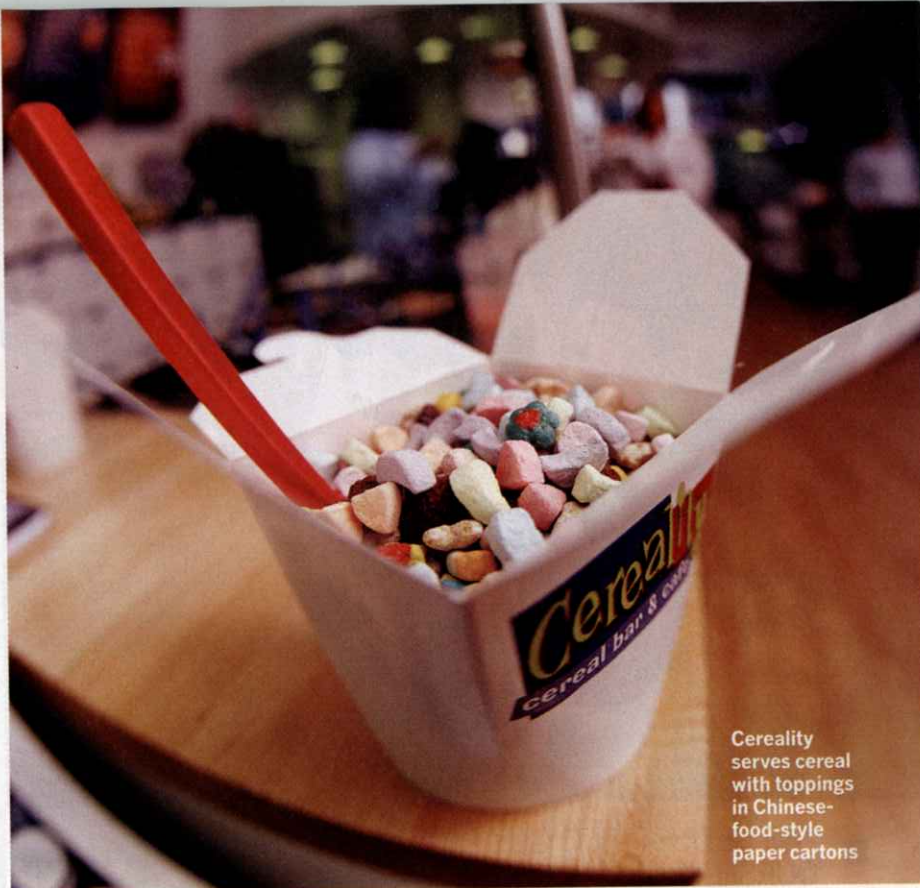


In a Real Crunch

RACING TO START NATIONAL CHAINS, CEREAL CAFES ARE CHEWING ONE ANOTHER UP

MATTHEW GILSON FOR TIME



Cereality serves cereal with toppings in Chinese-food-style paper cartons

BY JEREMY CAPLAN

David Roth's quirky idea for a restaurant—40 varieties of cereal served in a comfy, living-room-style café—has attracted both customers and attention with its playful décor and creative alternatives to greasy fast food. (Chex and Cheerios in chocolate soy milk with Pop Rocks, anyone?) Cereality's first three cafés, in Philadelphia, Tempe, Ariz., and Chicago, are thriving, but as

the company tries to move from small-business start-up to national franchise, Roth has had to leave the fun and games aside to face a looming challenge for every new retail concept: once your idea proves itself, competitors flock, knowing that the initial risk has been taken. Roth is now facing serial cereal chal-

lengers—he calls them copycats—that have popped up looking for their own bite of this emerging restaurant segment. And like siblings squabbling over the last bowl of Froot Loops, the eateries are getting into a messy fight.

Cereality's competitors, mostly entrepreneurs like Roth, have included an Iowa City restaurant named Cereology, later re-dubbed the Cereal Cabinet; the Cereal Bowl in Miami; and Bowls: a Cereal Joint in Gainesville, Fla. "With any good business idea, you're faced with people who see you've cracked the code and who try to cash in on it," Roth says.

