

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN**

\_\_\_\_\_  
 H-D MICHIGAN, LLC, a Michigan limited liability company and  
 HARLEY-DAVIDSON MOTOR COMPANY GROUP, LLC d/b/a HARLEY-DAVIDSON  
 MOTOR COMPANY, a Wisconsin limited liability company,  
 Plaintiffs,  
 v.  
 GALAN ENTERPRISES, INC., an Arizona corporation,  
 Defendant.

Civil Action No. \_\_\_\_\_

**JURY TRIAL REQUESTED**

**COMPLAINT**

Plaintiffs H-D Michigan, LLC and Harley-Davidson Motor Company Group, LLC d/b/a Harley-Davidson Motor Company (collectively referred to as “Harley” along with their predecessors in interest and licensees), allege as follows, upon actual knowledge with respect to themselves and their own acts, and upon information and belief as to all other matters:

**NATURE OF THE ACTION**

1. This is a civil action for trademark counterfeiting, trademark infringement, trademark dilution, and unfair competition arising under federal, state, and/or common law. Harley seeks equitable and monetary relief from Defendant’s multiple, willful violations of Harley’s trademark rights in its famous and federally registered HARLEY-DAVIDSON, HARLEY, and Bar & Shield Logo marks, among other Harley marks. Defendant’s unauthorized promotion and sale of metal signs and novelty motorcycle licenses prominently featuring Harley’s marks and

variations thereof infringes and dilutes Harley's marks, and constitutes counterfeiting and unfair competition.

### **THE PARTIES**

2. Plaintiff H-D Michigan, LLC is a Michigan limited liability company located at 315 W. Huron Street, Suite 400, Ann Arbor, Michigan 48103, and is the owner of the trademark rights asserted in this action.

3. Plaintiff Harley-Davidson Motor Company Group, LLC d/b/a Harley-Davidson Motor Company, is a Wisconsin limited liability company having its principal place of business at 3700 W. Juneau Avenue, Milwaukee, Wisconsin, 53208, and is a licensee of the trademarks of H-D Michigan, LLC asserted in this action.

4. Defendant Galan Enterprises, Inc. is an Arizona corporation located at 2740 W. Windrose Drive, Phoenix, Arizona, 85029.

5. Defendant has never been an authorized Harley dealer or a licensee of Harley's marks.

### **JURISDICTION AND VENUE**

6. This Court has jurisdiction over the subject matter of this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338(a) and (b). Because the parties are citizens of different states, and the matter in controversy exceeds \$75,000, exclusive of interest and costs, this Court also has jurisdiction under 28 U.S.C. § 1332. Jurisdiction over the state law claims is also appropriate under 28 U.S.C. § 1367(a) and principles of pendent jurisdiction because those claims are substantially related to the federal claims.

7. This Court has personal jurisdiction over Defendant and venue is proper in the Eastern District of Michigan pursuant to 28 U.S.C. § 1391(b) and (c) because Harley is located

and is being harmed in this District. Further, Defendant conducts business in this District and the activity about which Harley complains has taken place and is continuing to take place in this District, including but not limited to Defendant's use of counterfeit, infringing, and dilutive marks for its products, which are promoted, directed, and/or sold to consumers and potential consumers in this District via Defendant, its website, and through other means.

**HARLEY, ITS PRODUCTS AND SERVICES, AND ITS FAMOUS TRADEMARKS**

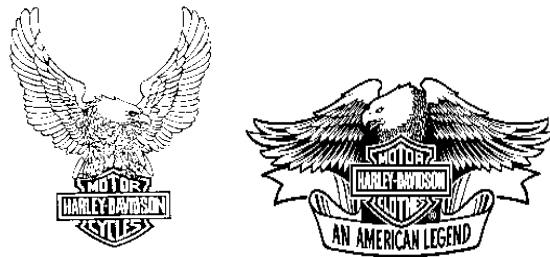
8. Harley is a world-famous manufacturer of motorcycles and related products and services, and is the largest manufacturer of motorcycles in the U.S.

9. Harley has been engaged in the manufacture, advertising, and sale of motorcycles and related products since 1903.

10. Since at least as early as 1903, Harley has used and promoted the HARLEY-DAVIDSON mark for motorcycles and related products and services in the U.S. For decades, Harley has also used the HARLEY mark for those products and services in the U.S.

11. Since at least as early as 1910, Harley has used a Bar & Shield Logo mark (and variations thereof) in the U.S., including but not limited to those shown below (collectively referred to as the "Bar & Shield Logo"), for motorcycles and related products and services. Harley's rights in its Bar & Shield Logo extend to the mark's design, regardless of the wording contained within the bar and shield shape.





12. Over the years, Harley has expanded its business to a wide range of other products and services, including but not limited to apparel, accessories, patches, signs, collectibles, and more. The HARLEY-DAVIDSON, HARLEY, and/or Bar & Shield Logo marks (collectively, the HARLEY Marks and Bar & Shield Logo) have been promoted across Harley's extensive product line.

13. Harley offered and promoted metal and tin signs under its HARLEY-DAVIDSON, HARLEY, and Bar & Shield Logo marks at least as early as 1988. Representative examples of signs offered by Harley bearing these marks are shown below:





14. In addition, Harley has used and promoted for many years a number other distinctive marks in the U.S. in connection with its motorcycles and related products and services, including but not limited to the marks H-D, HOG, and FAT BOY (collectively, the “Other Harley Marks”).

