

TYPES NOT MAPPED YET May 12, 2023 | TTR not mapped yet | William A. Holtz Ph.D.

Speeding into trouble: F1 racing takes legal action against counterfeit merch sellers

American interest in Formula One (F1) racing is accelerating faster than Max Verstappen in his Red Bull RB19 race car. Traditionally popular in Europe and other parts of the world, the U.S. hosts three F1 races this year - in Austin, which has been run since 2012, Miami in its second year, and a new street race in Las Vegas. Americans have a hometown driver to cheer for in Logan Sargeant, the first American to have a race seat in nearly a decade.

Driven by brands like Ferrari, McLaren, Red Bull, and Mercedes and drivers such as Lewis Hamilton, Max Verstappen, Lando Norris, and Fernando Alonso, F1 merchandising is big business. Fame comes at a cost, however. Formula One Licensing B.V. and Formula One World Championship Limited filed a lawsuit against 200 John or Jane Does and 100 John Doe Companies in the Southern District of Florida on May 5, two days before the Miami race. The F1 plaintiffs allege that Defendants are in the Miami area before and during the race weekend producing, advertising, offering for sale, distributing and selling counterfeit F1 merchandise. The Complaint alleges the counterfeit F1 merchandise is substandard and "[w]hen the merchandise prematurely breaks, tears, shrinks, or fades, consumers lose the value of their hard-earned money and question the goodwill of Plaintiffs."

The Complaint catalogs the F1 Plaintiffs' federally registered trademarks and includes photographs, taken by private investigators, of vendors under pop-up tents and folding tables selling allegedly counterfeit merchandise. Plaintiffs sought an *ex parte* seizure order for the counterfeit merchandise because, by the nature of their business, the sellers were likely to ignore other forms of injunctive relief.

The Court quickly accepted the Complaint and assigned the case to the Chief Judge. As of this publication, the balance of the filings on the Court's docket were sealed.

The F1 Plaintiffs were well positioned in this Complaint, relying on several federally registered trademarks and evidence of an urgent need to stop the acts of counterfeiting.

An additional step that brand owners should consider in similar circumstances is recording their registered trademarks with U.S. Customs and Border Protection. USCBP has the authority to detain, seize, forfeit and destroy, at the Government's expense, counterfeit merchandise. The recordation process, through USCBP's IPR Center, allows brand owners to partner with USCBP to allow USCBP to assist in border enforcement at all U.S. Ports of Entry. This program has the power to stop counterfeit goods from entering the U.S., before they become available for sale on the streets.

The case is *Formula One Licensing B.V. et al., v. John or Jane Does 1 - 200, et al.*, Case No. 1-23-cv-21713 (S.D. Fla.).

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