Although Roth and co-founder Rick Bacher initially saw themselves as little guys leaping into a cutthroat restaurant world when they

opened their first store in 2003, they have in a sense become Goliaths. They have even partnered with giants like Dodge, Old Navy and Quaker. To protect itself, Cereality has applied for trademarks for its name and about 50 slogans it uses in signs and ads. (Be careful next time you say, "It's always Saturday morning," or ask over the breakfast table, "What's in your bowl?") It has also applied for patents covering dozens of business processes, from cereal-storage methods—no one likes stale granola—to ways of combining Kix and Trix in a takeout box.

And they called the lawyers. After hiring Perkins Coie LLP, the Seattle law firm that helped Amazon.com patent its one-click buying button, Cereality sent warning letters last summer to the Cereal Bowl and Bowls, admonishing them to avoid using similar-sounding product names and slogans. Cereal Bowl fought back, sending its own warning letter to Bowls and a defiant reply to Cereality. Sensing the competitive crunch, the Cereal Cabinet shuttered and switched to Jamaican food. In March, Cereality raised the stakes, suing yet another start-up, Ohio's Cerealicious, for trademark infringement.

"Some of Cereality's patent claims may be valid," says Kenneth Rader, 24, CEO of the Cereal Bowl, "but others are ridiculous." Rader acknowledges that it would be unfair for others to copy Cereality's

Founders Roth and Bacher want to turn Cereality into a national chain



COURTESY OF CEREALITY



At Chicago's Cereality, a guest, left, adds milk to a mix served by "cereologists" in pajamas, right

■ "WE'RE JUST TWO GUYS TRYING TO PROTECT OURSELVES FROM BIG COMPANIES." —CEREALITY CEO ROTH ■

method of serving cereal in Chinese-food containers, but he draws the line at Cereality's attempt to lay sole claim to the idea of mixing brand-name-candy toppings with cereal.

Roth says that Cereality, which is nearing national expansion and has 46 employees, is in a different league from the Cereal Bowl, a small shop run by recent business school graduates. He welcomes healthy competition, though. "We're happy to see competitors show up to serve cereal away from home, because it adds legitimacy to the idea," he says. But when others imitate Cereality's slogans or serving buckets, Roth says his responsibility to investors requires him to fight back. And any company that files a patent application, Roth notes, is obligated

by law to inform potential rivals of its prior claim.

But Cereality's attempt to crack some Grape-Nuts may have backfired with at least one part of its most loyal customer base—college students. A group from the University of Florida launched a "Cereal Solidarity" campaign last summer on the website freeculture.org, criticizing Cereality for bullying rival restaurants with those warning letters. The protests led to an online petition—drawing hundreds of signatures—calling for an end to business-method patents and asking Cereality to withdraw its patent application. Roth says the group is more concerned with ideology than cereal toppings. "Freeculture turned Cereality into a poster child for anti-patent protest," Roth says.

"We're just two guys trying to protect ourselves from big companies that could steal our intellectual property."

However absurd the cereal wars may appear, Roth says he is simply trying to act before the really big guys muscle in on his highly expandable



Expansion won't be easy for either of them, analysts say. "Are there enough cereal eaters nationwide to support a whole cereal chain?" asks Candace Corlett, a principal at WSL Strategic Retail, a consulting firm based in New York City. "I'm not so sure." The cereal cafés say their research shows that millions of Americans, particularly young ones, eat cereal multiple times a week. Knight says after the novelty wears off, Cereality may struggle to convince consumers it offers more than what they can get at home. "Starbucks has unique recipes. Jamba Juice has unique 'boosters.' But I'm not sure if Cereality is going to be able to put a specific stamp on cereal," he says. Roth is confident he can, with baked cereal bars, smoothies and novel mixes he hopes will leave his competition soggly behind. ■



BOWL GAME
Owners of the Cereal Bowl, a Miami store similar to Cereality's, say there's no patent on the idea of selling cereal in a fun setting