15. Harley has offered and promoted tin and metal signs in connection with its FAT BOY mark, among other products, for many years. A representative example of a sign offered by Harley bearing this mark and the Bar & Shield Logo is shown below.



16. As shown above, Harley’s products and its HARLEY Marks, Bar & Shield Logo, and Other Harley Marks often feature and/or are promoted in connection with Harley’s iconic color combination of orange, black, and/or white.

17. Harley markets its motorcycles and other products and services under the HARLEY Marks, Bar & Shield Logo, and Other Harley Marks through a network of approximately 650 authorized dealers located throughout the country, and approximately 150 alternative and seasonal retail outlets. Harley also has numerous licensees that have offered a wide variety of products, including signs, under the HARLEY Marks, Bar & Shield Logo, and/or Other Harley Marks for decades.

18. Harley’s products, including its licensed products, are sold by authorized dealers and others, including through the HARLEY-DAVIDSON.COM website, dealers’ websites and retail

stores, mass merchandisers (e.g., Target, K-Mart, and Wal-Mart), third-party websites such as EBAY.COM and AMAZON.COM, and at trade shows, among other places.

19. Harley and its dealers and licensees have sold many billions of dollars worth of products and services under the HARLEY Marks, Bar & Shield Logo, and Other Harley Marks, and have expended many millions of dollars promoting those marks through virtually every media. For example, Harley has promoted its products and marks through dealer promotions, customer events, direct mailings, national television, print, and radio advertisements, and via the Internet.

20. For many years, Harley and its dealers have also sponsored sports teams and major sporting events. Harley's marks have been featured on advertisements at NASCAR races, NBA basketball games, NFL football games, college football games, MLB games, and UFC Ultimate Fighting Championships. Harley and its dealers have also sponsored a number of sports teams, including the Atlanta Falcons, Boston Red Sox, Milwaukee Brewers, and Green Bay Packers.

21. Harley, its products and services, and its HARLEY Marks, Bar & Shield Logo, and/or Other Harley Marks have also received significant unsolicited media coverage, including, for example, in national publications such as the *The New York Times*, *The Wall Street Journal*, *The Chicago Tribune*, *The Washington Post*, *USA Today*, *The Milwaukee Journal Sentinel*, and *Business Week*, as well as in numerous national television programs and online publications, such as MSNBC, CNN Money, CNN.COM, and Yahoo! Finance.

22. As a result of Harley's promotional efforts, commercial success, and popularity, the HARLEY-DAVIDSON brand has been ranked annually for the past decade among the top 100 most valuable brands in the world by Interbrand, a leading independent branding firm. Indeed,

in 2010, Interbrand estimated the value of the HARLEY-DAVIDSON brand at over U.S. \$3.28 billion.


23. Based on Harley’s longstanding and extensive use of the HARLEY Marks, Bar & Shield Logo, and/or Other Harley Marks, and the widespread advertising, publicity, promotion, and substantial sales of products and services under those marks, the HARLEY Marks, Bar & Shield Logo, and Other Harley Marks have been well known and famous to the general public and/or motorcycling public for many years.

24. In *H-D Michigan LLC v. Bryan C. Broehm*, Opposition No. 91177156 (April 28, 2009), the Trademark Trial and Appeal Board of the United States Patent and Trademark Office (“Board”) expressly acknowledged the fame of the HARLEY-DAVIDSON, HARLEY, and Bar & Shield Logo marks in connection with motorcycles, apparel, and accessories. Further, the Board found that the Bar & Shield Logo was a famous mark, regardless of the wording and other matter within the Bar & Shield Logo, in connection with motorcycles, clothing, and accessories. The Board’s reviewing court, the Federal Circuit, has also recognized HARLEY-DAVIDSON as a well-known and famous mark. *See Ronda Ag v. Harley-Davidson, Inc.*, 1997 U.S. App. LEXIS 3597, \*3-4 (Fed. Cir. Feb. 27, 1997.)

**HARLEY’S TRADEMARK FILINGS FOR ITS FAMOUS MARKS**

25. In addition to its strong common-law rights in the HARLEY-DAVIDSON mark, Harley owns, among others, the following federal registrations for that mark in the U.S., including Registration Nos. 3690031 and 3304863 for metal signs:

<b>Mark</b>	<b>Reg. No. Reg. Date</b>	<b>Goods and Services (Date of First Use in Commerce)</b>
HARLEY-DAVIDSON	3690031 09-29-2009	Non-luminous, non-mechanical tin signs, non-luminous, non-mechanical metal signs, tool boxes of metal, tool chests of metal, metal keys for locks, key rings of metal, knife handles of metal, metal pet tags, metal luggage tags and metal personal identification tabs

