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## Hells Angels and Toys “R” Us Settle “Death Head” Trademark Litigation

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When I think of the [Hells Angels](#), what immediately comes to mind are a notorious gang of men in leather on Harley-Davidson motorcycles, the 1960’s counterculture, and news reports of illicit activity. When I think of Toys “R” Us, what immediately comes to mind are Barbie® dolls, Candyland® board games, Fisher-Price® baby toys, and Lego® blocks. What doesn’t come to mind is Hells Angels suing Toys “R” Us for trademark infringement claiming that the toy retailer is selling toys bearing the Hells Angels federally registered “Death Head” logo without authorization. You can’t make this stuff up.

The truth is that the **Hells Angels is a non-profit mutual benefit corporation organized under the laws of the State of California**, and owns quite a number of existing federal trademark registrations and applications for various word marks and logos it uses on and in connection with a variety of goods and services. That this organization is an internationally famous, worldwide brand owner with a lucrative trademark licensing program would, I am sure, surprise some of the original members from different motorcycle clubs, such as the Pissed Off Bastards of Bloomington, who founded the organization in the 1940s. Its website at [www.hells-angels.com](http://www.hells-angels.com) and its [Facebook](#) page would also probably turn a few helmeted heads from the past. However, this group has a brand, which has turned out to be a very valuable brand, and brands of any and all kinds need to be protected to save them from abuse.

The basis for the litigation is the sale by Toys “R” Us of yo-yos manufactured by Yomega Corporation, a co-defendant, which allegedly bear the “Death Head” logo. **Hells Angels owns several federal trademark registrations for that logo, which is described in the registrations as consisting of a “horned human skull with helmet and winged yoke device.” (Not a visual you usually associate with children’s toys.)** Although Hells Angels does not have the mark registered for use on any toys, it claims in its [Complaint](#) that the mark used on the yo-yos is likely to confuse the public into mistakenly believing that the toys originate with Hells Angels. It also claims that its mark is so famous that the mark used on the yo-yos dilutes the distinctive quality of the Death Head mark. Yomega itself owns a federal trademark registration for a logo mark consisting of the word Raider® with a skull design.

Both Defendants deny all the allegations against them in the Complaint, and Yomega filed [counterclaims](#) against Hells Angels for cancellation of the “Death Head” registrations on grounds of alleged fraud in the procurement of those registrations. The thrust of these allegations is that Hells Angels submitted trademark applications signed under penalty of criminal perjury attesting to the fact that it had a “bona fide intent” to use the Death Head mark on all the goods listed in the applications and to provide all the services listed in the applications, when it had no such intent. As a result, Yomega claimed that the resulting registrations are tainted with fraud since they cover goods and services for which the mark has never been used. Claims of this type have become much more frequent and successful in recent years, and many registrations have been cancelled as a result.



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As interesting and entertaining as it may have been to watch the motorcycle gang duke it out in court with the toymakers and toy sellers, we have been deprived of that pleasure since the parties settled the case and the lawsuit was dismissed with prejudice. The terms of the settlement are not known. As of the date of this writing, the Death Head Registrations remained intact and the Yomega Raider yo-yos which were alleged to have been infringing were still being sold online.

This, undoubtedly, will not be the end of Hells Angels' trademark policing efforts. In past years, it has sued Amazon.com Inc., MTV Networks Enterprises Inc., the clothing label Young & Reckless LLC, and other well known fashion retailers for manufacturing and selling T-shirts bearing marks it claimed infringed its registered rights. Hell hath no fury like a biker infringed.

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