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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

H-D U.S.A., LLC and HARLEY-DAVIDSON )  
MOTOR COMPANY GROUP, LLC, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
HARLEY LIFE, LLC and BILL LEMON, )  
 )  
Defendants. )

Case No. 2:19-cv-578

**JURY TRIAL REQUESTED**

**COMPLAINT FOR TRADEMARK COUNTERFEITING,  
TRADEMARK INFRINGEMENT, TRADEMARK DILUTION,  
COPYRIGHT INFRINGEMENT, AND UNFAIR COMPETITION**

Plaintiffs H-D U.S.A., LLC and Harley-Davidson Motor Company Group, LLC (Plaintiffs and their predecessors in interest, together with their parents, subsidiaries, and affiliated companies are collectively referred to as “Harley”), by their undersigned attorneys, bring this action against Harley Life, LLC and Bill Lemon (collectively “Defendants”) and allege as follows, upon actual knowledge with respect to themselves and their own acts, and upon information and belief as to all other matters:

**NATURE OF THE ACTION**

1. This is a civil action for trademark counterfeiting, trademark infringement, trademark dilution, copyright infringement, and unfair competition arising under the Lanham Act, 15 U.S.C. § 1051, *et seq.*, the Copyright Action, 17 U.S.C. § 101, *et seq.* and common law. Harley seeks equitable and monetary relief for Defendants’ actions that constitute willful violations of Harley’s trademark rights in its HARLEY word mark and its Willie G. Skull Logo trademark shown below (collectively, “the HARLEY Marks”); and Harley’s copyright rights in

the Willie G. Skull Logo (collectively with the HARLEY Marks, “Harley’s Intellectual Property”).

**The “Willie G. Skull Logo”**



2. After being placed on express notice of Harley’s intellectual property rights and Harley’s objections to Defendants’ actions that are the subject of this Complaint, Defendants have continued to engage in, promote, and offer motorcycle repair services and motorcycle riding club services under the famous HARLEY mark and Defendants have continued to manufacture, offer, promote and/or sell apparel and other products that prominently display the HARLEY Marks.

3. Defendants’ unlawful activities described below infringe Harley’s trademark rights in the HARLEY Marks, are likely to dilute and tarnish the famous HARLEY mark, infringe Harley’s copyright in the Willie G. Skull Logo, constitute unfair competition, and have caused and will continue to cause (unless enjoined) immediate and irreparable harm to Harley, Harley’s Intellectual Property, and the consuming public.

4. Harley seeks injunctive and other relief from Defendants’ unauthorized use of Harley’s Intellectual Property including, without limitation, an injunction enjoining Defendants from engaging in their unlawful activities, statutory damages for counterfeiting, statutory damages for copyright infringement, Defendants’ profits, Harley’s actual damages, and Harley’s attorneys’ fees and costs.

## THE PARTIES

5. Plaintiff H-D U.S.A., LLC is a Wisconsin limited liability company having a principal place of business at 3700 West Juneau Avenue, Milwaukee, Wisconsin 53208, and is the owner of the trademarks and copyright asserted in this action, i.e. Harley's Intellectual Property.

6. Plaintiff Harley-Davidson Motor Company Group, LLC d/b/a Harley-Davidson Motor Company is a Wisconsin limited liability company having its principal place of business at 3700 W. Juneau Avenue, Milwaukee, Wisconsin 53208, and is a licensee of Harley's Intellectual Property.

7. Defendant Harley Life, LLC ("Harley Life") is a limited liability company organized under the laws of the State of Indiana, with its principal place of business at 224 S. 22nd St., PO Box 1532, Vincennes, IN 47591. Harley Life is not an authorized Harley dealer and is not an authorized licensee of any of Harley's Intellectual Property.

8. Defendant Bill Lemon ("Lemon") is an individual with an address at 224 S. 22nd St., PO Box 1532, Vincennes, IN 47591 who owns and operates the business Harley Life. Lemon is listed as the sole, principal member and registered agent of Harley Life on Harley Life's business records with the Secretary of State of Indiana. Lemon is not now, nor has he ever been, licensed or authorized by Harley to use Harley's Intellectual Property.

9. Upon information and belief, at all times material to this action, each of the Defendants was the agent, servant, employee, partner, alter ego, subsidiary, or joint venturer of each of the other Defendants, and the acts of each of the Defendants were in the scope of such relationship; in doing the acts and failing to act as alleged in this Complaint, each of the Defendants acted with the knowledge, permission, and the consent of each of the other Defendants; and each of the Defendants aided and abetted the other Defendants in the acts or omissions alleged in this Complaint.

## **JURISDICTION AND VENUE**

10. This action arises under the federal Trademark Act, 15 U.S.C. §§ 1051, *et seq.*, and the Copyright Act of 1976, 17 U.S.C. §§ 101, *et seq.*, and common law.

11. This Court has jurisdiction over the subject matter of this action pursuant to 15 U.S.C. § 1121, 17 U.S.C. § 501, and 28 U.S.C. §§ 1331 and 1338(a) and (b). Because the parties are citizens of different states and the matter in controversy exceeds the sum or value of seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs, this Court also has jurisdiction under 28 U.S.C. § 1332. Jurisdiction over the state law claims is also appropriate under 28 U.S.C. § 1367(a) and principles of pendent jurisdiction because those claims are substantially related to the federal claims and arise out of the same operative facts.

12. This Court has personal jurisdiction over Defendants and venue is proper pursuant to 28 U.S.C. §§ 1391(b) and (c). Venue is also proper because Defendants are subject to personal jurisdiction in this District.

### **HARLEY, ITS PRODUCTS AND SERVICES, AND ITS TRADEMARKS AND COPYRIGHT**

13. Harley is a world-famous manufacturer of motorcycles and a wide variety of other products and services, including apparel products. Harley is the largest U.S. manufacturer of motorcycles.

14. Founded in 1903, Harley has manufactured, promoted, and sold motorcycles and related products for over 110 years.

15. Harley owns the exclusive right to use the HARLEY Marks and variations thereof for motorcycles and related products and services, including motorcycle repair services, club services for motorcyclists, clothing, and accessories.