Mark	Reg. No. Reg. Date	Goods and Services (Date of First Use in Commerce)
	3304863 10-02-2007	Metal key fobs and non-luminous and non-mechanical metal signs
HARLEY-DAVIDSON	0508160 04-05-1949	Electric lamps and spare parts for same, spark plugs, electric signs
HARLEY-DAVIDSON	3490890 08-26-2008	House mark for a line of motorcycles, structural parts for motorcycles and related motorcycle accessories, namely, seats, backrests, decorative fuel tank panels, transmission gears, fuel tanks, wheel sprockets, gear shifts, clutches, battery covers and straps, front rear, and intermediate kickstands, hub caps, shift knobs, foot rests and extensions, windshields, leg shields, fender tips, break pedals, handlebar grips, safety guards, namely, bars for attachment to motorcycles, steering dampers, shock absorbers, spare wheels, spare wheel carriers, boot guards, namely, mud flaps and fenders, saddle covers, luggage carriers, license plate frames, handlebar cross bars, foot pedal pads, tank and fender pads, rearview, fenders and skirts, and wheel balance weights
HARLEY-DAVIDSON	2496088 10-09-2001	Arranging travel tours and rental of motorcycles
HARLEY-DAVIDSON	1311457 12-25-1984	Repair and servicing of motorcycles; Retail store services in the field of motorcycles
HARLEY-DAVIDSON	1219955 12-14-1982	Parts and service manuals for motorcycles, parts catalogs for motorcycles, newsletters and magazines dealing with motorcycles, calendars, posters, and decals
HARLEY-DAVIDSON	0947170 11-14-1972	Model kits of motorcycles
HARLEY-DAVIDSON	1078871 12-06-1977	Vehicles-namely, motorcycles
HARLEY-DAVIDSON	3756506 03-09-2010	Extension of consumer credit via credit card and debit card services; financial services, namely, loan financing services and financing of purchases; provision of extended service plans, namely providing preventative maintenance service plans and extended service plans on motorcycles; insurance brokerage in the field of motorcycles insurance and debt protection services, namely, motorcycle payment and debt cancellation services upon certain events, namely unemployment, disability and death
HARLEY-DAVIDSON	3393840 03-11-2008	House mark for a full line of clothing, footwear and headwear
HARLEY-DAVIDSON	2281489	Necklaces, bracelets, and watch bands



<b>Mark</b>	<b>Reg. No. Reg. Date</b>	<b>Goods and Services (Date of First Use in Commerce)</b>
	09-28-1999	
HARLEY-DAVIDSON	1621383 11-06-1990	Model toy motorcycles, miniature motorcycle replicas, model toy trucks, electronically operated toy motorcycles
HARLEY-DAVIDSON	1603741 11-15-1989	Books, manuals, and catalogs dealing with motorcycles, motorcycle parts, and accessories; playing cards
HARLEY-DAVIDSON	1610396 08-21-1990	Sport and folding knives and knife cases
HARLEY-DAVIDSON	1606282 07-17-1990	Safety goggles, protective helmets and sunglasses
HARLEY-DAVIDSON	1450348 08-04-1987	Metal articles, namely, key fobs, key chains and license plate holders; Knife sheaths; Necklaces, earrings, pins of non-precious metals, clocks and watches; Children's books, bumper stickers, removable tattoos, pressure sensitive decals, checkbook covers, and playing cards; Leather goods, namely, purses, wallets, duffle bags, motorcycle saddle bags, key fobs; Mirrors; Mugs, drinking glasses, coasters, decanters, cups, plastic mugs; Towels, bed spreads; Sweat pants, sweaters, suspenders, scarves, bandanas, leather clothing, namely, jackets, vests, gloves, jeans, chaps, tops, boots, shorts, caps, belts and parts of footwear, namely boot tips; Stuffed toy animals, toy banks, model kits; Cigarette cases, lighter cases, cigarette lighters
HARLEY-DAVIDSON	1234404 04-12-1983	Sunglasses and protective helmets for motorcyclists; Clothing-namely, jackets, pants, shirts, T-shirts, vests, jeans, riding suits, bandanas, rain suits, shorts, nightgowns, halters, underwear, tank tops, sweatshirts, night shirts, socks, gloves, hats, caps and boots
HARLEY-DAVIDSON	0507163 03-01-1949	Motorcycle shirts, sweaters, breeches, neckties, coveralls, rain coats and hats, jackets, helmets, caps and boots
HARLEY-DAVIDSON	3558739 01-06-2009	Leather and imitations of leather, and goods made of these materials, namely, dog leashes, dog collars, dog clothing
HARLEY-DAVIDSON	1610377 08-21-1990	Locks, and keyfobs
HARLEY-DAVIDSON	1602474 06-19-1990	Belt buckles

26. The federal trademark registrations listed above are prima facie evidence of Harley's ownership and the validity of the HARLEY-DAVIDSON mark. Further, many of these registrations are incontestable, and thus constitute conclusive evidence of Harley's exclusive







right to use the HARLEY-DAVIDSON mark for the products and services specified in those registrations pursuant to 15 U.S.C. §§ 1065 and 1115(b).







27. Harley also owns the following registrations for the HARLEY mark in the U.S., including Registration No. 3818855 for tin and metal signs:







<b>Mark</b>	<b>Reg. No. Reg. Date</b>	<b>Goods and Services (Date of First Use in Commerce)</b>
HARLEY	3818855 07-13-2010	Non-luminous, non-mechanical tin signs, non-luminous, non-mechanical metal signs
HARLEY	1352679 08-06-1985	Motorcycles
HARLEY	1708362 08-18-1992	Embroidered patches for clothing
HARLEY	1683455 04-14-1992	Shirts, tank tops, boots and sweatshirts
HARLEY	1406876 08-26-1986	Clothing; namely--tee shirts for men, women and children; knit tops for women and girls; and children's shirts
HARLEY	3284962 08-28-2007	Restaurant services
HARLEY	2120748 12-16-2007	Roasted chicken and chili
HARLEY	2118687 12-09-1997	Sandwiches

28. The federal trademark registrations listed above are prima facie evidence of Harley's ownership and the validity of the HARLEY mark. Further, many of these registrations are incontestable, and thus constitute conclusive evidence of Harley's exclusive right to use the HARLEY mark for the products and services specified in those registrations pursuant to 15 U.S.C. §§ 1065 and 1115(b).

