

Plaintiff, John Price, by and through his undersigned attorneys, respectfully alleges as follows for his First Amended Complaint against Defendants.

1. Plaintiff John Price (“Plaintiff” or “Price”) is an individual residing in Moody, Texas.

3. Defendant Bearcat Athletic Booster Club (“BABC”) is a Texas unincorporated association with its principal place of business in Moody, Texas. BABC may be served through its President, Brandy C’ne Cox at 18685 Owl Creek Road, Gatesville, Texas 76528.

4. Defendant Andrew Miller (“Defendant” or “Miller”) is and was at all times relevant hereto an individual living and/or working in Moody, Texas. At the time of the incidents giving rise to Price’s causes of action, Miller was the Superintendent of MISD. Defendant Andrew Miller is being sued in his individual capacity, and in his official capacity as an MISD employee. Defendant Miller may be served with process at the offices of MISD at 12084A South Lone Star Parkway, Moody, Texas 76557.

5. Defendant Brandy C’ne Cox a/k/a Brandy Hipsher Cox (“Defendant” or “Cox”) is and was at all times relevant hereto an individual living in Gatesville, Texas. At the time of the incidents giving rise to Price’s causes of action, Cox was the President of BABC. Defendant Cox is being sued in her individual capacity, and in her official capacity as a BABC representative. Defendant Cox may be served with process at 18685 Owl Creek Road, Gatesville, Texas 76528.

NATURE OF THE CLAIM

6. This is an action for copyright infringement and violations of the Digital Millennium Copyright Act (“DMCA”) arising in connection with the unauthorized commercial exploitation and attempted federal trademark registration of Price’s federally registered original artwork and logo.¹

JURISDICTION AND VENUE

7. This action arises under 17 U.S.C. §§ 101 *et seq.* (the U.S. Copyright Act). The Court has subject matter jurisdiction over this action under 28 U.S.C. § 1331 (federal question) and § 1338(a) (copyrights).

¹ For avoidance of doubt, while ownership is an element of Price’s claims for infringement (*see Armour v. Knowles*, 512 F.3d 147, 152 (5th Cir. 2007) (per curiam)), Price asserts no claim for a declaration of ownership of the copyrights at issue.

8. This Court has personal jurisdiction over the Defendants, and venue in this District is proper under 28 U.S.C. § 1391(b) and 28 U.S.C. § 1400(a), in that a substantial part of the acts of infringement complained of herein occurred in this District, a substantial part of property that is the subject of the action is situated in this District, and because the Defendants may be found in this District.

CONDITIONS PRECEDENT

9. All conditions precedent have been performed or have occurred.

BACKGROUND FACTS

10. Plaintiff John Price is a graphic artist and the proprietor of Stampede Screen Graphics in Moody, Texas. In April 2009, Price created an original graphic design which he then printed on T-shirts for his two sons, both of whom attended schools within the Moody Independent School District. The design featured an animal claw tearing at the upper corner of the letter M (hereinafter, the “MCLAW DESIGN”), as illustrated below.



11. Price is and always has been the sole author and creator of each and every element of the MCLAW DESIGN, which he conceived as a “logo” that could be used and licensed throughout the country to schools with “clawed” mascots, including the Moody Bearcats.²