16. Since at least as early as 1980, Harley has used the HARLEY trademark in connection with motorcycles, motorcycle parts and accessories, motorcycle clothing, and various other products and services. Harley has used the HARLEY mark for many years for apparel, hats, decals, and other merchandise. The mark HARLEY has for many years been used interchangeably by the public as shorthand for HARLEY-DAVIDSON.

17. Since at least 2000, HARLEY has used its Willie G. Skull Logo, examples of which are shown below, in connection with a wide variety of goods including apparel, motorcycles, motorcycle parts, and motorcycle accessories. HARLEY has also extensively used the Willie G. Skull Logo in connection with a wide variety of other goods, including hats and decals.

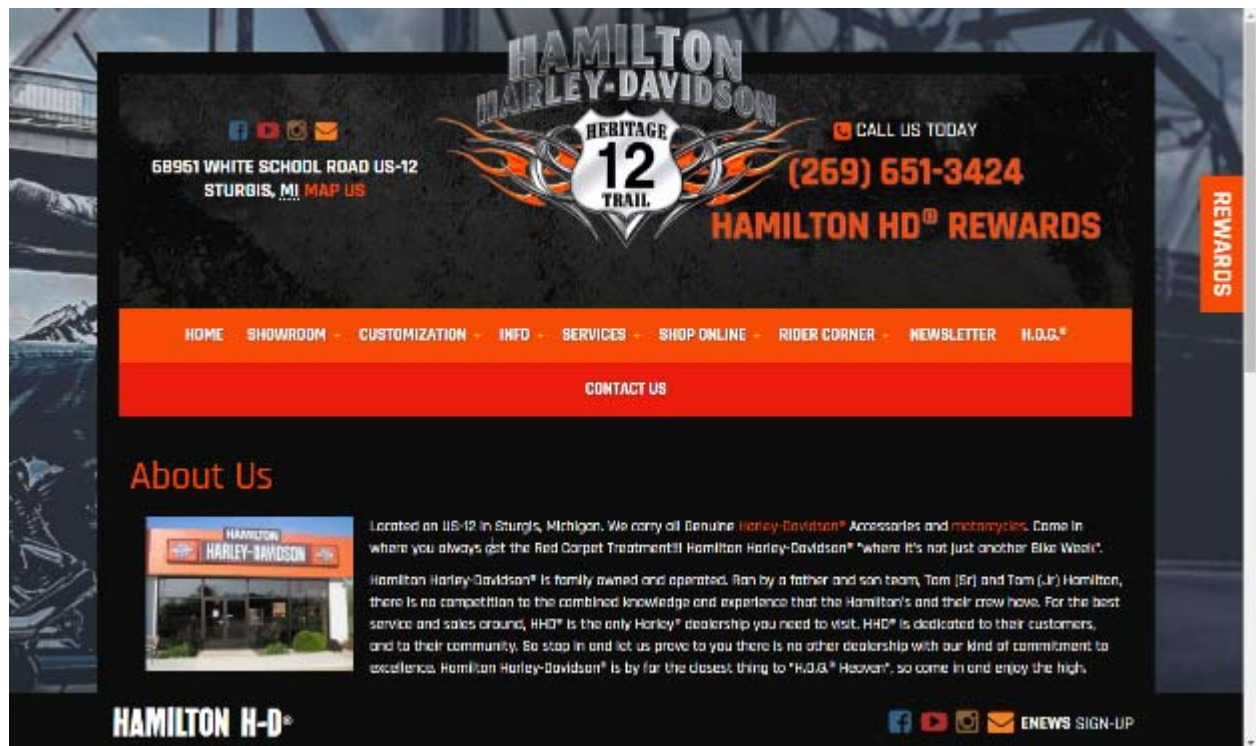


18. The Willie G. Skull Logo was created by Willie G. Davidson (“Willie G.”), the son of former Harley-Davidson president William H. Davidson and the grandson of Harley-Davidson co-founder William A. Davidson, and Ray Drea. Willie G. has held numerous positions within Harley-Davidson, including former Senior Vice President & Chief Styling Officer of Harley-Davidson, and the head of Harley-Davidson’s Willie G. Davidson Product Development Center. During his career, Willie G. was responsible for approving Harley motorcycle designs, and he also personally designed the Willie G. Skull Logo. Willie G., an icon in the motorcycle industry, was inducted into the American Motorcyclist Association Motorcycle Hall of Fame in 1999. In 2014, he was inducted into the Motorcycle Hall of Fame as a “Motorcycle Hall of Fame Legend.”

19. Harley markets and sells motorcycles and motorcycle parts and accessories, and offers the repair and servicing of motorcycles under the HARLEY Marks through a network of more than 690 authorized dealers located throughout the country, and markets and sells apparel and other consumer merchandise bearing the HARLEY Marks at its authorized dealers. Apparel and a wide variety of consumer merchandise bearing the HARLEY Marks are also marketed and sold at numerous other authorized retail outlets throughout the country.

20. Authorized Harley dealers and retail outlets identify themselves as official dealers and retailers in a number of ways, including by using the HARLEY and/or the HARLEY-DAVIDSON mark in their names and on signage of their dealerships and stores. These names and markings signal to consumers that Harley has authorized the sale of products bearing the HARLEY Marks and/or the servicing of HARLEY motorcycles at these locations, as shown in the examples below.

Hamilton Harley-Davidson in Sturgis, MI





### Harley-Davidson of Kokomo in Indianapolis, IN



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[HOME](#) [MOTORCYCLES](#) [SERVICES](#) [SHOP ONLINE](#) [CUSTOMERS](#) [EVENTS](#) [DEALER INFO](#)



### Harley-Davidson® of Kokomo: One of the Trusted Motorcycle Dealers in Indianapolis

Welcome Home...