29. In addition, Harley owns, among others, the following registrations for the Bar & Shield Logo mark in the U.S., including Registration No. 3640579 for tin and metal signs:

Mark	Reg. No. Reg. Date	Goods and Services (Date of First Use in Commerce)
	3640579 06-16-2009	Non-luminous, non-mechanical tin signs, non-luminous, non-mechanical metal signs, tool boxes of metal, tool chests of metal, metal keys for locks, key rings of metal, knife handles of metal, metal pet tags, metal luggage tags and metal personal identification tags
	1205380 08-17-1982	Motorcycles; Clothing-namely, T-shirts
	3559365 01-13-2009	House mark for a line of motorcycles, structural parts for motorcycles, and related motorcycle accessories, namely, seats, backrests, decorative fuel tank panels, transmission gears, fuel tanks, wheel sprockets, gear shifts, clutches, battery covers and straps, front, rear, and intermediate kickstands, hub caps, shift knobs, foot rests and extensions, windshields, leg shields, fender tips, brake pedals, handlebar grips, safety guards, namely, bars for attachment to motorcycles, steering dampers, shock absorbers, spare wheels, spare wheel carriers, boot guards, namely, mud flaps and fenders, saddle covers, luggage carriers, license plate frames, handlebar cross bars, foot pedal pads, tank and fender pads, rearview mirrors, fenders and skirts, and wheel balance weights
	2376674 08-15-2000	Metal locks; motorcycle parts, namely, spark plugs; optical and safety equipment, namely, sunglasses and motorcycle helmets; motorcycle parts, namely, mirrors, drive belts made of rubber, swing arm pivot covers, axle nut covers, handgrips, oil pump covers, air cleaner covers, derby covers, caliper covers, seats, brake pedals, motorcycle saddlebags, saddlebag liners, timer covers and fender tips; Jewelry; Leather goods, namely traveling bags and saddlery; leather gloves
	3058720 02-14-2006	Retail store services and distributorships in the fields of motorcycles, motorcycle parts and accessories, footwear, clothing, jewelry, and leather goods; rendering technical assistance in the establishment, operation, and business promotion of retail stores; retail store services in the fields of motorcycles, motorcycle parts and accessories, footwear, clothing, jewelry, and leather goods therefor via a global computer network; dealerships in the fields of motorcycles, motorcycle parts and accessories, footwear, clothing, jewelry, and leather goods
	1311460 12-15-1984	Repair and servicing of motorcycles; Retail store services in the field of motorcycles

Mark	Reg. No. Reg. Date	Goods and Services (Date of First Use in Commerce)
	2660205 12-10-2002	Education and entertainment services, namely, providing presentations, exhibitions and guided informational tours related to the experience of motorcycling; Restaurant services
	3671993 08-25-2009	Education and entertainment services, namely, providing educational presentations, exhibitions and guided informational museum tours related to the experience of motorcycling
	3756505 03-09-2009	Financial services, namely, underwriting, funding, servicing and collection of consumer and commercial loans, provision of finance, namely, financing; provision of financial information; financial valuations of motorcycles, aircraft and other personal and real property, financing services for the commercial acquisition of motorcycle dealerships, issuance of credit cards; credit card and charge card services; electronic funds transfer, electronic payment services, namely, electronic processing and transmission of bill payment data, insurance service relating to motorcycles, namely, insurance agency, insurance consultancy, providing insurance information, namely, in the field of motorcycles and power sports dealerships, and insurance brokerage in the field of motorcycles and debt protection services, namely, motorcycle payment and debt cancellation services upon certain events, namely, unemployment, disability and death and the provision of other financial products, namely, providing preventative maintenance service plans and extended service plans on motorcycles
	1711882 09-01-1992	Embroidered patches for clothing
	3393839 03-11-2008	House mark for a full line of clothing, footwear and headwear
	3185946 12-19-2006	Jackets, baseball hats, caps, shirts and T-shirts

