

Don't Be a Lame Duck in Enforcing and Protecting Your IP

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Program Materials are available on www.dorsey.com at
<https://www.dorsey.com/newsresources/events/event/2016/11/corporate-counsel-symposium-2016>

1. PowerPoint Presentation
2. *Dorsey TMCA Blog: Trick or Tweet? Team Trump Gets Sued Over Skittles Twitter Pic*, Michael Keyes, Dorsey & Whitney LLP (October 20, 2016)
<http://thetmca.com/trick-or-tweet-team-trump-gets-sued-over-skittles-twitter-pic/>
3. *The 2016 EU Data Protection Legislation*, Ron Moscona (July 20, 2016)
<https://www.dorsey.com/newsresources/publications/client-alerts/2016/07/2016-eu-data-protection-legislation>
4. *Dorsey TMCA Blog: What Brexit Means for EU Trade Marks*, Ron Moscona (June 24, 2016)
<http://thetmca.com/what-brexit-means-for-eu-trade-marks/>
5. For more information on TradeMarks, Copyrights, and Advertising, see **Dorsey's TMCA Blog** at <http://thetmca.com/>

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Thursday, November 10, 2016

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1. Social Media & Other Online Skirmishes



- The DMCA
- Provides quick and effective way to get infringing content removed from online
- ISPs need to comply with “safe harbor” provisions to avoid liability

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1. Social Media & Other Online Skirmishes



- December 1, 2016 rules are changing regarding designated DMCA agents.

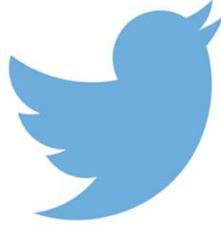
3

The DMCA Applies to ISPs, including Social Media Companies...



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...As Team Trump Can Attest To.



5



This image says it all. Let's end the politically correct agenda that doesn't put America first. #trump2016



RETWEETS 18,128 LIKES 29,644

7:41 PM - 19 Sep 2016

18K 30K

6

Wrigley's Response:

Skittles are candy. Refugees are people. We don't feel it's an appropriate analogy. We will respectfully refrain from further commentary as anything we say could be misinterpreted as marketing.

--Denise Young, Vice President of Corporate Affairs for Wrigley Americas

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The DMCA only applies to works protected by Copyright.

But, some social media and online companies allow you to use their DMCA process for other IP violations.

Check the social media or online companies Terms of Service!



Bloomicon / Shutterstock.com

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What Happened to Team Trump You Ask?

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DAVID KITTOS,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:16-cv-9818
)	
DONALD J. TRUMP FOR PRESIDENT, INC.,)	
DONALD TRUMP, SR., DONALD TRUMP,)	
JR., MICHAEL PENCE, and DOES 1-10,)	
)	
Defendants.)	

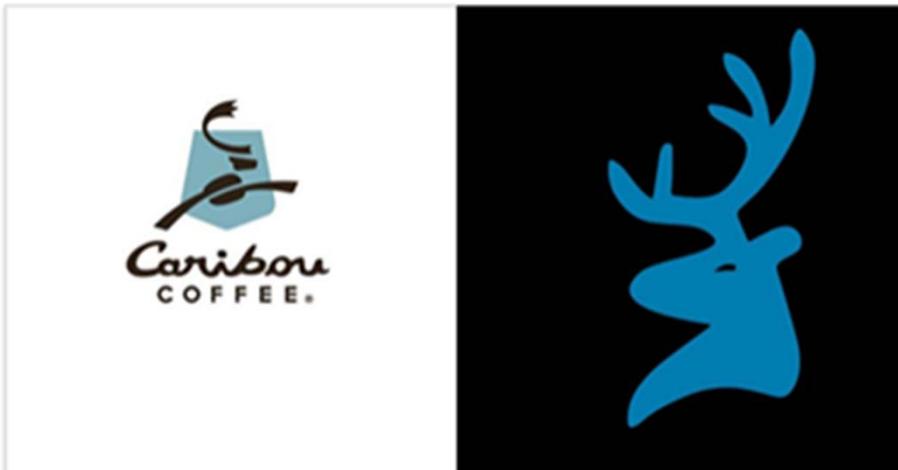
COMPLAINT

Plaintiff David Kittos (hereinafter "Plaintiff" or "Kittos"), by and through his counsel of record Blaise & Nitschke, P.C., alleges for his Complaint against the Defendants, Donald J. Trump for President, Inc., Donald Trump Sr., Donald Trump Jr., Michael Pence, and Does 1-10 (hereinafter, each a "Defendant" and collectively, the "Defendants") as follows:

Nature of the Action

1. This is a civil action against the Defendants for wrongful acts of copyright infringement (U.S. Copyright Act, 17 U.S.C. § 101 *et seq.*).

