that we were entitled to the exclusive rights that go with a federal trademark registration for FIRE CIDER in connection with tonics. That was over two years ago in December of 2012. Since then, we have continued building our brand and spreading our message.

In January of 2014, we noticed that there were a few new listings on Etsy.com of people selling tonics in connection with the mark FIRE CIDER. As is incumbent on all trademark owners, we enforced our rights through Etsy's trademark complaint process. This precipitated the "trademark controversy" and a protest by a small number of specialized herbalists – not consumers. The herbalists were clearly emotional and confused. They implied that teaching, sharing, talking about or making any variation of this recipe would be illegal. This misunderstanding inspired a very spirited popular movement, which soon crystallized as "Tradition not Trademark".

If indeed a few other people had referred to a recipe as fire cider, we were the first and only company to use that name in connection with a product sold in interstate commerce, and had been for three years. Rather than correct this misunderstanding, TnT took the fear and anger of their constituents and amplified it. Our three person company was deemed "the Monsanto of herbalism" and a campaign of fear mongering began. In a matter of days, according to TnT, Shire City Herbals had destroyed thousands of herbal businesses; we had removed herbal products off of store shelves; we were seeking out and suing small herbal businesses across the nation; we were a branch of Big Pharma, and our trademark was a dangerous precedent that would erode and destroy the herbal tradition in America. These claims were completely untrue. Sadly, due to the highly charged "breaking news" atmosphere created by TnT over social media, herbalists received these false and misleading claims. Within the Facebook echo chamber, rumors became codified as truth. TnT immediately encouraged their readers to contact our retail partners and demand that they stop carrying our product. Most vexing of all, TnT encouraged small herbalists to launch protest "fire cider" products on Etsy and elsewhere, creating conflict where none existed before. For a documented account of these false claims, [here is a detailed list](#) covering the past year.

In reality, Shire City Herbals is the only business that has seen its livelihood threatened; TnT made it clear from the outset that putting us out of business was a top priority. Thanks to the

TnT boycott of Fire Cider, ours was the only herbal product kept off of store shelves. To complete the irony, TnT is now bringing a legal case against Shire City Herbals. This is the first and only legal action in connection with the trademark, and we are in the position of defendants. TnT has become the very boogeyman that they initially sought to destroy, and community support for their misdeeds has flagged accordingly. It is worth noting that the individuals seeking to legally revoke our trademark hold several trademarks and copyrights on herbal products themselves. Some of these legal protections date back decades, with no notable damage to the herbal tradition during that time. Indeed, their businesses and brands are flourishing.

One final point deserves to be addressed. Rosemary Gladstar believes the term "Fire Cider" to be hers, dating back variously to the 70's, 80's or 90's. The accusation is that Shire City Herbals knowingly stole this name from Rosemary in order to take advantage of the popularity of the term. This is a serious claim, and I wish to put it to rest once and for all.

First, it was not until January of 2014 that I learned of Rosemary Gladstar. I come from a background of graphic design. My sister Amy is a trained nutritionist. Dana's background includes endurance bicycle racing and yoga teacher training. While Rosemary is apparently a popular figure within the herbal community, the three founding members of Shire City Herbals were not a part of that community. We had no formal training, only an obscure recipe from Dana's grandmother which Dana and Amy developed and found beneficial to their own health.

Secondly, the name Fire Cider was by no means popular. Over the past four years I have personally contacted nearly one thousand individual stores, and handed out around 100,000 individual samples of Fire Cider. In these encounters, the overwhelming response to our tonic has been "what is Fire Cider?", followed by "people actually drink this?". Only in the past year or so has there been some recognition of Fire Cider, and these instances have all been in reference to our own product.

Furthermore, when TnT called for a boycott of our product, Rosemary Gladstar joined in. On many occasions over the past year, she has urged her followers to boycott our tonic. If the only reason people were buying our product was because of Rosemary's legacy, as the story goes, then surely this call to action would seriously damage our business. In fact, the exact opposite has happened. Instead of withering under the boycott, we have nearly doubled the number of customers and stores that stock Fire Cider over the past year. We grew in spite of the boycott. The market for Fire Cider exists as a result of our hard work and dedication, our excellent product, and our commitment to customer satisfaction. The boycott only served to harass small businesses and split the community. As this fact has come to light over the past 12 months, the boycott and similar actions have effectively ceased.

Finally and most importantly, if we "knew" this was Rosemary's favorite recipe, why on earth would we have "stolen" it as TnT asserts? Why would we have started our business by deliberately trespassing against a respected teacher, thus guaranteeing conflict? This contradicts the character of our business and our history in the community. From the beginning,

we have stated that this is an unfortunate coincidence based on a name suggested by a roommate of Dana's, and a recipe which he learned from his German grandmother.

Tradition not Trademark started one year ago, igniting a conflict over the Fire Cider trademark. During that time, TnT ran a punitive campaign against our business. They encouraged other small herbal businesses into direct conflict with Shire City Herbals, to the detriment of all involved. TnT repeatedly lied to the herbal community. All of this was done, according to TnT, to preserve herbal traditions and the herbal community. I and many others find it impossible to reconcile this statement with the actions of TnT.

In contrast, Shire City Herbals has continued to grow and spread the idea of whole foods tonics. In the past year, the availability of Fire Cider has doubled. We have hired three full time employees, offering a living wage and health care benefits. We helped a local farm raise money to build a solar array. We moved our shipping operation to a solar powered warehouse. We removed all plastic from our shipping operation, and now fulfill orders in 100% post consumer recycled boxes with compostable and/or recyclable packing materials. We have invested heavily in labor saving kitchen equipment, which we share with the other members of our community kitchen. We received organic certification from Bay State Certifiers last Spring. This Spring, we are partnering with our community kitchen to help local farms fund and navigate the Organic Certification process. In 2014, we gave out over 400 gallons of Fire Cider in 1/4 ounce samples across the Northeast and beyond. That works out to nearly a quarter million free samples!

Shire City Herbals will continue to share our values of responsible agriculture and whole foods natural healing. We will follow our principles of community service and responsible growth. The trademark has afforded us the confidence to pursue our goals on a national scale. I welcome any further questions that you may have.