Mark	Reg. No. Reg. Date	Goods and Services (Date of First Use in Commerce)
	1511060 11-01-1988	Clothing, namely, boots, sweat shirts, jeans, hats, caps, scarves, motorcycle riding suits, neck ties, shirts, t-shirts, jackets, vest, ladies tops, bandanas
	3447304 06-17-2008	A full line of clothing
	3082869 04-18-2006	Watches, clocks and ornamental pins
	3658879 07-21-2009	Leather and imitations of leather, and goods made of these materials, namely, dog leashes, dog collars, dog clothing (04-00-2000)
	1741456 12-22-1992	Embroidered patches and belt buckles not of precious metals
	1660539 10-15-1991	Knives; namely, buck knives, sporting and hunting knives, folding pocket knives, knife cases therefor, and tool kits comprising wrenches and pliers; sunglasses, and motorcycle parts; namely, gauges, ignition modules, wiring turn signals, batteries, cruise controls, and vacuum switches; flashlights; motorcycles and motorcycle parts; namely, horns, air cleaners, drive belts, belt guards, brakes, brake calipers, brake controls, cam gears, chains, chokes, drive trains, clutches and clutch controls, connecting rods, rocker arm covers, crankcases, engine cylinders, exhaust system parts, fenders and fender supports, flywheels, footboards, forks, fork rockers, frame parts, fuel tanks, leg guards, gear shifters, handlebars, cylinder heads, mirrors, oil filters, oil pumps, oil tanks, push rods, rocker arms, seats, shock absorbers, backrests, stabilizer links, tappets, throttle controls, valves, wheels, and windshields; ankle bracelets, bracelets, earrings, necklaces, rings, tie tacks, watch bands, watches, wall clocks, ornamental lapel pins, and stick pins; books about motorcycles, calendars, decals, pens, photo albums, posters, and removable tattoos; holders for cans in the nature of a rubber cylinder, duffle bags, garment bags, key cases, key fobs, denim purses, suitcases, and wallets; wall mirrors and wall plaques; pewter decanters, drinking glasses, mugs, pewter drinking steins, shaving brushes, shaving mugs, and can holders in the nature of an insulated rubber cylinder ; towels; belts, decorative boot straps, leather bandanas, boot tips, chaps, coveralls, denim

<b>Mark</b>	<b>Reg. No. Reg. Date</b>	<b>Goods and Services (Date of First Use in Commerce)</b>
		pants, gloves, halter tops, hats, caps, heel guards, heel spurs, jackets, neckties, night gowns, night shirts, pants, rain suits, shirts, socks, sole plates, suspenders, sweaters, sweatshirts, tank tops, athletic shoes, shoes, boots, t-shirts, underwear, vests, and wristbands; belt buckles not made of precious metal, boot chains, and embroidered patches for clothing; automobile floor mats; toy trucks; lighter holders, ashtrays, cigarette cases, lighter cases, lighters, snuff can holders, all of the foregoing not being made of precious metal, and cigarettes

As shown above, Harley’s rights in its Bar & Shield Logo extend to the mark’s design, regardless of the wording contained within the bar and shield shape.

30. The federal trademark registrations listed above are prima facie evidence of Harley’s ownership and the validity of the Bar & Shield Logo. Further, many of these registrations are incontestable, and thus constitute conclusive evidence of Harley’s exclusive right to use the Bar & Shield Logo for the products and services specified in those registrations pursuant to 15 U.S.C. §§ 1065 and 1115(b).

31. Harley also owns the following federal registrations for many of Harley’s Other Marks, including Registration No. 3818854 for the FAT BOY mark for tin and metal signs, among other goods:

<b>Mark</b>	<b>Reg. No. Reg. Date</b>	<b>Goods and Services (Date of First Use in Commerce)</b>
FAT BOY	3818854 07-13-2010	Non-luminous, non-mechanical tin signs, non-luminous, non-mechanical metal signs
FAT BOY	1594104 05-01-1990	Motorcycles
H-D	1239313 05-24-1983	Motorcycles
H-D	1317592 02-05-1985	Motorcycle parts, made of metal-namely, dowel pins, cotter pins, clamps, nuts, bolts, screws, brackets, studs, spacers, washers, studs, lock washers, retainers, springs, mounting plates, and bushings; Motorcycle electrical parts-namely, spark plugs: ignition wires, breaker points, and ignition switches, carburetors; Motorcycle speedometers, thermometers, thermostats, motorcycle electrical

Mark	Reg. No. Reg. Date	Goods and Services (Date of First Use in Commerce)
		parts-namely, electrical wire terminals, battery and grounding cables, lenses, magnets, armatures, circuit breakers, switches, turn signals and indicators, connectors, voltage regulators, ignition system pin plugs, socket terminal pins, single socket pins, ignition system clamps, and grounding straps, and motorcycle parts-namely, reflectors and stoplight switches thereto, solenoid switches; motorcycle parts-namely, starter motor brushes, and tappets, rods, rocker arms, push rod cogers, coil covers, valve spring retainers and collars, crank pin rollers, lock rings, bearings, flywheel crank pins, gear shaft lock plates, bearing rollers and bearing retainers, crank case plugs, oil plugs, oil pump plugs, engine bearing shims, cams, cam followers, brake control levers, brake calipers, starter pins and roll pins, crank pins, shift lever pivot pin plugs, engine instrument plugs, axle caps, oil filler caps, gas filler caps, transmission gears, pumps, wheel weights, shift levers, chain housings, pawls for gear shifters, clutch hubs, clutch drive plates, adjusting nuts, wheelbearings, starter gear shift levers, transmission shift levers, shifter levers, choke levers, chain links, brake discs, brake pads, brake calipers, brake master cylinders, hydraulic fluid line connectors, brake pedals, axle caps, foot rests, stands, handle bar grips, clutch cables, throttle cables, mirrors, oil and air filters, seat grab straps, mud flaps, highway pegs, air cleaners, body trim
H-D	1775905 06-08-1993	Shirts, jackets, vests, lingerie, belts, t-shirts, sweaters, pants, neckties, coveralls, rain coats, rain hats, nightgowns, halters, underwear, tank tops, sweat pants, sweatshirts, nightshirts, socks, gloves, hats, suspenders, chaps, wristbands, footwear, heel spurs, heel guards, sole plates, boot tips, shorts, scarves, jeans, leather jackets, leather pants, leather vests, leather chaps, leather belts, leather boots, leather caps, leather hats, leather gloves, leather mittens, leather halter tops, leather skirts
H-D	2024190 12-17-1996	Smokers' articles not of precious metal, namely cigarette lighters, lighter cases, and snuff can holders
H-D	1596518 05-15-1990	Jackets, vests, gloves, t-shirts and caps
H-D	3551467 12-23-2008	Leather and imitations of leather, and goods made of these materials, namely, dog leashes, dog clothing
HOG	3015217 11-15-2005	Motorcycle repair services
HOG	3017452 11-22-2005	Travel guide services; making reservations and bookings for transportation
HOG	2935210 03-22-2005	Travel services, namely, making reservations and booking for temporary lodging, making reservations and bookings for restaurants and meals
H.O.G.	3296168	House mark for a full range of club services for motorcyclists