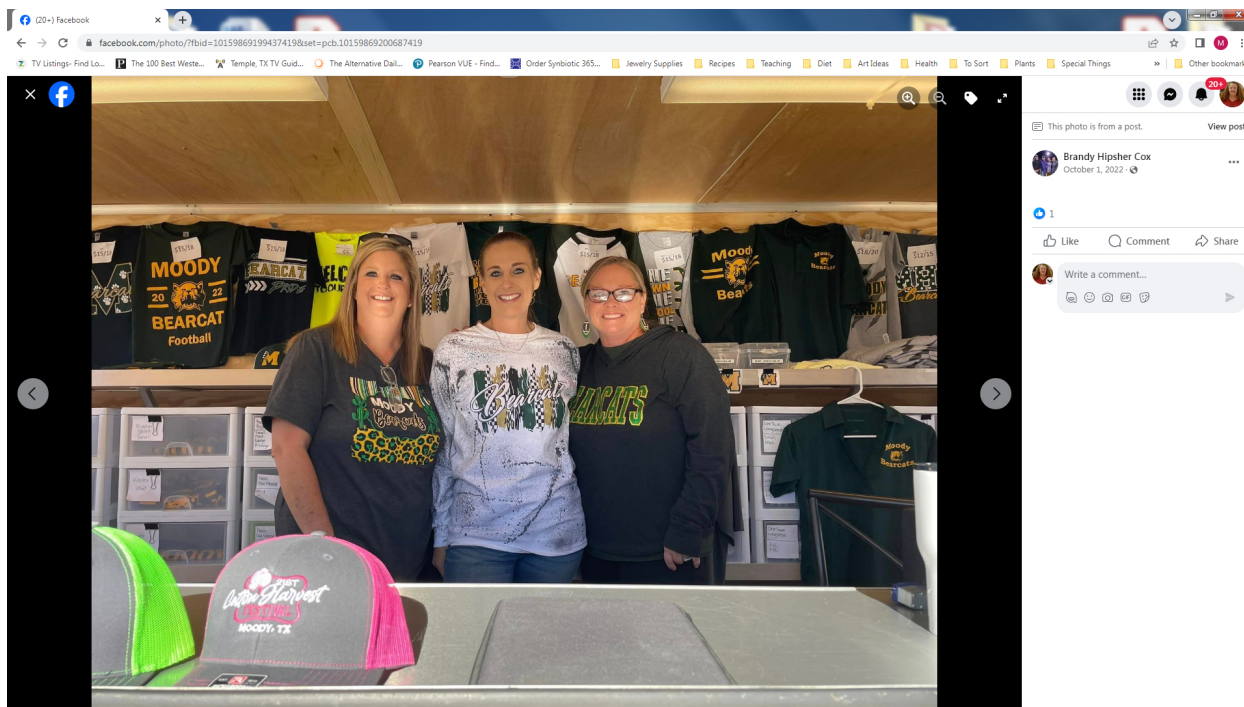
12. Price first became aware of the Defendants’ unauthorized use of his MCLAW DESIGN in October 2011, when he spotted hoodies bearing the image during a football game. Price immediately protested the counterfeit hoodies, which upon information and belief were manufactured by a third-party screen printer directly commissioned by BABC. Following Price’s complaints, it is believed that BABC made no further uses of the MCLAW DESIGN for the following 3 years.

13. In October 2014, BABC again printed Price’s MCLAW DESIGN on a hoodie, and again, Price protested the unauthorized use; however, this time BABC recklessly ignored Price’s complaints. In fact, over the course of the following 8 years, BABC and MISD would go on to make countless unauthorized uses of the MCLAW DESIGN, including dozens of counterfeit products sold on the BABC merchandise page; and prominent use of the design on the MISD football field, water tower, flags and on the MISD website.

14. Examples of Defendants’ numerous unauthorized uses of the MCLAW DESIGN include BABC’s sale of hats and stickers featuring the image during the Moody Cotton Harvest Festival on October 1, 2022;³ and MISD’s website use of the image on April 25, 2022 to promote the Moody ISD Athletic Banquet—as illustrated below.

² Counsel for MISD has alleged that Price used MISD’s design of the letter “M” for his MCLAW DESIGN, but that is incorrect. The “M” that was designed by Price was his original work of authorship and was never-before used by MISD or BABC. Moreover, MISD has no exclusive rights in the ordinary letter “M.”

³ An infringing hat can be seen on the shelf to the left of the individuals in the photo on the following page; the stickers are to their right.