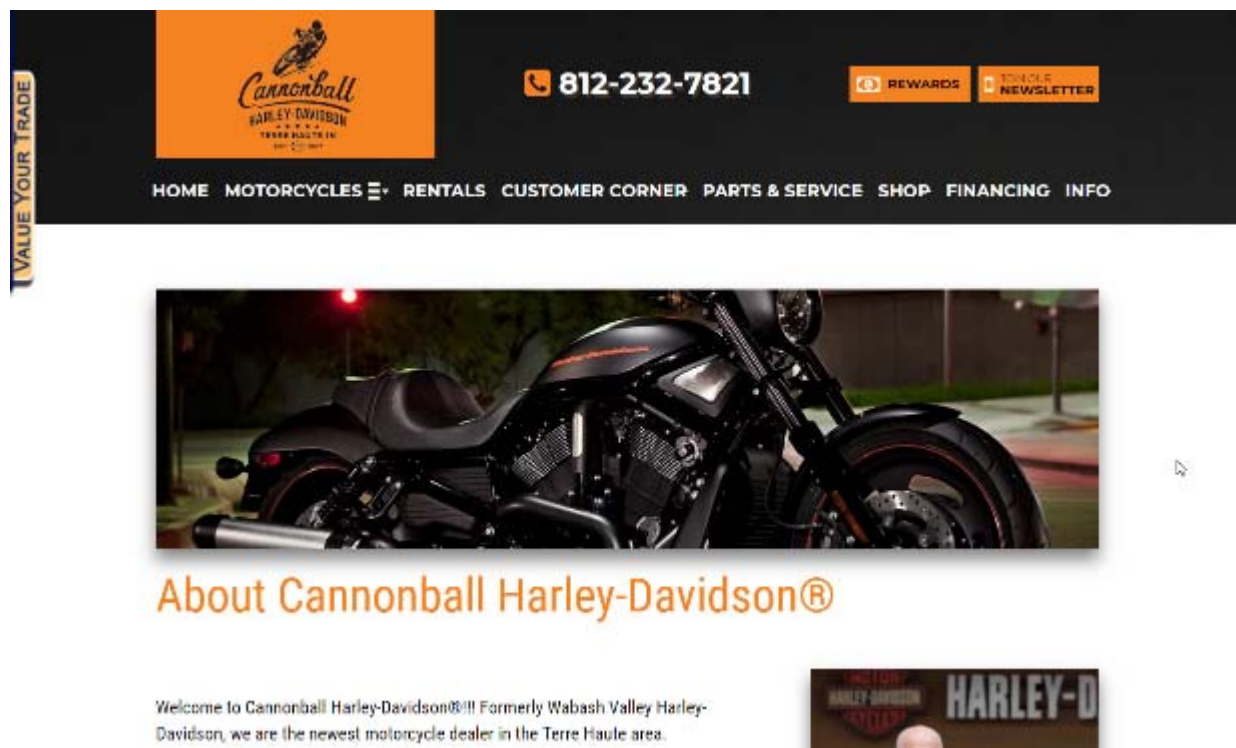
Home is where the heart is, and our heart is at [Harley-Davidson](#).

At Harley-Davidson® of Kokomo, one of the most trusted Indianapolis [motorcycle](#) dealers, you'll find a family of caring, courteous, and certified Harley® and Iron® models who'll cater to your every need.