Mark	Reg. No. Reg. Date	Goods and Services (Date of First Use in Commerce)
	09-25-2007	
H.O.G.	1458778 09-22-1987	Motorcycle club services
HOG	1599492 06-05-1990	Motorcycle parts, namely timer covers, derby covers and medallions
HOG	1716992 09-15-1992	Metal badges; figurines made of metal; folding knives, sport knives and knife cases; clocks, watches, jewelry of precious and non-precious metal, namely, pins, charms, earrings, bracelets, necklaces, and rings; ornamental lapel pins; ashtrays, cigarette cases and holders of cigarette lighters of precious metals; belt buckles of precious metal; greeting cards, road atlas, posters, calendars, newsletters, books and magazines relating to motorcycling, paper banners relating to motorcycling, playing cards, decals, note paper, pens and pencils, checkbook clutches; drinking steins; glassware, namely, plates, cup saucers, glasses and other containers for food and beverage; mugs, cups, insulated can holders, commemorative plates, toothbrushes, quencher cups and figurines made of ceramic, porcelain and glass; leather can, glass and mug holders; flags and banners not of paper; clothing, namely, shirts, sweatshirts, t-shirts, caps, hats, jackets, vests, socks, shoes, boots, scarves, belts, sweat pants, pants, bandanas, gloves, suspenders, chaps, rainsuits, and mittens; belt buckles not of precious metals, ornamental pins and embroidered patches for clothing; ashtrays, cigarette cases and holders of cigarette lighters not of precious metal; cigarette lighters

32. The federal trademark registrations listed above are prima facie evidence of Harley's ownership and the validity of those marks. Further, many of the registrations are incontestable, and thus constitute conclusive evidence of Harley's exclusive right to use those marks for the products and services specified in those registrations pursuant to 15 U.S.C. §§ 1065 and 1115(b).

### **DEFENDANT'S WRONGFUL ACTS**

33. Defendant promotes and sells a variety of products featuring the trademarks of others, including but not limited to metal signs.

34. Defendant's products are offered for sale on its website at GALAN.ORG, on third-party websites such as EBAY.COM and AMAZON.COM, and at trade shows.



35. Defendant sells signs bearing Harley's famous HARLEY-DAVIDSON, HARLEY, and/or Bar & Shield Logo marks and/or variations thereof. Representative examples of Defendant's signs bearing these marks are shown below.



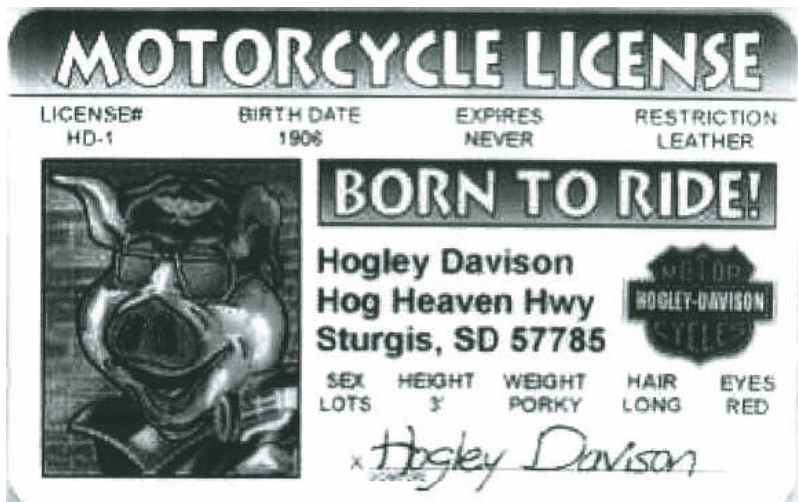
36. Additionally, Defendant sells signs bearing Harley's FAT BOY and HOG marks. Representative examples of Defendant's signs bearing these marks are shown below.



37. As shown above, many of Defendant's signs bearing the HARLEY Marks, Bar & Shield Logo, HOG mark, and FAT BOY mark feature Harley's orange, black, and/or white color combination.