BABC sale of MCLAW hat and stickers on October 1, 2022 (Cox pictured in center)



MISD use of image – April 25, 2022

15. Price continued to protest Defendants’ unauthorized uses of the MCLAW DESIGN from October, 2014 forward, but to no avail. Instead of ceasing their infringing activities, MISD retaliated against Price by blackballing him and ensuring that his screen-printing business obtained no further business from MISD or BABC.

16. Between October, 2014 and August, 2022, Price took no formal action against the District, for several reasons. First and foremost, he was concerned about his family’s welfare—and had good reason. As a young student, Price was harassed and bullied by school personnel in Gary City, Texas—as a means for his tormentors to “get back” at his Stepfather, a Superintendent of schools. Price was therefore well-acquainted with the small-town politics of retribution, and the lasting harm it caused. In deference to his sons’ welfare, Price delayed formal action until they were free and clear of MISD, which finally happened in March, 2020, when Price’s stepson Robbie Kelly ceased to be affiliated with the Moody High School Agriculture Science Department.⁴ That appeared to clear the way; however, Covid, the death of Price’s mother-in-law, the diagnosis of his wife with multiple sclerosis, and a near fatal accident involving his own mother delayed concerted efforts until 2022.

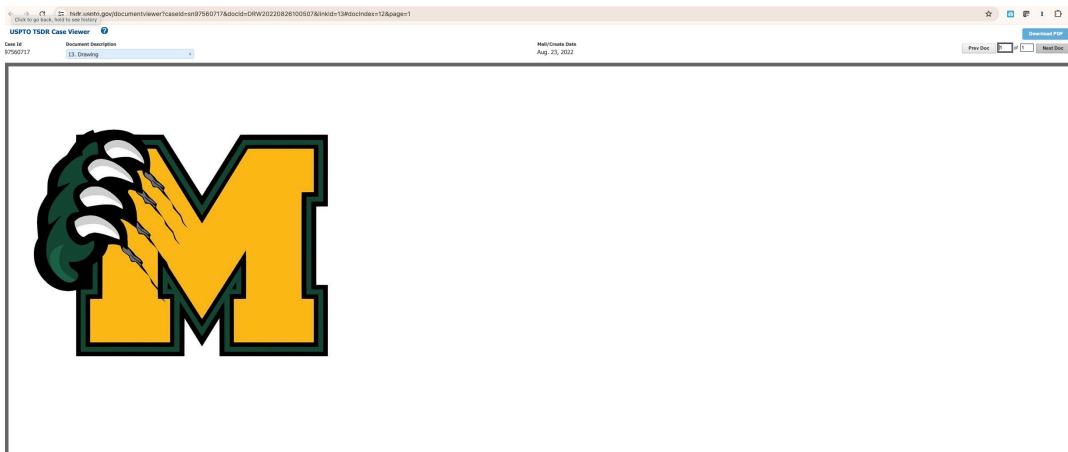
17. On August 17, 2022, Price filed an application for registration of the MCLAW DESIGN with the United States Copyright Office—which ultimately issued certificate of registration number VA 2-319-465, a true and correct copy of which is attached hereto as **Exhibit A**. Shortly thereafter, Price advised Defendant Miller that he intended to take action if the District continued to use the MCLAW Design without his authorization.

⁴ Kelly attended college on a scholarship from 2016-2020; but as a condition of the scholarship, he continued to be affiliated with the Moody High School Agriculture Science Department (showing cattle) until graduation in 2020.

18. On August 23, 2022—less than a week after Price registered the copyrights to the MCLAW DESIGN and asked MISD to cease and desist—Miller, on behalf of MISD, filed an application for registration of the MCLAW DESIGN with the U.S. Patent and Trademark Office (“USPTO”). In a brazen effort to facilitate the further infringement of Price’s copyrights, Miller falsely identified MISD as the “owner” of the MCLAW DESIGN in the application. *See Exhibit B.* Meanwhile, the application itself reflected new unlicensed uses of the MCLAW DESIGN, a few of which are illustrated below, and the remainder of which are reflected in **Exhibit B**.