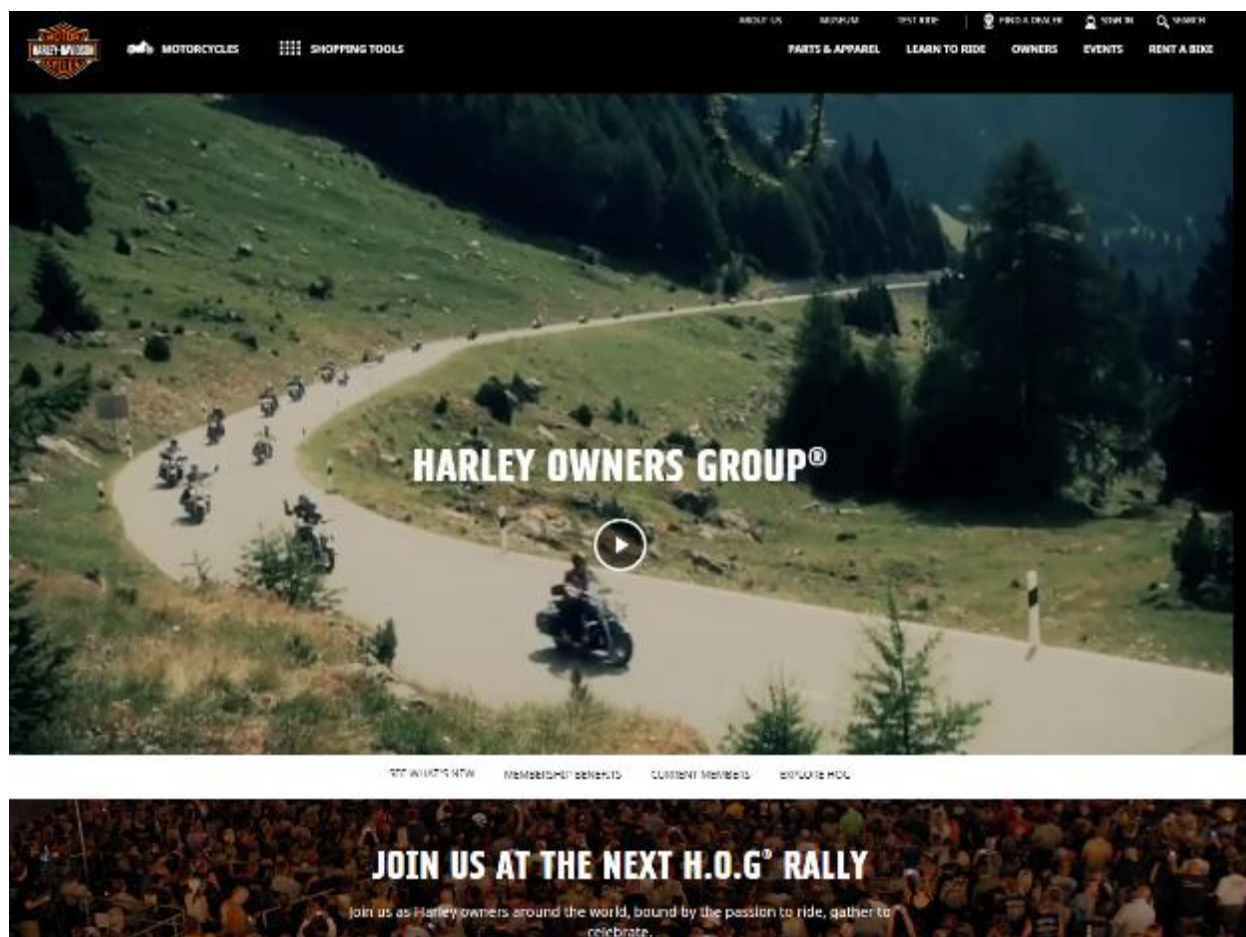


Cannonball Harley-Davidson in Terre Haute, IN



21. Harley also offers riding club experiences, training, rallies and events, including the HARLEY OWNERS GROUP club, as shown below. Currently, there are more than 1,400 official HARLEY OWNERS GROUP chapters around the world, with each chapter sponsored by an authorized HARLEY dealership.





22. Over the years, Harley has expanded its business to include a wide range of other products and services, including but not limited to accessories, patches, signs, collectibles, and more. Harley has extensively promoted the HARLEY Marks across Harley's extensive line of products and services over the years.

23. Apparel is a significant part of Harley's business and has been so for many years. For decades, Harley has offered and sold, itself and through its dealers and licensees, riding gear and apparel bearing the HARLEY Marks, including t-shirts, shirts, tank tops, sweatshirts, sweaters, pants, vests, jackets, and hats. During this same time, Harley has offered and sold through Harley's licensees a wide range of merchandise bearing the HARLEY Marks, including many licensees for various apparel products, as well as licensees for hats. Representative examples of Harley's licensed apparel and hat products bearing one or more of the HARLEY Marks are shown below.





24. Harley has also offered and promoted decals and stickers under the HARLEY Marks as shown in the representative examples below.



25. Numerous authorized licensees of Harley in the U.S. sell and have sold for decades a wide range of merchandise bearing the HARLEY Marks, including many licensees specifically for various apparel products, as well as licensees for hats and decals.

26. The HARLEY Marks are premium brands and Harley has a reputation for providing a wide variety of high-quality merchandise under those brands itself and through its dealers and licensees. Given the incredible commercial success of Harley's motorcycle business over the years and its status for many years as a famous, iconic, and cult brand, there has long been a strong demand from motorcycle enthusiasts as well as the general public for other products bearing the HARLEY Marks, so they can show their affinity for Harley and its products and brands. To satisfy this demand and to further build awareness of the HARLEY Marks, Harley has for decades engaged in an extensive program licensing the HARLEY Marks (and other trademarks) to various licensees for use on a wide range of products including apparel, hats, and decals just to name a few. Consistent with its image as a premium brand, Harley positions its licensed merchandise as high-quality merchandise at a premium price point and sets strict standards and guidelines to which all authorized licensed products branded with the HARLEY Marks must adhere. Harley's licensed products and/or associated labeling and packaging bear one or more of the HARLEY Marks. And no merchandise bearing any of the HARLEY Marks can be marketed or sold without the prior written approval of Harley.

27. Harley has achieved significant commercial success in the motorcycle business, which includes the sales and servicing of motorcycles and the sales of motorcycle parts, accessories, and riding gear. Harley and its authorized dealers have sold many billions of dollars of such products and services over the years. Harley's licensed products business has also been wildly successful with Harley's royalty revenues from licensing exceeding \$400 million during 2005-2016 alone, which translates into billions of dollars of sales at retail. The majority of Harley's licensing royalty revenues are from its apparel licensees. Harley currently has approximately ten apparel licensees and has had a similar number of apparel licensees or more for many years.

28. Harley and its authorized dealers and licensees have extensively advertised and promoted products and services under the HARLEY Marks over the years, and have expended many millions of dollars advertising and promoting those marks through virtually every media. For example, Harley has promoted its products and services under such marks through dealer promotions, catalogs, customer events, industry events, motorcycle-enthusiast events, direct mailings, national television, print, and radio advertisements, and the Internet. For many years, Harley and its dealers have sponsored sports teams and major sporting events, including prominent use of the HARLEY Marks on advertisements or promotions at such events.

29. Harley's apparel products are also sold online through its HARLEY-DAVIDSON.COM website, authorized dealers' websites, and websites of Harley's authorized licensees.

30. Harley, its products and services, and its HARLEY Marks have all received significant unsolicited media coverage for decades, including, for example, in national publications such as *Business Week*, *The Chicago Tribune*, *The New York Times*, *The Wall Street Journal*, *The Washington Post*, and *USA Today*, as well as in books, numerous national television programs and popular online publications and websites, such as MSNBC, CNN Money, CNN.COM, and Yahoo.

31. As a result of Harley's significant promotional efforts, commercial success, and popularity for decades, the HARLEY-DAVIDSON brand has been ranked annually for the past decade among the top 100 most valuable brands in the world by Interbrand, a leading independent branding firm. In 2015, Interbrand estimated the value of the HARLEY-DAVIDSON brand at US \$5.46 billion. In 2016, Tenet Partners ranked the HARLEY-DAVIDSON brand as the 11<sup>th</sup> Most Powerful Brand in its Top 100 Most Powerful Brands report of 2016.

32. Based on Harley’s longstanding and extensive use of the HARLEY mark, and the widespread advertising, publicity, promotion, and substantial sales of products and services under the HARLEY mark, the HARLEY mark has been well known and famous to both the general public and the motorcycling public for many years.

33. Federal courts have found that the HARLEY mark is famous, including just a few months ago in a case in which the federal court in Milwaukee awarded Harley \$19,200,000 in statutory damages for counterfeiting of the HARLEY and Willie G. Skull Logo marks, among other marks. *See H-D U.S.A., LLC v. SunFrog, LLC*, No. 17-CV-711-JPS, 311 F.Supp.3d 1000, 1043 (E.D. Wis. Apr. 12, 2018). In discussing the HARLEY mark, the Court found “beyond question that [it is] famous” and that “no member of the American public could encounter...HARLEY...without first thinking of the iconic motorcycle company.”