38. Defendant is also offering novelty motorcycle licenses that are issued in the name of "Hogley Davison," with the license number "HD-1" (Harley is often referred to as HD or H-D), a birth date of 1906 (3 years after Harley was founded), and address of "Sturgis, SD 57785" (site

of one of the most popular motorcycle rallies in the U.S. and annual destination for thousands of Harley motorcycle owners), among other things. The motorcycle license also bears a bar and shield logo with HOGLEY-DAVISON substituted for HARLEY-DAVIDSON on the bar, as shown below:



39. Defendant has never been an authorized dealer or licensee of Harley, and has no right to use the HARLEY Marks, Bar & Shield Logo, or Other Harley Marks, or any variations thereof. Harley has objected to Defendant's activities on numerous occasions, requesting that Defendant cease all use of its trademarks and variations thereof. Despite Harley's repeated requests, however, Defendant has refused to comply and has continued its unlawful activities.

40. At the time that Defendant began using the HARLEY Marks, Bar & Shield Logo, and Other Harley Marks and/or variations thereof, Defendant had actual knowledge of Harley's rights in those marks, and Defendant used them in bad faith to take advantage of the tremendous reputation and goodwill of Harley and its famous and well-known trademarks.

## **INJURY TO HARLEY**

41. Defendant's actions described above are likely to cause confusion, mistake, or deception as to the source or origin of Defendant and/or Defendant's goods, and are likely to falsely suggest a sponsorship, connection, license, or association of Defendant, its goods, and/or its commercial activities with Harley, thereby injuring Harley and the public.

42. Defendant's actions described above have damaged and irreparably injured and, if permitted to continue, will further damage and irreparably injure Harley, the HARLEY Marks, the Bar & Shield Logo, the Other Harley Marks, and the public, which has an interest in being free from confusion.

43. Defendant's actions described above are likely to dilute the distinctiveness and value of Harley's famous HARLEY Marks and Bar & Shield Logo.

44. Defendant knew or should have known that its activities described above were infringing and dilutive and constituted counterfeiting and unfair competition, and thus Defendant acted knowingly, willfully, in reckless regard of the truth, and in bad faith.

### **FIRST CLAIM FOR RELIEF Trademark Counterfeiting Under Section 32(1)(a) of the Lanham Act, 15 U.S.C. § 1114(1)(a)**

45. Harley repeats and realleges each and every allegation set forth in Paragraphs 1 through 44 of this Complaint.

46. Harley owns a number of federal trademark registrations for the HARLEY-DAVIDSON, HARLEY, Bar & Shield Logo, and FATBOY marks for various goods and services, including metal and tin signs.

47. Without Harley's consent, Defendant intentionally used in commerce Harley's HARLEY-DAVIDSON, HARLEY, Bar & Shield Logo, and FATBOY marks and/or

substantially indistinguishable variations or counterfeits thereof, in connection with the sale, offering for sale, and/or distribution of metal signs.

48. Defendant's actions described above are likely to cause confusion, mistake, or to deceive as to the origin, sponsorship, or approval of Defendant's products and commercial activities, and thus constitute counterfeiting of Harley's federally registered marks identified in Paragraphs 25, 27, 29, and 31 above in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

49. Upon information and belief, the actions of Defendant described above have at all times relevant to this action been willful and/or knowing.

50. As a direct and proximate result of the actions of Defendant alleged above, Harley has been damaged and will continue to be damaged.

**SECOND CLAIM FOR RELIEF**  
**Trademark Infringement Under Section 32(1)(a)**  
**of the Lanham Act, 15 U.S.C. § 1114(1)(a)**

51. Harley repeats and realleges each and every allegation set forth in Paragraphs 1 through 50 of this Complaint.

52. Without Harley's consent, Defendant used and continues to use in commerce reproductions, copies, and colorable imitations of Harley's federally registered marks referred to in Paragraphs 25, 27, 29, and 31 in connection with the offering, distribution, and advertising of goods, which is likely to cause confusion, or to cause mistake, or to deceive, in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

53. Upon information and belief, the actions of Defendant described above have at all times relevant to this action been willful and/or knowing.

54. As a direct and proximate result of the actions of Defendant alleged above, Harley has been damaged and will continue to be damaged.

**THIRD CLAIM FOR RELIEF**  
**Trademark Infringement, False Designation**  
**of Origin, and Unfair Competition**  
**Under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)**

55. Harley repeats and realleges each and every allegation set forth in Paragraphs 1 through 54 of this Complaint.

56. Defendant's actions described above are likely to cause confusion, mistake, or deception as to the origin, sponsorship, or approval of Defendant, its products and services, and its commercial activities, and thus constitute trademark infringement, false designation of origin, and unfair competition in violation of Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A).

57. Upon information and belief, the actions of Defendant described above have at all times relevant to this action been willful and/or knowing.

58. As a direct and proximate result of the actions of Defendant alleged above, Harley has been damaged and will continue to be damaged.

**FOURTH CLAIM FOR RELIEF**  
**Trademark Dilution Under Section**  
**43(c) of the Lanham Act, 15 U.S.C. § 1125(c)**

59. Harley repeats and realleges each and every allegation set forth in Paragraphs 1 through 58 of this Complaint.

60. Harley's HARLEY-DAVIDSON, HARLEY, and Bar & Shield Logo marks are famous, as that term is used in 15 U.S.C. § 1125(c), and were famous prior to Defendant's use of those marks and/or variations thereof based on, among other things, the inherent and/or acquired distinctiveness and federal registration of the HARLEY-DAVIDSON, HARLEY, and Bar &

Shield Logo marks, the substantial commercial success under those marks, and the extensive nationwide use, advertising, promotion, and recognition of those marks.