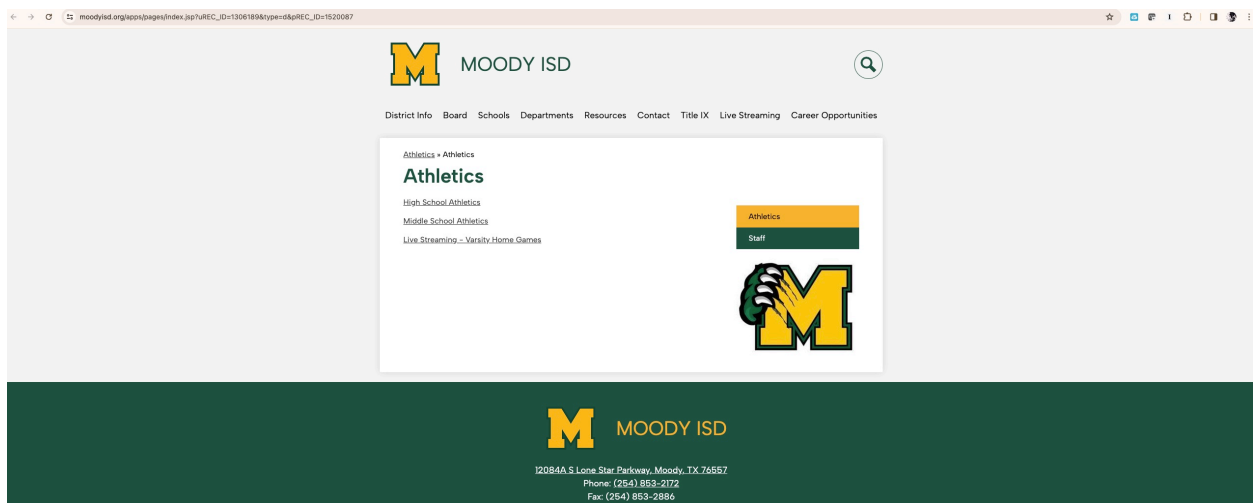
Andrew Miller Business Card, submitted with MISD’s 2022 trademark application



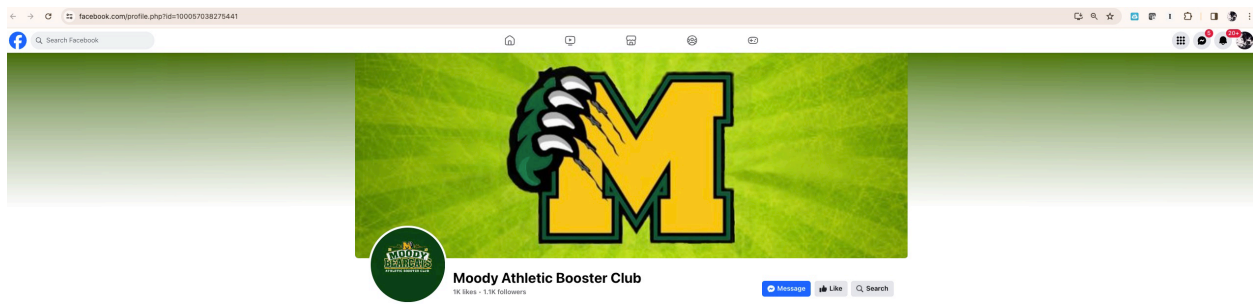
Drawing of the MCLAW DESIGN, submitted with MISD’s 2022 trademark application

19. In December 2022, Price retained counsel to make a formal demand on MISD to cease and desist its unauthorized use of the MCLAW DESIGN. In response, MISD retained counsel who purported to negotiate settlement while simultaneously assisting and facilitating MISD's surreptitious efforts to obtain federal trademark registration of the MCLAW DESIGN.⁵

20. By Fall of 2023, it was clear that MISD was not negotiating in good faith, and on December 10, 2023, Price filed suit. But even then, the infringements did not stop, as reflected below.