34. Further, in *H-D U.S.A., LLC v. Malinda Dowling*, Claim Number: FA1608001691466 (2016), Harley filed a Uniform Domain-Name Dispute-Resolution Policy (UDRP) complaint against a third-party’s domain name harley-life.com. The National Arbitration Forum ruled in Harley’s favor, finding that HARLEY is well-known worldwide and that the harley-life.com domain name was confusingly similar to the HARLEY mark and ordering transfer of the domain name to Harley.




#### **HARLEY’S TRADEMARK REGISTRATIONS**

35. In addition to its longstanding and strong common-law rights in the HARLEY mark, Harley owns, among others, the following federal registrations for the HARLEY mark:





<b>Mark</b>	<b>Reg. No. Reg. Date</b>	<b>Goods and Services</b>
HARLEY	1406876 08-26-1986	Clothing; namely--tee shirts for men, women and children; knit tops for women and girls; and children’s shirts

Mark	Reg. No. Reg. Date	Goods and Services
HARLEY	1683455 04-14-1992	Shirts, tank tops, boots and sweatshirts
HARLEY	1708362 08-18-1992	Embroidered patches for clothing
HARLEY	1352679 08-06-1985	Motorcycles
HARLEY	3818855 7-13-2010	Non-luminous, non-mechanical tin signs, non-luminous, non-mechanical metal signs

36. In addition to its longstanding and strong common-law rights in the Willie G. Skull Logo, Harley owns, among others, the following federal registrations:

Mark	Reg. No. Reg. Date	Goods and Services
	4465604 01-14-2014	Clothing, namely, shirts, hats, caps, belts, jackets, gloves, sweatshirts, lounge pants, wrist bands
	3525970 10-28-2008	Jackets, coats, gloves, shirts, shorts, caps, hats, headwear, knit hats, belts, neckties, pants, sweatshirts, T-shirts, leather clothing, namely, leather jackets, leather gloves, footwear, namely, boots and vest extenders
	3097410 05-30-2006	Motorcycle parts and accessories, namely, derby covers, timer covers, air cleaner inserts, namely covers, gas cap medallions, fender skirts, console doors for fuel tanks, valve caps, license plate fasteners, foot board inserts, brake pedal pads, foot pegs, shifter pegs, heel rests, fuel tank panels, handle bar grips



Mark	Reg. No. Reg. Date	Goods and Services
	4465650 01-14-2014	Motorcycles and structural parts therefor
	4844360 11-03-2015	Parts of motorcycles, excluding parts of all motors and engines, namely, derby covers, air cleaner trim, timer covers, battery cover band, fuel caps, brake caliper inserts, fender skirts, console doors, head lamp visors, medallions, foot pegs, gearshift linkages, foot board covers, handlebar clamps, hand grips, fuel gauges, guard rail inserts, axle nut covers, breather end cap, valve stem caps, foot boards, turn signal visors, pivot bolt covers, tank panel, fender tip lens kit, console insert, air cleaner cover, decorative end caps, mirrors and mounting hardware for the aforesaid goods
	3092323 5-16-2006	Protective helmets, safety helmets, and sports helmets, goggles for protection, safety, and sports that convert to sunglasses
	3304863 10-2-2007	Metal key fobs and non-luminous and non-mechanical metal signs

37. The federal trademark registrations listed above are prima facie evidence of Harley's ownership and the validity of those registered trademarks. Further, many of these registrations are incontestable, and thus constitute conclusive evidence of Harley's exclusive right to use those marks for the products and/or services specified in those registrations pursuant to 15 U.S.C. §§ 1065 and 1115(b).

### **HARLEY'S COPYRIGHT REGISTRATION**

38. The Willie G. Skull Logo is an original work of authorship that constitutes copyrightable subject matter under U.S. law. Harley is the owner of all copyright rights in the Willie G. Skull Logo, all preexisting works containing the Willie G. Skull Logo, and all derivative works of the Willie G. Skull Logo. Harley owns U.S. Copyright Reg. No. VA 1-987-746, which issued on February 3, 2016.

39. The copyright registration for the Willie G. Skull Logo listed above is valid and subsisting. The copyright registration constitutes, in all instances, prima facie evidence of the validity of the copyright and the facts stated in the certificate.

### **DEFENDANTS' WRONGFUL ACTS**

40. Defendants use and have used Harley's Intellectual Property in a variety of unauthorized ways that falsely suggest and are likely to create the mistaken impression that Defendants' goods and services are authorized, approved, and/or licensed by Harley when they are not.

41. As noted above, Defendants are engaged in the business of repairing and servicing motorcycles, including HARLEY motorcycles, and organizing and/or providing a motorcycle riding club (collectively, "Defendants' Services").

42. Defendants conduct their business and offer and render Defendants' Services from a physical location and/or from Defendants' social media pages, including on Defendants' Facebook page located at <https://www.facebook.com/harleylifellc> and on Lemon's personal Facebook page located at <https://www.facebook.com/billemonharleylifellc> (collectively, "Defendants' Facebook Page").

43. Defendants use the trademark and trade name HARLEY LIFE to advertise, promote, offer, and render Defendants' Services, including use in the logo form shown below (collectively, the "Infringing Mark").



44. The Infringing Mark incorporates the entirety of Harley's famous HARLEY mark and, when used in logo form, also incorporates a virtually identical copy of the trademark and copyright-protected Willie G. Skull Logo as shown below. Given the fame of the HARLEY mark and notoriety of the Willie G. Skull Logo, Defendants' intent in using the Infringing Mark was and is to trade off of the tremendous goodwill and fame of Harley and its valuable HARLEY and Willie G. Skull Logo marks.



45. Defendants use the Infringing Mark in various ways in conducting their business and rendering Defendants' Services. For example, Defendants prominently use the Infringing

Mark on business cards advertising their repair services as shown below, and on social media to advertise, promote, and render Defendants' Services.