61. Defendant's actions described above, all occurring after the HARLEY-DAVIDSON, HARLEY, and Bar & Shield Logo marks became famous, are likely to dilute the distinctive quality of those famous and well-known marks in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), as amended by the Trademark Dilution Revision Act of 2006.

62. Upon information and belief, the actions of Defendant described above have at all times relevant to this action been willful and/or knowing.

63. As a direct and proximate result of the actions of Defendant alleged above, Harley has been damaged and will continue to be damaged.

**FIFTH CLAIM FOR RELIEF**  
**Violation Of The Michigan Consumer Protection Act**  
**M.C.L.A. § 445.903 et seq.**

64. Harley repeats and realleges each and every allegation set forth in Paragraphs 1 through 63 of this Complaint.

65. Defendant is engaged in trade or commerce as defined by the Michigan Consumer Protection Act.

66. Defendant's actions constitute unfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce under M.C.L.A. § 445.903 et seq.

67. Upon information and belief, the actions of Defendant described above have at all times relevant to this action been willful.

68. As a direct and proximate result of the actions of Defendant alleged above, Harley has been damaged and will continue to be damaged.

**SIXTH CLAIM FOR RELIEF**  
**Common Law Trademark Infringement, Unfair**  
**Competition, and Misappropriation**

69. Harley repeats and realleges each and every allegation set forth in Paragraphs 1 through 68 of this Complaint.

70. Defendant's actions described above constitute common law trademark infringement, unfair competition, and misappropriation of Harley's goodwill under the common law of Michigan and other states.

71. Upon information and belief, the actions of Defendant described above have at all times relevant to this action been willful.

72. As a direct and proximate result of the actions of Defendant alleged above, Harley has been damaged and will continue to be damaged.

**JURY DEMAND**

73. Pursuant to Fed. R. Civ. P. 38, Harley respectfully demands a trial by jury on all issues properly triable by a jury in this action.

**PRAYER FOR RELIEF**

WHEREFORE, Harley respectfully requests that this Court enter judgment in its favor on each and every claim for relief set forth above and award it relief including, but not limited to, the following:

A. An Order declaring that Defendant's activities described above constitute counterfeiting, and unfair competition, and infringe and dilute Harley's HARLEY Marks, Bar & Shield Logo, and/or the Other Harley Marks.

B. A permanent injunction enjoining Defendant and its employees, agents, partners, officers, directors, owners, shareholders, principals, subsidiaries, related companies, affiliates, distributors, dealers, and all persons in active concert or participation with any of them:

1. From using, registering, or seeking to register the HARLEY Marks, Bar & Shield Logo, and the Other Harley Marks in any form, any variations thereof (including but not limited to the variations shown on Defendant's signs set forth above), and any other marks that are confusingly similar to or that are likely to dilute any of Harley's trademarks, including but not limited to as or as part of a trademark, trade name, corporate name, business name, e-mail address, domain name, social media name, URL, metatag, keyword, or other name, mark, or identifier;

2. From representing by any means whatsoever, directly or indirectly, that Defendant, any products or services offered by Defendant, or any activities undertaken by Defendant, are associated or connected in any way with Harley or sponsored by, affiliated with, or authorized by Harley in any way; and

3. From assisting, aiding or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs B.1-2 above.

C. An Order directing Defendant to destroy all products, merchandise, and materials in its possession or control that bear the HARLEY Marks, Bar & Shield Logo, and Other Harley Marks, any variations thereof (including the variations of those marks shown on Defendant's signs set forth above), or any other marks that are confusingly similar to or likely to dilute the HARLEY Marks, Bar & Shield Logo, and Other Harley Marks or, alternatively, to alter such items to remove those marks including, but not limited to, from all products, merchandise, materials, and websites.



D. An Order directing Defendant to file with this Court and serve on Harley's attorneys, thirty (30) days after the date of entry of any injunction, a report in writing and under oath setting forth in detail the manner and form in which Defendant has complied with the injunction.

E. An Order requiring Defendant to pay statutory damages in accordance with 15 U.S.C. § 1117(c) of up to \$2,000,000 per mark per type of product or service sold, offered for sale, or distributed by Defendant under the HARLEY-DAVIDSON, HARLEY, and Bar & Shield Logo marks or substantially indistinguishable versions or counterfeits of those marks.

F. An Order requiring Defendant to account for and pay to Harley any and all profits arising from the foregoing acts, and increasing of such profits, in accordance with 15 U.S.C. § 1117, and other applicable statutes and laws.

G. An Order requiring Defendant to pay Harley damages in an amount as yet undetermined caused by the foregoing acts, and trebling such damages for payment to Harley in accordance with 15 U.S.C. § 1117, and other applicable statutes and laws.

H. An Order requiring Defendant to pay Harley's costs and attorney's fees in this action pursuant to 15 U.S.C. § 1117, and other applicable statutes and laws.

I. An Order requiring Defendant to pay Harley punitive damages in an amount as yet undetermined caused by the foregoing willful acts of Defendant.

J. Other relief as the Court may deem appropriate.

Respectfully submitted,

H-D MICHIGAN, LLC and HARLEY-  
DAVIDSON MOTOR COMPANY GROUP, LLC  
d/b/a HARLEY-DAVIDSON MOTOR COMPANY

Dated: April 15, 2011

By: /s/ Deborah J. Swedlow

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