MISD Athletics Department Webpage, February 20, 2024



BABC Facebook Page, February 20, 2024

⁵ See Response to Office Action, dated July 20, 2023, attached as **Exhibit C**.



MOODY ISD



[District Info](#)
[Board](#)
[Schools](#)
[Departments](#)
[Resources](#)
[Contact](#)
[Title IX](#)
[Live Streaming](#)
[Career Opportunities](#)

Board Members

 <p>Justin L Foster President justin_foster@moodyisd.org (2022-2025)</p>	<p>Education: Iraan High School-- Iraan, TX Associate's Degree-- Austin Community College</p> <p>Current Occupation and Information: Plumber/Pipe fitter owner of Cornerstone Plumbing</p> <p>Family and Personal Information: Married to Page Foster...they have 2 children, Emma and Micah (Both Moody HS alumni)</p>
 <p>Eddie Newman</p>	<p>Education: Troy High School Texas State Tech. College</p> <p>Current Occupation and Information: Shop Supervisor For Bell County Road and Bridge (retired)</p>

Board Members

[Online Policy](#)
[Board Book](#)
[Elections](#)
[Board Operating Procedures](#)
[Board Meeting Dates and Times](#)
[Links](#)



MISD Board Webpage, February 20, 2024

21. Defendants' ongoing infringement of Price's federally protected copyrights, and their reaction to his legitimate efforts to obtain fair compensation, are a stain on the reputation and integrity of MISD and BABC. While steadfastly maintaining that MISD lacked the funds to reimburse Price for its unauthorized uses and/or pay a reasonable royalty for future use, Defendants are believed to have spent tens of thousands of dollars of taxpayers' money attempting to intimidate Price, run up his legal costs, and obtain an illegitimate federal trademark on the

MCLAW DESIGN. Such behavior by a school district, its administrators, and boosters is nothing short of conscious shocking.

22. Plaintiff John Price now brings this First Amended Complaint for copyright infringement.

COUNT 1:
COPYRIGHT INFRINGEMENT

23. Plaintiff John Price realleges and incorporates herein the foregoing paragraphs.

24. By their actions alleged above, Defendants have infringed Price's federally registered copyrights. Specifically, by copying, distributing and displaying the MCLAW DESIGN without his consent, Defendants have infringed Price's exclusive rights set forth in 17 U.S.C. § 106, and are liable therefor. In addition, and/or in the alternative, upon information and belief, Defendants Andrew Miller and Brandy C'Ne Cox are jointly and severally liable for any direct copyright infringement committed by MISD and BABC because they participated in the acts of infringement and/or because they were the dominant influences in those organizations⁶ and determined the policies that resulted in the infringement during the tenure. *Broad. Music, Inc. v. Tex. Border Mgmt.*, 11 F. Supp. 3d 689, 693 (N.D. Tex. 2014) (citing *Crabshaw Music v. K-Bob's of El Paso, Inc.*, 744 F. Supp. 763, 767 (W.D. Tex. 1990)). For example, Defendant Miller submitted and executed the illegitimate trademark application for MISD (¶ 18, *supra*); and in support, submitted numerous copies of Price's MCLAW DESIGN—including a photo of his business card which prominently features the design. See **Exhibit B**. For her part, Defendant Cox administers the BABC Facebook page featuring the MCLAW DESIGN⁷ (*see* ¶ 20, *supra*) and

⁶ Miller is believed to have assumed the position of MISD Superintendent on or about December 8, 2021. Cox is believed to have assumed the post of BABC President in or around June, 2022.