46. Defendants, or Defendants' authorized licensees or representatives, have also registered the HARLEY LIFE business name with the Indiana Secretary of State and with the bad-faith intent to profit from such business name.

47. Defendants also manufacture, offer, promote, and/or sell products, including apparel, hats, and decals bearing the Infringing Mark, and decals (collectively, the "Infringing Products"). Representative examples of these Infringing Products as advertised on Defendants' Facebook Page are shown below.



**Harley Life LLC**  
Like This Page · November 28, 2017 · 🌐

Hey! We want your help getting the word out to everyone about our new Harley Life LLC shop and our facebook page. Harley Life LLC is ready to winterize your bike, hook you up with new tires, oil change, or new accessories, and did I mention we can make your bike look showroom ready in detail area?

One lucky person who helps us will get a Harley Life tshirt! Here is what you need to do: 1) LIKE THE HARLEY LIFE LLC page. 2) SHARE THIS POST TO ALL YOUR FRIENDS. (Just hit that little button that says SHARE) And last but not least, 3) COMMENT "DONE" below when you have done 1 and 2!

The winner will be drawn from all those who help us out and the free t-shirt will be given away on Friday, December 1st.

Fisher Lemon, Amy Russell, Rich Hightshoe and 17 others like this. Oldest →

28 Shares 23 Comments

View 17 more comments

-  **Alex Kixmiller Done**  
29w
-  **Patty Kixmiller Done**  
29w
-  **Cathy Tannenbaum Snyder Done**  
29w



Harley Life LLC  
Like This Page · March 25 · 🌐

👍 Like    💬 Comment    ➦ Share    🌐

3

Write a comment...

Buy and Sell Groups Near You



Harley Life LLC  
Like This Page · April 4 · 🌐

Harley life bike shop is going great. Would like to thank all the loyal customers for all their support and all the new customers to come... Been changing tires and handlebars wheels exhaust and oil changes like no other. Did I mention that we are installing power commander programmers for your bike!!! get the ultimate power out of it... Can't wait until the weather warms up!! Bring your bikes into Harley life bike shop!! we have men's and women's T-shirts .. free T-shirt with the work we provide on it...thank your for your support!!!

👍 Like    💬 Comment    ➦ Share    🌐

19

7 Shares

Write a comment...





48. The Infringing Products are not subject to the same standards, review, or approval process as Harley's authorized genuine products bearing the HARLEY Marks, including without limitation Harley's stringent quality control measures.

49. Defendants' unauthorized uses of the HARLEY Marks detailed above, individually and collectively, falsely suggest and are likely to create the mistaken impression that Defendants' Services and Infringing Products are authorized by Harley, that Defendants are authorized Harley licensees, dealers, or retailers, and/or that Defendants' Services and Infringing Products are endorsed by, approved by, or otherwise affiliated with Harley when they are not.

#### **HARLEY'S OBJECTIONS TO DEFENDANTS' WRONGFUL ACTS**

50. On May 8, 2018, Harley sent an email to Defendants objecting to their unauthorized and infringing uses of Harley's Intellectual Property. Throughout May 2018, Harley and Defendants exchanged multiple emails, with Harley reiterating its objections and Defendants agreeing to change the skull design in Defendants' Infringing Mark. Defendants, however, did not make any changes and in later communications with Harley refused to do so.

51. On July 10, 2018, Harley's outside counsel sent a cease-and-desist letter by email and FedEx to Defendants objecting to their unauthorized and infringing uses of Harley's



Intellectual Property and requesting that Defendants cease all use of Harley's Intellectual Property and variations thereof.

52. On July 11, 2018, Defendants sent an email to Harley's outside counsel denying infringement.

53. On November 7, 2018, Harley's outside counsel sent an additional letter by email to Defendants, reiterating Harley's objections to Defendants' continued unauthorized and infringing uses of Harley's Intellectual Property. Defendants did not respond to Harley's outside counsel's November 7 email, which was not returned as undeliverable.

54. On March 15, 2019, Harley's outside counsel sent another letter to Defendants regarding Harley's objections to Defendants' infringing activities. Defendants did not respond to the March 15 letter or Harley's outside counsel's follow-up emails, which were not returned as undeliverable.

55. Defendants are not now, and have never been, authorized or licensed by Harley to engage in any of the complained-of activities. As discussed above, Harley has objected to Defendants' activities on numerous occasions. Despite Harley's repeated objections, however, and despite Defendants' agreement to change Defendants' Infringing Mark, Defendants have refused to cease its infringing activities and Defendants have continued to infringe Harley's Intellectual Property to this day.

56. At the time that Defendants began using Harley's Intellectual Property, Defendants had actual knowledge of Harley's rights in those marks and copyright. By commencing use despite such knowledge and advice, Defendants did so in bad faith to take advantage of the tremendous reputation and goodwill of Harley and Harley's famous and well-known trademarks and copyright.

57. Defendants' continued use, advertisement, promotion, offering, and rendering of Defendants' Services under the Infringing Mark and the continued marketing, advertisement, promotion, and sale of numerous Infringing Products demonstrate that Defendants willfully intended to trade upon the goodwill of Harley and Harley's Intellectual Property and/or recklessly disregarded Harley's rights.

58. Defendants' actions described above are and have been intended to mislead consumers into believing that Defendants and/or their services and products are authorized by Harley, connected to Harley, and/or licensed, affiliated with, and/or sponsored by Harley, when in fact they are not.

#### **INJURY TO HARLEY AND THE PUBLIC**

59. Defendants' actions described above have damaged and irreparably injured and, if permitted to continue, will further damage and injure Harley, Harley's Intellectual Property, Harley's reputation and goodwill associated with those trademarks and copyright, Harley's reputation for high-quality products and services, and the public interest in consumers being free from confusion.

60. Defendants' actions as described above have caused and are likely to continue to cause confusion, mistake, and deception as to the source or origin of Defendants' Services and the Infringing Products and have falsely suggested and are likely to continue to falsely suggest a sponsorship, connection, license, affiliation, or association between Defendants and/or Defendants' Services and Infringing Products with Harley, Harley's Intellectual Property, and/or Harley's products and services.

