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Subject: statutory and common law regarding fair business practices

Posted by [MQracing](#) on Fri, 23 Dec 2005 03:29:26 GMT

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Originally Posted by MQracing [ 151.197.61.138 ] on September 18, 2005 at 12:54:45: Patents and the laws establishing patents and their use and scope are only one area of statutory law and common law that governs the conduct and practices of businesses. There are many other laws (both common and Statutory) which address other important business issues and governs the conduct of businesses. Things like unfair competition, deceptive business practices, false advertising, trademark law, trade secrets, proprietary know-how, and many other issues...but, contrary to Doug's apparent misunderstanding... he seems to think that if a product is not patented than anything and any practice is fair game. Such could not be further from the truth. Other issues that a business lawyer will look at and examine

include;\*\*\*\*\*The FTC ActThe FTC Act, among other things, created the Federal Trade Commission which is responsible (along with the Justice Department in the case of Sherman Act violations) for the enforcement of antitrust laws. The FTC Act also included language which makes activities that constitute unfair competition by individuals illegal (remember that the Sherman Act only addressed such activities by groups). The FTC Act has additional provisions that relate to consumer protection. Factors to be considered in determining "obviously unfair" "Obviously unfair" as used in Article 24 refers to engaging in competition or commercial transactions by obviously unfair means. Its most common and concrete types fall into three general categories: (i) Unfair competitive conduct contrary to business competition ethics (a) Exploiting the fruits of others' work Common types of such conduct are: free riding on the business reputation of another; imitation to a substantial degree; taking advantage of the work of another person to promote one's own goods or services. (b) Impeding fair competition with the purpose of harming competitors Common types of such conduct are improper comparative advertising and making representations to trading counterparts of a competitor alleging that the competitor's infringement of intellectual property rights. (ii) Engaging in trade by means contrary to social ethics Common types of such conduct include carrying out trading by means of coercing or harassing a trading counterpart to suppress the trading counterpart's free will regarding whether to trade. (iii) Abusing an advantageous market position to engage in unfair trade\*\*\*\*\*common law and statutory law also provides remedies for an illicit business practice which is known as "passing off" :::: Passing Off occurs when a trade or service mark is not registrable it may still be entitled to certain protection, i.e. a passing-off action. Passing off is available where there is a prospect of confusion of identity through the unauthorised use of similar marks or get up, and such use damages, or is likely to damage the goodwill and reputation of a business. Unregistered marks and passing off can apply to virtually any name, mark, logo or get-up which distinguishes a company, business, product or service. :::: Passing off occurs when a producer misrepresents his own goods or services as someone else's. Reverse passing off occurs when a producer misrepresents someone else's goods or services as his own. Both can be actionable under the Lanham Act, which makes actionable not only the misleading use of marks, but also the false designation of origin of goods. :::: the Lanham Act is a federal statute. Business practices are also governed by the Fair Trade Practices Act which covers rights of publicity, misappropriation of trade values and trade secrets, false and deceptive advertising, interference with trade relations. It short it addresses many issues relating to unfair and deceptive competition practices.... or what is also called predatory business practices. so that, far in addition to the protection of property rights and

designs captured through the provisions of the applicable patent laws. There exists, also, state and federal laws governing predatory business practices. Doug is just plain wrong if he believes that patent law is the only protections for a business against unfair business practices. for example,::If designs are commercially important to your business, the downside of only owning unregistered design rights is that you can only stop third parties from copying your designs.:::notice that this states remedies may be available against third party piracy of proprietary designs.and the above is further amplified in both common law and statutory law when consideration further includes;:::MISAPPROPRIATION [unfair competition]. A common law form of unfair competition in which an individual or firm copies or appropriates some creation of another that is not protected by patent, copyright, or trademark law.:::GOODWILL [trademark]. The value of a business or of a line of goods or services, beyond its tangible assets, that reflects its commercial reputation. A business with a well-established goodwill could have all its tangible assets destroyed yet still own its reputation — its goodwill. Since a trademark or service mark is a symbol of a business's goodwill, trademark infringement is a form of theft of goodwill.UNFAIR COMPETITION [general intellectual property]. Commercial conduct that the law views as unjust, giving a civil claim against a person who has been injured by the conduct. Trademark infringement has long been considered to be unfair competition. Other recognized legal categories of unfair competition are false advertising, trade libel, infringement of a trade secret, infringement of the right of publicity, and misappropriation.Unfair Competition The imitation, by design, of the goods of another, for the purpose of palming them off on the public, misleading it, and inducing it to buy goods made by the imitator.Unfair CompetitionIt means any acts designed to mislead and confuse the public and to incur deceptive substitution of one product for another, in the interests of obtaining an unfair advantage over one's competitors. Practically all such activities are illegal.

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Subject: Re: statutory and common law regarding fair business practices  
Posted by [Damir](#) on Fri, 23 Dec 2005 05:49:48 GMT  
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Citation from the other forum:"> Brat Ludwig wrote:> > Andrew had little to do with Magnequeef's fall: by then we had all> > pretty much pegged Mike Lefevre as a fraud, an idiot, and a raging> > hard-on."