⁷ Ms. Cox's mobile phone number is listed in the administrative section of the BABC Facebook page, at <https://www.facebook.com/profile.php?id=100057038275441&sk=about>).

upon information and belief, placed the image on the BABC Facebook page and/or caused it to be placed there. In addition, both Miller and Cox are the dominant influences in their respective organizations by virtue of their roles, duties, and titles.

25. Defendants' actions constituted willful infringement of Price's copyrights inasmuch as they knew, or had reason to know, that their actions constituted copyright infringement; and/or because they acted with reckless disregard of Price's copyrights. For instance, Defendants were repeatedly warned that their unauthorized use of the MCLAW DESIGN constituted copyright infringement, and nonetheless continued to use the work (and even attempted to register the work with the USPTO). Moreover, the Defendants have continued to infringe Price's copyrights even after this lawsuit was filed. *See* ¶ 20, *supra*.

26. As a result of the foregoing, Price is entitled to actual damages plus profits of the Defendants; and/or statutory damages of up to \$150,000 per work infringed, plus attorney's fees and costs of court, for which Defendants are jointly and severally liable. 17 U.S.C. §§ 504, 505.

27. Price is also entitled to injunctive relief, prohibiting the Defendants from making any further unauthorized uses of his work. 17 U.S.C. § 502.

COUNT 2: **CONTRIBUTORY COPYRIGHT INFRINGEMENT**

28. Plaintiff John Price realleges and incorporates herein the foregoing paragraphs.

29. In addition to and/or in the alternative to direct infringement, Defendants have contributorily infringed Price's copyrights by inducing, causing and/or materially contributing to the infringing conduct of others. Examples include the following:

(a) Upon information and belief, MISD and BABC induced one or more screen printers and manufacturing companies to create infringing merchandise bearing the MCLAW DESIGN by providing those third parties with the design (despite their knowledge that they had

no authorization from Price to do so), instructing them to place the MCLAW DESIGN on the merchandise, purchasing quantities thereof, and in the case of BABC, offering the merchandise for resale).⁸

(b) Defendant Miller induced, caused and materially contributed to the infringing acts of MISD by submitting and signing a trademark application on August 23, 2022, containing unauthorized copies of the MCLAW DESIGN—less than a week after Price advised him that MISD’s use of the design was unauthorized and must stop.

(c) MISD and BABC induced numerous third parties to distribute and display the MCLAW DESIGN by repeatedly **posting it on Facebook**, where it was subsequently shared by those third parties.⁹

(d) Upon information and believe, Defendant Cox placed, or caused to be placed, the MCLAW DESIGN on BABC’s Facebook page during her tenure as BABC President; and personally assisted BABC in the sales of infringing merchandise.¹⁰

30. Defendants’ actions constituted willful infringement of Price’s copyrights inasmuch as they knew, or had reason to know, that their actions constituted copyright infringement; and/or because they acted with reckless disregard of Price’s copyrights. For instance, Defendants were repeatedly warned that their unauthorized use of the MCLAW DESIGN constituted copyright infringement, and nonetheless continued to use the work (and even attempted to register the work with the USPTO). Moreover, the Defendants have continued to infringe Price’s copyrights even after this lawsuit was filed. *See* ¶ 20, *supra*.

⁸ Neither MISD nor BABC are believed to have any t-shirt printing machines or other manufacturing capabilities, and therefore must have utilized third parties to manufacture their infringing products.

⁹ *See*, for instance, image at the bottom of page 5, reflecting 3 “shares.”

¹⁰ *See* image at the top of page 5—Cox pictured at the center.

31. As a result of the foregoing, Price is entitled to actual damages, plus Defendants' profits; or statutory damages of up to \$150,000 per work infringed, plus attorney's fees and costs of court, for which Defendants are jointly and severally liable. 17 U.S.C. §§ 504, 505.

32. Price is further entitled to injunctive relief, prohibiting the Defendants from making any further unauthorized uses of his work. 17 U.S.C. § 502.