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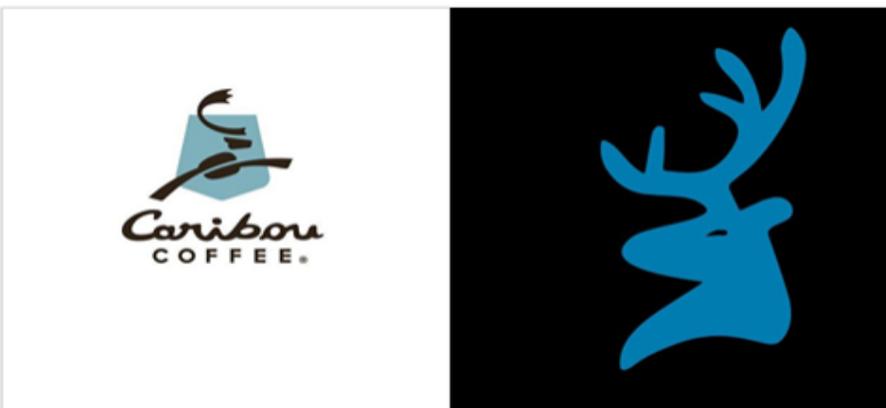


Ursa Major Bistro

May 24 · 🌐



Why we are no longer Blue Caribou Cafe.



German coffee company crushes American family's dream | Fox News

The Chorley family's dream has become a nightmare.

FOXNEWS.COM

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corporate
counsel
symposium

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Share Tweet Donate



\$13,635 of \$16k goal

Raised by 231 people in 3 months

Donate Now

Share on Facebook

Created May 10, 2016

Kelly Shea Chorley
Other
BEULAH, MI

Recent Donations

- \$10 Anonymous 21 days ago
- \$20

Blue Caribou Cafe Rebranding

Share Tweet 593 shares

Story Updates 2

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Coupons for Caribou Coffee on the App Store

iTunes Preview

Overview Music Video Charts



iTunes is the world's easiest way to organize and add to your digital media collection.

We are unable to find iTunes on your computer. To download the free app Coupons for Caribou Coffee by JK2Designs LLC, get iTunes now.

Already have iTunes? Click I Have iTunes to open it now. [I Have iTunes](#)

Free Download

iTunes 11
For Mac + PC

Coupons for Caribou Coffee [View More by This Developer](#)

By JK2Designs LLC

Open iTunes to buy and download apps.



Save

[View in iTunes](#)

Description

What if you could download an app for a lifetime of saving thousands of dollars?!! NOW YOU CAN! This app will save you money guaranteed. Who wants to spend time sitting around on your computer looking at coupons that you will never use, when you can browse this app on the go! Listen to some of our beta test reviews.

[Coupons for Caribou Coffee Support](#) [...More](#)

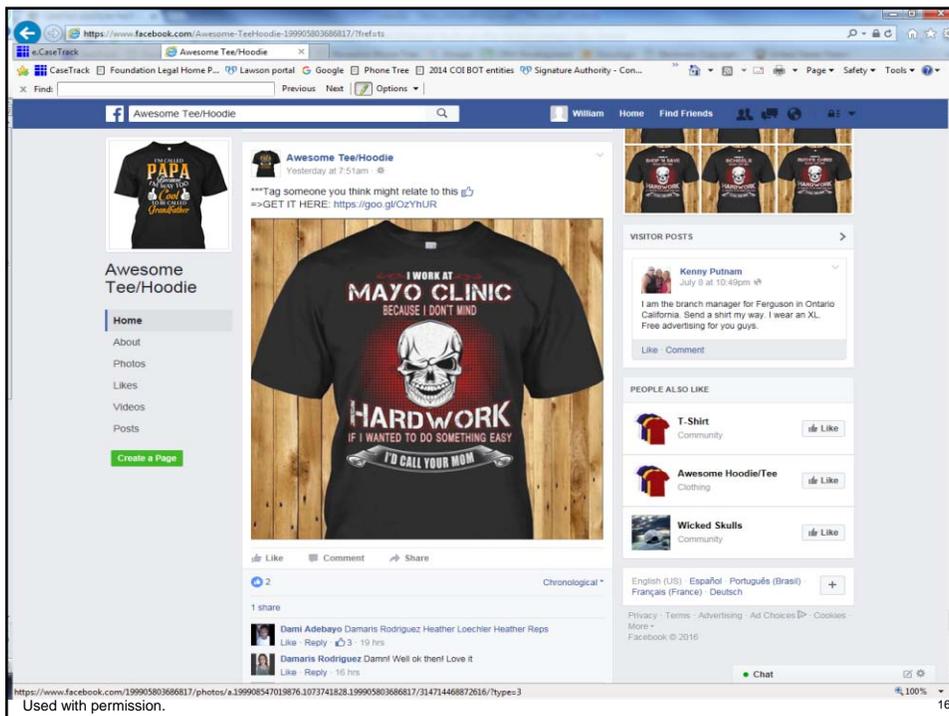
Screenshots [iPhone](#) | [iPad](#)

