

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

BMW OF NORTH AMERICA, LLC and
BAYERISCHE MOTOREN WERKE AG,

Plaintiffs,

v.

AYSAM KUYEYKA and KUYEYKA'S
IMPORTS, INC., *dba* AYSAM'S
IMPORT AUTO SERVICE, INC.,

Defendants.

Case No. **2:13-cv-00318-MHT-SRW**

(WO)

**DEFAULT JUDGMENT AGAINST
DEFENDANT AYSAM KUYEYKA**

This action having been commenced on May 13, 2013, by the filing of the Summons and Complaint; a copy of the Summons and Complaint having been validly served on Defendant Aysam Kuveyka on August 19, 2013; Defendant Kuveyka not having answered the Complaint, and the time for answering the Complaint having expired; and good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED and DECREED that the motion for default judgment (Doc. No. 21) is granted and Plaintiffs BMW of North America, LLC, and Bayerische Motoren Werke AG (collectively, "BMW") have judgment against Defendant Aysam Kuveyka finding that:

a) Defendant Kuveyka has engaged in willful trademark infringement under the Lanham Act, 15 U.S.C. §1114, of United States trademarks belonging to BMW (the Roundel logo);

b) Defendant Kuveyka has engaged in willful unfair competition under the Lanham Act, 15 U.S.C. §1125(a), with regard to BMW's Roundel logo; and

c) Defendant Kuveyka has engaged in actions that constitute dilution in violation of the Code of Alabama, § 8-12-17 (1975), and unfair competition under the common law of Alabama with regard to BMW's Roundel logo.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that:

1. Defendant Aysam Kuveyka, his agents, servants, employees, attorneys, and all others in active concert or participation with any of them, be and are hereby permanently enjoined and restrained from:

(a) using BMW's Roundel logo, or any other name or mark that is confusingly similar to this mark, or any other mark or designation of BMW or its affiliates, including, but not limited to, use of BMW's Roundel logo on walls, windows, signs, banners, flags, websites, advertisements, coupons, marketing materials, stationery, business cards, or anywhere else in connection with Defendant Kuveyka's business; and

(b) doing any other act or thing likely to confuse, mislead, or deceive others into believing that Defendant Kuveyka, or his products or services, emanate from, or are connected with, sponsored by or approved by BMW.

2. BMW shall recover, pursuant to section 35 of the Lanham Act, 15 U.S.C. § 1117(a), its reasonable attorneys' fees and costs incurred in this action in the amount of \$19,618.36;

3. Defendant Kuveyka, in accordance with section 36 of the Lanham Act, 15 U.S.C. § 1118, shall deliver up to BMW for destruction all labels, signs, flags, banners, prints, packages, bottles, receptacles, containers, business cards, letterhead, advertisements, and other promotional materials in Defendant Kuveyka's possession or control bearing BMW's Roundel logo, or any other BMW mark.

4. Defendant Kuveyka, in accordance with section 34(a) of the Lanham Act, 15 U.S.C. § 1116(a), shall file with the Court, and serve upon BMW, within thirty (30) days after the entry and service on Defendant Kuveyka of an injunction, a report in writing and under oath, setting forth in detail the manner and form in which Defendant Kuveyka has complied with the terms of this Judgment.

The clerk of the court is DIRECTED to enter this document on the civil docket as a final judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

This case is not closed.

IT IS SO ORDERED:

Dated: May 16, 2014

/s/ Myron H. Thompson
THE HON. MYRON H. THOMPSON