COUNT 3: **VICARIOUS INFRINGEMENT**

33. Plaintiff John Price realleges and incorporates herein the foregoing paragraphs.

34. In addition to and/or in the alternative to direct infringement, Defendants MISD and BABC committed vicarious infringement because they had the right and ability to supervise the infringing activities of others, and because they had a direct financial interest in those infringing activities. For example, MISD and BABC are both believed to have used third party screen printers and manufacturers to create infringing products; and both entities had a direct financial interest in those activities. Indeed, MISD filed a trademark application alleging use of the MCLAW DESIGN "in commerce" since January 1, 2022—on "[c]lothing, namely, t-shirts, sweatshirts, hats, polos and athletic apparel." *See Exhibit B*. As recently as October 1, 2022, BABC was selling hats and stickers featuring the MCLAW DESIGN, thereby establishing a direct financial interest in the products illegally manufactured by its contractors. *See* ¶ 14, *supra*. In addition to those revenues, MISD and BABC enjoyed a direct financial benefit in the unauthorized use of Price's MCLAW DESIGN by way of the saved costs of licensing fees (had the design been properly licensed from Price). *See, e.g., Oppenheimer v. Deiss*, No. A-19-CV-423-LY, 2019 U.S. Dist. LEXIS 208728, at *6 (W.D. Tex. Dec 3, 2019).

35. Defendants' actions constituted willful infringement of Price's copyrights inasmuch as they knew, or had reason to know, that Price's copyrights were being infringed; and/or

because they acted with reckless disregard of Price's copyrights. For instance, Defendants were repeatedly warned that their unauthorized use of the MCLAW DESIGN constituted copyright infringement, and nonetheless continued to use the work (and even attempted to register the work with the USPTO). Moreover, the Defendants have continued to infringe Price's copyrights even after this lawsuit was filed. *See* ¶ 20, *supra*.

36. As a result of the foregoing, Price is entitled to actual damages plus profits of the Defendant; or statutory damages of up to \$150,000 per work infringed, plus attorney's fees and costs of court, for which Defendants are jointly and severally liable. 17 U.S.C. §§ 504, 505.

37. Price is further entitled to injunctive relief, prohibiting the Defendants from making any further unauthorized uses of his work. 17 U.S.C. § 502.

COUNT 4: **DMCA VIOLATION**

38. Plaintiff John Price realleges and incorporates herein the foregoing paragraphs.

39. Defendants MISD and Andrew Miller violated Section 1202 of the Digital Millennium Copyright Act ("DMCA") by providing false copyright management information ("CMI") in connection with the work when they attempted to register the same with the USPTO, including a false identification of ownership of the MCLAW DESIGN, and other false information about the work itself. *See* ¶ 18, *supra*. Courts recognize that the falsification of CMI is a serious violation of copyright because it deprives the copyright owner of professional recognition and makes it easier for other potential infringers to compound that injury. *See Reilly v. Plot Commerce*, No. 15-CV-05118 (PAE) (BCM), 2016 U.S. Dist. LEXIS 152154, at *21-22 (S.D.N.Y. Oct. 31, 2016 quoting Russell W. Jacobs, *Copyright Fraud in the Internet Age*, 13 Colum. Sci. & Tech. L. Rev. 97, 147 (Feb. 15, 2012) (section 1202 of the DMCA protects a copyright owner's "rights of

integrity and attribution,” which in turn protect against “the widespread dispersion of inauthentic copies”).

40. Upon information and belief, Defendants’ actions were committed knowingly, and with the intent to induce, enable, facilitate and/or conceal infringement. Specifically, MISD and Miller are believed to have sought federal registration of the design as an end-run around Price’s copyrights—by securing for themselves the exclusive right to use the design on clothing and in connection with educational activities. Ownership of those exclusive rights would have devalued Price’s copyrights since he would be unable to license the MCLAW DESIGN to other schools. At the very least, it would have provided MISD with leverage to negotiate a more favorable settlement of Price’s infringement claims; and might very well have prevented him from pursuing his federal copyright claims at all. Miller and MISD are believed to have had all of these illegitimate goals in mind when they applied for federal trademark registration of the MCLAW DESIGN, and falsely identified MISD as the owner.