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The screenshot shows a Facebook post from the page 'Awesome Tee/Hoodie'. The post features a black t-shirt with a skull graphic and the text: 'I WORK AT MAYO CLINIC BECAUSE I DONT MIND HARDWORK IF I WANTED TO DO SOMETHING EASY I'D CALL YOUR MOM'. The post text says: '***Tag someone you think might relate to this g👤 =>GET IT HERE: <https://goo.gl/OzYhJR>'. The page also shows a navigation menu on the left, a 'VISITOR POSTS' section with a post from Kenny Putnam, and a 'PEOPLE ALSO LIKE' section with links to 'T-Shirt', 'Awesome Hoodie/Tee', and 'Wicked Skulls'.

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A creative alternative to combating online activity...



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“Right to Yelp Law” of 2015

- Bars merchants or service providers from compelling consumers to “sign away” First Amendment Rights.
- Violations can result in penalties between \$2,500-\$10,000.



Ken Wolter/Shutterstock.com

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Consumer Review Fairness Act of 2016 (H.R. 5111)

- **Would void contractual provisions that prohibit negative online reviews**
- **Passed House on 9-12-16**
- **Currently being considered by Senate**



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2. The Defend Trade Secrets Act of 2016

- **Creates a federal cause of action for misappropriation of trade secrets**
- **Federal jurisdiction “if the trade secret is related to a product or service used in, or intended for use in, interstate or foreign commerce”**
- **Minnesota company can now sue a Minnesota resident in federal court**

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DTSA Considerations

- **Elements of a DTSA claim are similar to Uniform Trade Secrets Act claims**
- **Remedies also similar**
- ***Ex parte* Civil Seizure remedy available, but requires extraordinary showing**

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DTSA Considerations

- **Limitation on injunctive relief interfering with employment: Federal court may “grant an injunction to prevent any actual or threatened misappropriation. . . provided the order does not prevent a person from entering into an employment relationship, and that conditions placed on such employment shall be based on evidence of threatened misappropriation and not merely on the information the person knows.”**
- **No more inevitable disclosure doctrine?**
- **Impact on claims for breach of non-compete agreement?**

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DTSA Considerations

- DTSA provides immunity for disclosures to the government or in a court filing
- DTSA instructs employers to notify their employees, independent contractors, and consultants of immunity in relevant contracts
- Notice can be provided by reference to corporate policies separately provided to individual
- Failure to provide notice could preclude recovery of exemplary damages and attorneys' fees

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3. Brexit Anyone?

The Effect of Brexit on Trademarks and Copyrights



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EU Trademarks

- **Priority of existing EU registrations/applications will likely be maintained. No need to rush to register in the UK now.**
- **Existing EU registrations likely to be protected in the UK after Brexit as UK rights without new filings.**
- **Applications pending on day of Brexit may need to be refiled in the UK (claiming priority of EU filing date).**
- **EU court will no longer have jurisdiction over the UK.**
- **Invalidation/revocation by EU court will not bind UK.**
- **Validity/revocation decisions by UK courts will only affect the UK interest.**

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Copyrights

- **Copyright basics largely harmonized under EU law:**
 - Copyright in Information Society Directive
 - Computer software Directive
 - Database Directive
 - Rental and Lending rights Directive
 - Satellites and Cable Directive
- **Main areas of harmonization:**
 - Restricted acts (e.g., recent Playboy hyperlinks case)
 - Exhaustion of rights (e.g., UsedSoft)
 - Exceptions to copyright protection (exhaustive list)
- **UK will be free to develop copyright law independently after Brexit but no major changes likely in the foreseeable future**

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4. The EU Data Protection Regulation

Check out our recent article on the subject
on Dorsey.com:

The 2016 EU Data Protection Legislation

By Ron Moscona, July 20, 2016

<https://www.dorsey.com/newsresources/publications/client-alerts/2016/07/2016-eu-data-protection-legislation>

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Visit Dorsey's IP Blog



TheTMCA.com

TradeMarks, Copyrights, and Advertising

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Questions?