

October 8, 2020

VIA EMAIL AND MAIL


Eric Klettlinger
Douglas Lineburry
MPT Autobody
9180 Hwy 17 Bypass N
Murrells Inlet, SC 29576

mptecheric@gmail.com, dlineburry@burr.com

Re: Trademark, Trade Dress, and Copyright Infringement
Our Reference No.: HANB.11868M

Dear Mr. Klettlinger:

As you are aware, this firm represents Monster Energy Company (“Monster”) in its intellectual property matters, including in Monster’s recent Opposition to your Applications, Nos. 88/249512 and 88/261040. As shown in the foregoing Opposition, Monster is the owner of the well-known and famous MONSTER™

and ® (“Claw Icon”) marks, (collectively “Monster’s Marks”). Monster uses these marks in connection with a variety of products, including but not limited to, energy drinks, automotive wheels, apparel, sports gear, stickers, and motorcycle decals. In addition, Monster uses distinctive trade dress for its packaging and promotional materials (“MONSTER Trade Dress”). Examples of MONSTER Trade Dress are depicted on the can and product packaging shown below:



Monster’s famous MONSTER™ and Claw Icon marks are global brands that have appeared on billions of Monster’s beverage cans and in extensive nationwide promotions. These involve, among other things, sponsorship of athletes, sports, and music events that are televised nationwide and prominently feature Monster’s Marks and MOSNTER Trade Dress. At these events, Monster’s Claw Icon is often prominently displayed on vehicles by way of a vehicle wrap, as shown below.



In addition, Monster uses Monster's Marks and MONSTER Trade Dress extensively in connection with clothing and accessories, including but not limited to, t-shirts, koozies, and sports gear, as shown below.



To protect its substantial goodwill and investment in its famous trademarks, Monster owns numerous United States Trademark Registrations incorporating its MONSTER™ and Claw Icon marks for use in connection with goods including beverages, nutritional supplements, clothing, decals, stickers, accessories, and sports gear. These include, but are not limited to U.S. Registration Nos.: 3,434,821 (



); 2,903,214 (



); 3,434,822 (









); 3,963,668 (



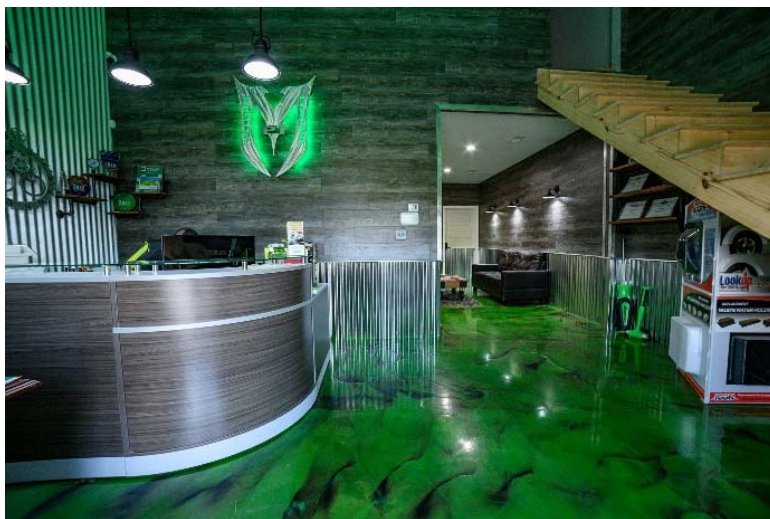
); 3,963,669 (



);

4,051,650 (); 3,134,841 (); 4,865,702 (); 5,022,676 (); 6,014,229 (); and 5,570,782 (). Additionally, Monster is the owner of United States Copyright Registrations VA 1-727-577, VA 1-737-654, VA 1-749-215, and VA 1-789-900, each of which prominently features Monster's Claw Icon.

It has come to Monster's attention that despite MPT Autobody's ("MPT") express abandonment of MPT's 88/249512 and 88/261040 applications on July 28, 2020, MPT continues to use the colors green and black in combination with a large "M" in connection with its services and advertising for those services, as shown below (hereinafter "MPT Logo").



As you are well aware, Monster is not affiliated with MPT. However, given MPT's use of green and black and an emphasized, stylized "M," there is a strong likelihood that potential customers viewing the MPT Logo will mistakenly believe that there is some affiliation or connection with Monster, which is false.

Monster has an important duty to its customers and the public to protect the integrity of its trademarks and trade dress and to ensure that customers and the public are not mistakenly confused or misled in connection with the use of its trademarks and trade dress.

MPT's attempt to associate itself with Monster's famous trademarks and goodwill is further demonstrated by MPT's extensive use of green and black throughout MPT's building and on MPT's merchandise. As shown below, MPT has outfitted its physical location and designed merchandise in shades of green and black that are nearly identical to the MONSTER Trade Dress:



Moreover, MPT clearly intends to create an association between its services and Monster by using the MPT Logo in the color green. MPT's recent decision to abandon its Applications, Nos. 88/249512 and 88/261040, in view of Monster's Opposition No. 91251179 is evidence that MPT knows that MPT's Logo is confusingly similar to Monster's Marks and the MONSTER Trade Dress. MPT's actions are willful, intentional, and calculated to take advantage of Monster's reputation and customer goodwill in its valuable trademarks. The deliberate nature of this conduct may entitle Monster to claim enhanced damages and attorneys' fees in any action required to enforce its intellectual property rights against MPT.

In view of the seriousness of this matter, MPT must **immediately**:

1. Cease and desist from further display, distribution and/or sale of any products wherein the MPT Logo appears in the color green or in any color against a background that is principally green or green and black, including but not limited to ceasing all uses of the MPT Logo in the photos above;
2. Cease and desist from further distribution, display, or use of any advertising, promotional, and/or point-of-sale materials wherein the MPT Logo appears in the color green or in any color against a background that is principally green or green and black;
3. Sign a declaration confirming that MPT has discontinued and will refrain from all future use of any marks, trade dress, and/or logos that are confusingly similar to Monster's trademarks and trade dress; and
4. Pay Monster's attorneys' fees incurred in connection with this matter.

We appreciate your prompt attention to this letter and request your written response within **two weeks** following your receipt of this letter. In the meantime, if you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

/Jason A. Champion/

Jason A. Champion

cc: Hunter Freeman

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