61. Defendants' actions described above are likely to dilute the distinctiveness of the famous HARLEY mark, and are also likely to tarnish that famous mark, thereby injuring Harley.

62. Defendants' Infringing Mark and Infringing Products bear copies of the copyright-protected Willie G. Skull Logo. Defendants' actions as described above copied the original expression of Harley's Willie G. Skull Logo without Harley's authorization.

63. Harley has no adequate remedy at law.

64. Defendants knew or should have known that their activities described above constituted trademark counterfeiting, trademark infringement, trademark dilution, copyright infringement, and unfair competition, and thus Defendants acted knowingly and willfully in reckless disregard of Harley's Intellectual Property.

**FIRST CLAIM FOR RELIEF**  
**Trademark Counterfeiting Under Section 32(1)**  
**of the Lanham Act, 15 U.S.C. § 1114(1)**

65. Harley repeats and realleges each and every allegation set forth above.

66. Harley owns a number of federal trademark registrations for the HARLEY and Willie G. Skull Logo marks for various goods and services, many including apparel, hats, and/or decals.

67. Without Harley's consent, Defendants intentionally used in commerce the HARLEY and Willie G. Skull Logo marks and/or substantially indistinguishable variations or counterfeits thereof, as defined under 15 U.S.C. § 1116(d)(1)(B)(i)-(ii), in connection with the sale, offering for sale, advertising, and/or distribution of the Infringing Products.

68. Without Harley's consent, Defendants reproduced, counterfeited, copied, and/or colorably imitated the HARLEY and Willie G. Skull Logo marks and applied such reproductions, counterfeits, copies, and/or colorable imitations to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used in commerce upon or in connection with the sale, offering for sale, distribution, or advertising of the Infringing Products in a manner likely to cause confusion, or to cause mistake, or to deceive.

69. Defendants' actions described above are likely to cause confusion, mistake, or to deceive as to the origin, sponsorship, or approval of the Infringing Products, and thus constitute counterfeiting of Harley's federally registered HARLEY and Willie G. Skull Logo marks identified above in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

70. Defendants are directly, vicariously, and/or contributorily liable for the actions described above.

71. The actions of Defendants described above have at all times relevant to this action been willful and/or knowing.

72. As a direct and proximate result of the actions of Defendants as alleged above, Harley has been and will continue to be damaged and irreparably harmed.

73. Harley has no adequate remedy at law.

**SECOND CLAIM FOR RELIEF**  
**Trademark Infringement Under Section 32(1)**  
**of the Lanham Act, 15 U.S.C. § 1114(1)**

74. Harley repeats and realleges each and every allegation set forth above.

75. Defendants used and continue to use in commerce the HARLEY Marks and reproductions, copies, and colorable imitations thereof in connection with the offering, sale, distribution, and advertising of Defendant's Services and the Infringing Products, which are likely to cause confusion, mistake, or deception as to the origin, sponsorship, or approval of Defendants' Services, the Infringing Products, and Defendants' commercial activities, and thus constitute infringement of the HARLEY Marks referred to above in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

76. Defendants are directly, vicariously, and/or contributorily liable for the actions described above.

77. The actions of Defendants described above have at all times relevant to this action been willful and/or knowing.

78. As a direct and proximate result of the actions of Defendants as alleged above, Harley has been and will continue to be damaged and irreparably harmed.

79. Harley has no adequate remedy at law.

**THIRD CLAIM FOR RELIEF**  
**Trademark Infringement, False Designation**  
**of Origin, and Unfair Competition**  
**Under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A)**

80. Harley repeats and realleges each and every allegation set forth above.

81. Defendants' actions described above are likely to cause confusion, mistake, or deception as to the origin, sponsorship, or approval of Defendants' Services, the Infringing Products, and Defendants' commercial activities, and thus constitute trademark infringement, false designation of origin, and unfair competition with respect to the HARLEY Marks in violation of Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A).

82. Defendants are directly, vicariously, and/or contributorily liable for the actions described above.

83. The actions of Defendants described above have at all times relevant to this action been willful.

84. As a direct and proximate result of the actions of Defendants as alleged above, Harley has been and will continue to be damaged and irreparably harmed.

85. Harley has no adequate remedy at law.

**FOURTH CLAIM FOR RELIEF**  
**Trademark Dilution Under Section**  
**43(c) of the Lanham Act, 15 U.S.C. § 1125(c)**

86. Harley repeats and realleges each and every allegation set forth above.

87. Harley has engaged in extensive nationwide advertising, promotion, and use of the HARLEY mark for many years. Further, Harley has had massive sales of goods and services bearing the HARLEY mark for decades.

88. The HARLEY mark has for many years received extensive unsolicited media attention nationwide. Such extensive and frequent media attention and commercial success has had a substantial impact on the public and has long created an association in the minds of consumers between Harley and the HARLEY mark, such that the HARLEY mark is famous and was famous nationwide before Defendants commenced their unauthorized use of that mark.

89. Defendants' actions described above, all occurring after the HARLEY mark became famous, are likely to cause dilution by blurring and dilution by tarnishment of the distinctive quality of the HARLEY trademark in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

90. Defendants are directly, vicariously, and/or contributorily liable for the actions described above.

91. The actions of Defendants described above have at all times relevant to this action been willful.

92. As a direct and proximate result of the actions of Defendants as alleged above, Harley has been and will continue to be damaged and irreparably harmed.

93. Harley has no adequate remedy at law.

**FIFTH CLAIM FOR RELIEF**  
**Copyright Infringement**  
**17 U.S.C. § 101, et seq.**

94. Harley repeats and realleges each and every allegation set forth above.

95. Harley's Willie G. Skull Logo is a wholly original work of authorship and constitutes copyrightable subject matter under the Copyright Act of 1976, 17 U.S.C. § 101 et seq.

96. Harley is the sole owner of all right, title, and interest in and to the copyright in the Willie G. Skull Logo.

97. Harley has complied in all respects with the Copyright Act of 1976 (17 U.S.C. § 101 et seq.) and has received from the Registrar of Copyrights Certificate of Copyright, Registration No. VA 1-987-746 for the Willie G Skull Design. The Certificate of Registration constitutes prima facie evidence of the validity of Harley's copyright rights and the facts stated in the Certificate.

