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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

13 BMW OF NORTH AMERICA, LLC, et
14 al.

15 Plaintiffs,

16 v.

17 MAZZ AUTO GROUP, INC., et al.,

18 Defendants.

Case No: 2:17-cv-00418 AB (RAOx)

**[PROPOSED] PERMANENT
INJUNCTION AGAINST
DEFENDANT MAZZ AUTO
GROUP, INC. D/B/A MAZZ
AUTOSPORT AND DISMISSAL,
WITH PREJUDICE**

Hon. Andre Birotte Jr.

19 The Court, pursuant to the Stipulation for Entry of Permanent Injunction and
20 Dismissal (“Stipulation”), by and between Plaintiffs BMW of North America, LLC
21 and Bayerische Motoren Werke AG (collectively “Plaintiffs”), and Defendant
22 Mazz Auto Group, Inc. d/b/a Mazz Autosport (“Defendant”) filed concurrently
23 herewith, hereby ORDERS, ADJUDICATES and DECREES that a permanent
24 injunction shall be and hereby is entered against Defendant in the above-referenced
25 matter as follows:

26 1. **PERMANENT INJUNCTION.** Defendant is hereby restrained and
27 enjoined, pursuant to 15 United States Code (“U.S.C.”) §1116(a) and 35 U.S.C.
28 §283, from engaging in, directly or indirectly, or authorizing or assisting any

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PERMANENT INJUNCTION AND DISMISSAL

1 third-party to engage in, any of the following activities in the United States and
2 throughout the world:

3 i. copying, manufacturing, importing, exporting, purchasing,
4 marketing, selling, offering for sale, distributing or dealing in any product or
5 service that uses, or otherwise making any use of, any of BMW's intellectual
6 properties, including but not limited to, BMW®, M®, X5®, X3® and/or 3
7 SERIES® trademarks and/or design patents D551,149, D560,585 and/or
8 D671,473 (collectively hereinafter "BMW's Intellectual Properties"), and/or any
9 intellectual property that is confusingly or substantially similar to, or that
10 constitutes a colorable imitation of, any BMW Intellectual Properties, whether
11 such use is as, on, in or in connection with any trademark, service mark, trade
12 name, logo, design, Internet use, website, domain name, metatags, advertising,
13 promotions, solicitations, commercial exploitation, television, web-based or any
14 other program, or any product or service, or otherwise;

15 ii. advertising or displaying images and/or photographs of non-
16 genuine BMW automobile wheel rims with a BMW® and/or M® center cap or
17 badge;

18 iii. advertising or selling non-genuine BMW automobile rims,
19 center caps, or badges;

20 iv. using BMW Intellectual Properties, including but not limited
21 to the BMW®, M®, X5®, X3® and 3 SERIES® trademarks in advertising to
22 suggest that non-genuine BMW products being advertised are sponsored by,
23 endorsed by, or are otherwise affiliated with BMW and/or advertising non-
24 genuine BMW automobile wheel rims and other non-genuine BMW automotive
25 parts using descriptions that imply that the products are genuine BMW products;

26 v. using, advertising or displaying BMW's trademarks, including
27 but not limited to BMW®, M®, X5®, X3® or 3 SERIES®-trademarks, to
28 suggest that non-genuine BMW products being advertised are manufactured,

1 sponsored or endorsed by BMW or advertising non-genuine BMW automobile
2 parts or related products using descriptions that imply the products are genuine
3 BMW products. Defendant may, however, use “BMW” or other BMW
4 wordmarks to advertise non-BMW products with fair use descriptions such as ‘for
5 BMW automobiles’ or ‘fits BMW model _____,’ or similar language, provided
6 that “BMW” and any other BMW wordmarks that are used are in the identical
7 font, format, size, and color as, and no more prominently displayed than the
8 surrounding text. In no event may any BMW logos, design marks, or other
9 graphical trademarks be used under this exception;

10 vi. performing or allowing others employed by or representing
11 Defendant, or under Defendant’s control, to perform any act or thing which is
12 likely to injure Plaintiffs, any BMW Intellectual Properties, including but not
13 limited to the BMW®, M®, X5®, X3® and 3 SERIES® trademarks and/or
14 Plaintiffs’ design patents, and/or Plaintiffs’ business reputation or goodwill,
15 including making disparaging, negative, or critical comments regarding Plaintiffs
16 or their products and services;

17 vii. engaging in any acts of trademark infringement, false
18 designation of origin, dilution, unfair competition, design patent infringement, or
19 other act which would tend damage or injure Plaintiffs; and/or

20 viii. using any Internet domain name or website that includes any of
21 Plaintiffs’ trademarks or design patents, including but not limited to the BMW®,
22 M®, X5®, X3® and 3 SERIES® marks and/or design patents D551,149,
23 D560,585 and/or D671,473.

24 2. Defendant is ordered to deliver immediately for destruction all
25 counterfeit, infringing or otherwise unauthorized products, including automobile
26 wheel rims, center caps, emblems, badges, labels, signs, prints, packages,
27 wrappers, receptacles and advertisements relating thereto, in its possession and/or
28 under its control embodying, comprised, utilizing and/or bearing any BMW

1 Intellectual Properties, or any simulation, reproduction, counterfeit, copy or
2 colorable imitations thereof, and all plates, molds, heat transfers, screens, matrices
3 and other means of making the same, to the extent that any of these items are in
4 Defendant's possession.

5 3. This Permanent Injunction shall be deemed to have been served upon
6 Defendant at the time of its execution by the Court.

7 4. The Court finds there is no just reason for delay in entering this
8 Permanent Injunction against Defendant, and, pursuant to Federal Rule of Civil
9 Procedure 54(a), the Court directs immediate entry of this Permanent Injunction
10 against Defendant.

11 5. Defendant will be making agreed-upon payments to Plaintiffs, as
12 more particularly described in a separate confidential Settlement Agreement.

13 6. **NO APPEALS AND CONTINUING JURISDICTION.** No
14 appeals shall be taken from this Permanent Injunction, and the parties waive all
15 rights to appeal. This Court expressly retains jurisdiction over this matter to
16 enforce any violation of the terms of this Permanent Injunction by Defendant.

17 7. **NO FEES AND COSTS.** Plaintiffs and Defendant shall each bear
18 their own attorneys' fees and costs incurred in this matter.

19 8. **DISMISSAL.** Upon entry of this Permanent Injunction against
20 Defendant, the case shall be dismissed in its entirety, with prejudice.

21
22 IT IS SO ORDERED, ADJUDICATED and DECREED this 18th day of
23 October, 2017.

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26 HON. ANDRÉ BIROTTE JR.
27 District Court Judge of the United States
28 Central District of California