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Subject: to a substantive post... Damir can only offer flames and personal attacks.  
Posted by [MQracing](#) on Fri, 23 Dec 2005 05:58:25 GMT  
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Now your posting messages from Rec Audio Tubes posted by a sock puppet.Perhaps you might find Andre Jute to be your spiritual heir. He's over there too. And this is the best you could come up with... just another flame post...Are you simply that intellectually bankrupt?

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Subject: Re: to a substantive post... Damir can only offer flames and personal attacks.

Posted by [Damir](#) on Fri, 23 Dec 2005 10:04:33 GMT

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Sorry, I thought that you like sockpuppets and out of contest citations from other forums - you just posted something down there... But, don't you see that I just make fun of you...maybe to post some other citation from RAT or AA and see how you furiously respond many times? You becomes a "Dungeon" fool - a entertainment for all!

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Subject: Re: to a substantive post... Damir can only offer flames and personal attacks.

Posted by [MQracing](#) on Fri, 23 Dec 2005 10:33:24 GMT

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sorry... no dungeon slave am I...Given your consistent lack of anything substantiveto say or offer it rarely takes more than a minuteor two to point out your vacuity of intellect and objectivity.msl

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Subject: Re: to a substantive post... Damir can only offer flames and personal attacks.

Posted by [PakProtector](#) on Sat, 24 Dec 2005 02:52:00 GMT

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There you go again, accusing the other guy of just exactly what you're doing yourself. Don't go away mad, just go away...or if you wish to stay around, contribute something useful. I'll be the first person calling for your re-admittance to GB should you decide to behave yourself. I am not going to cease tearing down and modifying OPTx's. I will continue to note their origin, when speaking of them. I am \*NOT\* going to sell them, and am not in the Iron business. If somebody else wants to do the same thing I have done, why should I stand in their way? or require them to destroy another original? Or send them to you, so you can make up some bullshit answer about why you can't do what they want? How helpful is that? or for that matter, productive for you?If you have a problem with my speaking highly of the winder who is serving me well, I suggest you learn to live with it. If you were serious, you'd pursue the people who are shilling your product all over the other forums. In truth, you're just out to attack me, and that's actually just fine. You look like a bigger fool than before you began. And it's not the first time you've done it. Maybe you'll learn something this time.cheers,Douglas

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Subject: Re: to a substantive post... Damir can only offer flames and personal

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attacks.

Posted by [MQracing](#) on Sat, 24 Dec 2005 03:13:34 GMT

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doug wrote:"...calling for your re-admittance to GB..." no thanks. I'll make contributions elsewhere when I am able to. ::::...so you can make up some bullshit answer about why you can't do what they want? How helpful is that? or for that matter, productive for you?:::What you fail to grasp is that the owner of the designs I control the legitimate use of the designs. A manufacturer may choose for any number of reasons to not accomadate a particular request... anything from technical considerations, to cost considerations, to marketing reasons... all perfectly well within their rights to control the use and sale of their own property. Taken at face value... your claim appears to be that if Wavelength Audio would not accomadate a request by you to modify say their DAC.... then they have forfeited their ownership rights to the design if you can get your grubby little hands on it and tear it down... and that you will then have a right to hawk your knock off as a modified Wavelength Audio DAC... WRONG. And... ingoring all legalities involved it is highly unethical behaviour. Does ART want to be home to any disaffected consumer who... because a manufacturer would not alter or modify their product to a consumer's request... then that consumer can come here and do "copy cat" versions and use the name and good will of the company who would not go along with their request to then hawk their wares? That's clearly absurd... but it is what your saying should be the case. So if Lundahl (who does not do small volume custom work to my knowledge) will not alter or modify their interstage trans number 1660... then you can come on ART and offer copies of their product with your "mod" thrown in and then use their name and goodwill to promote or hawk your wares to their detriment? I am hopeful that this will not be a policy that ART adopts or a practice which could be considered appropriate in any of the ART forums.msl

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**Subject: Re: to a substantive post... Damir can only offer flames and personal attacks.**

Posted by [PakProtector](#) on Sat, 24 Dec 2005 21:15:08 GMT

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msl whines: What you fail to grasp is that the owner of the designs I control the legitimate use of the designs. A manufacturer may choose for any number of reasons to not accomadate a particular request... anything from technical considerations, to cost considerations, to marketing reasons... all perfectly well within their rights to control the use and sale of their own property. doesn't matter how many times you say it, it is not suddenly going to become true. I have grasped the concept, and you are presenting it in error. Good luck with that... And it is quite obvious that this issue is about control. And your ire because it isn't all yours anymore. I am not about to operate where I have to consult with you, and get your blessing on anything. If you wish to continue escalating, carry right on. I expected it...cheers, Douglas

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Subject: I already know that you would misappropriate the....

Posted by [MQracing](#) on Sat, 24 Dec 2005 22:49:52 GMT

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intellectual property of others. You been doing it for how long now. However, it's nothing I would ever feel proud of if I were you. And I have absolutely NO interest in dealing with such a person as yourself.msl

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Subject: you make a single wild leap....

Posted by [PakProtector](#) on Sat, 24 Dec 2005 23:15:14 GMT

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and everything is possible...57 year-old designs are protected. You have complete rights to them, in all their forms... What other insanity are you capable of?write back when you've been marijuana-free for 10 days, your world may look a whole lot different.cheers,Douglas

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