98. Harley has never licensed, or in any other way authorized, Defendants to reproduce, cause to reproduce, prepare derivative works from, distribute, or display any portion of the Willie G. Skull Logo, which are the exclusive rights of Harley as the copyright owner.

99. By the actions described above, Defendants have infringed and will continue to infringe Harley's copyright rights in the Willie G. Skull Logo in violation of the Copyright Act, 17 U.S.C. § 101, et seq.

100. Defendants are directly, vicariously, and/or contributorily liable for the actions described above.

101. The actions of Defendants described above have at all times relevant to this action been willful.

102. As a direct and proximate result of the actions of Defendants as alleged above, Harley has been and will continue to be damaged and irreparably harmed.

103. Harley has no adequate remedy at law.

**SIXTH CLAIM FOR RELIEF**  
**Common Law Trademark Infringement, Unfair**  
**Competition, and Misappropriation**

104. Harley repeats and realleges each and every allegation set forth above.

105. Defendants' actions described above with respect to the HARLEY Marks constitute common law trademark infringement, unfair competition, and misappropriation of Harley's goodwill under the common law.

106. Defendants are directly, vicariously, and/or contributorily liable for the actions described above.

107. The actions of Defendants described above have at all times relevant to this action been willful.

108. As a direct and proximate result of the actions of Defendants as alleged above, Harley has been and will continue to be damaged and irreparably harmed.

109. Harley has no adequate remedy at law.

#### **PRAYER FOR RELIEF**

WHEREFORE, Harley prays that this Court enter judgment in its favor on each and every claim for relief set forth above and award it relief including, but not limited to, the following:

A. An injunction preliminarily and permanently enjoining Defendants and their employees, agents, partners, officers, directors, owners, shareholders, principals, subsidiaries, related companies, affiliates, distributors, dealers, retailers, wholesalers, manufacturers, vendors, successors, assigns, and all persons in active concert or participation with any of them:

1. From using, displaying, and/or registering the HARLEY Marks in any form, including but not limited to in connection with any other wording or designs, and from using any other marks, logos, designs, designations, or indicators that are confusingly similar to any of the HARLEY Marks, or likely to dilute the distinctiveness of or tarnish the HARLEY mark, in any unauthorized manner including, but not limited to, use on or in connection with any products or services in any online or offline context, including without limitation Defendants' Services, the Infringing Products, Defendant's Facebook Page, any other websites or online platforms including social media and apps, promotional and advertising materials, store names, signage, and product packaging and labeling; and as or as part



of any trademarks, trade names, business names, corporate names, domain names, e-mail addresses, URLs, metatags, screen names, social media names, keywords such as advertising keywords, or any other identifiers;

2. From using Harley's copyrighted works or substantially similar works in any form or medium;
3. From representing by any means whatsoever, directly or indirectly, that Defendants or any products or services offered by Defendants, including without limitation Defendants' Services, the Infringing Products, or any activities undertaken by Defendants, emanate from Harley, or are authorized, licensed, or otherwise affiliated with or sponsored or endorsed by Harley;
4. From assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs A.1-3 above.

B. An Order directing Defendants to cancel their Indiana corporate name Harley Life, LLC or amend such name to remove "HARLEY" from such name.

C. An Order directing Defendants to destroy all products and items in their possession or under their control that bear Harley's Intellectual Property, including without limitation any Infringing Products and all items bearing Defendant's Infringing Mark, and to confirm such destruction in writing to Harley, and to provide to Harley the identity and complete contact information and payee information for all persons and entities that made, produced, or advertised or sold the Infringing Products and created Defendant's Infringing Mark including, but not limited to, sellers, manufacturers, printers, shipping vendors, wholesalers, distributors, retailers and all others that assisted or enabled Defendants to make, advertise, promote, sell, distribute, and transport the Infringing Products.

D. An Order requiring Defendants to pay Harley the cost for corrective advertising and/or to engage in corrective advertising in a manner directed by the Court.

E. An Order directing Defendants to file with this Court and serve on Harley's attorneys, thirty (30) days after the date of entry of any injunction, a report in writing and under oath setting forth in detail the manner and form in which they have complied with the injunction and other orders issued by the Court.

F. An Order requiring Defendants to pay statutory damages in accordance with 15 U.S.C. § 1117(c) of \$2,000,000 per mark per type of product or service sold, offered for sale, or distributed by Defendants bearing marks deemed to be counterfeits of the HARLEY and/or Willie G. Skull Logo marks;

G. An Order requiring Defendants to account for and pay to Harley any and all profits arising from the foregoing acts of counterfeiting, infringement, dilution, false designation of origin, and unfair competition, and an increasing of such profits for payment to Harley in accordance with 15 U.S.C. § 1117, and other applicable statutes and laws;

H. An Order requiring Defendants to pay Harley compensatory damages in an amount as yet undetermined caused by the foregoing acts of counterfeiting, infringement, dilution, false designation of origin, unfair competition, and trebling such compensatory damages for payment to Harley in accordance with 15 U.S.C. § 1117, and other applicable statutes and laws;

I. An Order requiring Defendants to pay statutory damages in accordance with 17 U.S.C. § 504 in an amount of \$30,000 per work infringed, and an amount of \$150,000 per work infringed if the Court deems that the copyright infringement was committed willfully;

J. An Order requiring Defendants to pay Harley punitive damages in an amount as yet undetermined caused by the foregoing acts of Defendants;

K. An Order requiring Defendants to pay Harley's costs and attorney's fees in this action pursuant to 15 U.S.C. § 1117, 17 U.S.C. § 505, and other applicable statutes and laws; and

L. Other relief as the Court may deem appropriate.

**JURY DEMAND**

Pursuant to Fed. R. Civ. P. 38, Harley respectfully demands a trial by jury for all claims so triable.

Respectfully submitted,

Dated: December 2, 2019

/s/ David J. Hensel

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