



CENTRIIK'S NEWSLETTER

3M TARGETS N95 RESPIRATOR COMPANY'S ALLEGED PRICE-GOUGING SCHEME VIA TRADEMARK INFRINGEMENT SUIT

On April 10, multinational corporation 3M filed a lawsuit alleging trademark infringement claims against N95 respirator distributor Performance Supply, LLC, in the Southern District of New York. Central to 3M's suit is the company's desire to eliminate what it calls a false and deceptive price-gouging scheme being perpetrated by entities operating outside of 3M's authorized supply chain and taking advantage of increased respirator demand caused by the COVID-19 crisis. While the case asserts claims for relief under federal trademark law and New York state business and common law, 3M's complaint makes it clear that the company brought this suit to take an active role in combating various exploitative activities surrounding the increased demand for N95 respirator masks during the coronavirus pandemic. 3M touts its efforts in working with law enforcement authorities at the federal, state and local level and establishing a hotline for reporting COVID-19-related fraud as part of its current efforts to reduce public safety threats. However, despite any legal challenges to 3M's claim, Anderson believed that the lawsuit, which is as much a public relations campaign as it is a suit to vindicate IP rights, is likely to achieve 3M's objective without the company having to argue the merits of its claim. This particular case is rather rare in that 3M's claim isn't predicated on the good being purchased is any different than the authentic trademarked article, but rather that consumers are being deceived about the distributor's relationship to 3M. However, given current public

sentiment during this global public health crisis, 3M's suit is likely to help induce an end to at least this particular instance of COVID-19-related price-gouging.

IRISH NATIONAL BODY CREATES NON-EXCLUSIVE ROYALTY FREE IP LICENSE TO FIGHT THE COVID-19 PANDEMIC

An Irish national-body called Knowledge Transfer Ireland has created a non-exclusive royalty free license with the objective to provide a path for Irish researchers to share Intellectual Property Rights concerned with the COVID-19 pandemic. According to Irish Times, the license is expected to help third level institutions to offer assistance in diagnosing preventing, containing, treating or minimizing the impact on the pandemic. The Director of the national body, Dr. Alison Campbell has said that the institute has witnessed a number of educational institutions opting for the license. The Irish Times has also reported that the new license will be available until the World Health Organization (WHO) declares the pandemic to have ended.

BMW WINS OVER DMW E-RICKSHAW

BAYERISCHE MOTOREN WERKE AG, commonly referred to as BMW, the luxury car and motorcycle manufacturers filed an application in the Delhi High Court for an ad interim injunction against Om Balajee Automobile ('Defendant') out of Ghaziabad, for using the trademark "DMW" for e-rickshaws. BMW submitted that the earliest Indian registration for the BMW mark dates back to 1956. Further, it was submitted that BMW is a well-known mark and has been so accepted in decisions of courts and other judicial bodies across the world. In the suit, BMW submitted that the mark DMW is similar to their registered mark in appearance, sound and structure. In the reply filed by the Defendant, it was submitted that the marks are not similar and further the nature and class of buyers are different as DMW is engaged in manufacturing only e-rickshaws and not cars or motorcycles as BMW. The Court observed that the DMW trademark was created to "mislead an average man of ordinary intelligence" and DMW is visually, as well as phonetically, similar to BMW's trademark. Further, BMW is a well-known trademark and use of the aforesaid mark by the Defendant on its product constitutes infringement under the Trademarks Act. Therefore, an ad-interim injunction was granted against the Defendant from using DMW or any other trademark similar to BMW with respect to e-rickshaws.

GENERAL IP UPDATES

In view of the recent extension of the nation-wide lockdown by the Ministry of Home Affairs, Government of India, the Office of CGPDTM has issued a new public notice further to the previous notice issued on March 25, 2020. The latest notice issued on 15th April 2020 states that all offices under the administrative control of the CGPDTM shall not be physically accessible to the general public till May 3, 2020. The notice also states that all hearings previously scheduled in this time period stand adjourned. The office will issue fresh dates at a later time. Further, CGPDTM has said that all e-filing services will remain open. In the view of COVID - 19 outbreak, EPO has extended its deadlines to May 4. Also, the USPTO has announced a 30-day extension of deadlines due between March 27 and April 30 for filing certain patent and trade mark-related documents and taking certain actions, such as paying fees.

ROLLINGSTONE FORAYS INTO CRAFT BEER

The Rollingstone magazine has partnered with Elysian Brewing Company, a Seattle based brewery rooted in music and art, to produce 'Elysian Rolling Stone Lager' that embraces the spirit of music. The Lager is said to be crisp, smooth and sweet, with tantalizing hints of caramel and orange marmalade. It has a moderate hop profile from Cascade, Crystal and Mandarina Bavaria hops, giving the beer an orange zest and Manuka honey finish. The lager will be made available at all grocery stores in the US market.

CORONA VERY POPULAR WITH THE USPTO

With the COVID -19 pandemic on the rise ,It is not surprising that individuals or companies are filing new trademark applications for the term. Several applications containing the term "Coronavirus" , "Covid19", "I Survived Coronavirus 2020", as well as " I Beat The Coronavirus" have been filed with the USPTO in the last one month. The applications have been filed under various classes including apparel, entertainment services, as well as pre - recorded audio cassettes featuring music and record albums.

COCA-COLA FIGHTS DOMAIN DISPUTE

The Coca-Cola Company ("Complainant") filed a domain name dispute complaint with the WIPO Arbitration and Mediation Center against an individual, Alberto S. Somohano ("Respondent"). The Complainant has been using the COCA-COLA mark to advertise and sell beverages and other products

and services for 130 years and is the owner of 700 domain names incorporating its COCA-COLA or COKE marks. It was contended that the Domain Names included the terms 'Coca' or 'Cola' or 'Coke' which are confusingly similar to its well-known and long-established trademarks. The Respondent contended that "Coca" and "Cola" are generic terms that the Complainant should not be able to trademark and that the Respondent legitimately uses those terms, and variations of them, to refer to coca derivatives and soft drinks. It was further contended that Respondent has been using such terms legitimately online and in social media since 2011 to advertise products containing cocoa extracts, unlike the Complainant's products, and requested for a finding of reverse domain name hijacking. After considering the submissions, the Panel finds that the Domain Names are confusingly similar to Complainant's marks and were registered in bad faith without any legitimate interests. For the foregoing reasons, the Panel ordered that the Domain Names be transferred to Complainant. Further, the Panel considered the complaint well-grounded and therefore there is no evidence of abuse. Accordingly, the Panel declined to enter a finding of reverse domain name hijacking.

FORD FILES TRADEMARK FOR G.O.A.T MODES

Ford Motor Company has filed for a new trademark for the term 'G.O.A.T Modes' with the USPTO for "drive systems comprised of automatic controls for vehicle chassis and power train controllers, integrated as an integral part of a passenger vehicle". Goats, especially mountain goats are famous for their climbing ability. It is reasonable to assume that G.O.A.T Modes could be a crafty name for an off-roading system and each letter to represent a different feature of the system.

info@centriik.com | www.centriik.com