41. As a result of the foregoing, Price is entitled to actual damages plus the profits of the Defendants; or in the alternative, statutory damages for each violation in an amount no less than \$2,500 and no more than \$25,000, plus costs and attorney’s fees, for which Defendants are jointly and severally liable. 17 U.S.C. § 1203(b)(4), (5) & (c).

JURY DEMAND

42. Plaintiff John Price asserts his rights under the Seventh Amendment to the U.S. Constitution and demands, in accordance with Federal Rule of Civil Procedure 38, a trial by jury on all issues.

PRAYER

Plaintiff John Price prays for:

- A. An order that Defendants and all persons under their direction, control, permission or authority be enjoined and permanently restrained from exploiting the MCLAW DESIGN;
- B. An award of actual damages and/or statutory damages under 17 U.S.C. § 504(c) and 17 U.S.C. § 1203(c)(1)(A) & (B);
- C. An award to Plaintiff of his reasonable costs and attorney's fees under 17 U.S.C. §§ 505 and 17 U.S.C. § 1203(b)(4), (5) & (c);
- D. Prejudgment and post-judgment interest on any damage award as permitted by law; and
- E. Such other and further relief as the Court may deem just, proper and/or necessary under the circumstances.

Respectfully submitted,

AMINI & CONANT, LLP


1204 San Antonio Street, Second Floor

Austin, Texas 78701

t: (512) 222-6883

f: (512) 900-7967

service@aminiconant.com

By: 

R. Buck McKinney
Texas Bar No. 00784572
buck@aminiconant.com
Counsel for Plaintiff

EXHIBIT A

Additional Certificate (17 U.S.C. 706)

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Shirley Perlmutter
United States Register of Copyrights and Director

Registration Number

VA 2-319-465

Effective Date of Registration:

August 17, 2022

Registration Decision Date:

September 21, 2022

Title

Title of Work: MCLAW

Completion/Publication

Year of Completion: 2009
Date of 1st Publication: April 01, 2009
Nation of 1st Publication: United States

Author

• Author: JOHN McCLURE PRICE
Author Created: 2-D artwork, technical drawing
Work made for hire: No
Citizen of: United States
Domiciled in: United States
Year Born: 1970

Copyright Claimant

Copyright Claimant: JOHN McCLURE PRICE
1822 ave D, Moody, TX, 76557, United States

Rights and Permissions

Organization Name: STAMPEDE SCREEN GRAPHICS.COM
Name: JOHN McCLURE PRICE
Email: john@stampedescreengraphics.com
Telephone: (254)624-7898
Alt. Telephone: (254)624-7898
Address: 1822 ave D
1822 ave D

EXHIBIT B

PTO- 1478

Approved for use through 10/31/2024. OMB 0651-0009

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Trademark/Service Mark Application, Principal Register**TEAS Plus Application****Serial Number: 97560717****Filing Date: 08/23/2022**

NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	\\TICRS\EXPORT18\IMAGEOUT18\975\607\97560717\xml1 \ FTK0002.JPG
*SPECIAL FORM	YES
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	M
*COLOR MARK	YES
*COLOR(S) CLAIMED (If applicable)	The color(s) green, yellow, black, white, and gray is/are claimed as a feature of the mark.
*DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of a block M with a claw slashing the top left of the M. The M is yellow, bordered by green and black. The claw is two shades of green with white claws, bordered in black. The slashes on the M are gray, bordered in black.
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	800 x 800
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Moody Independent School District
*MAILING ADDRESS	12084A S. Lone Star PKWY
*CITY	Moody
*STATE (Required for U.S. applicants)	Texas
*COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
*ZIP/POSTAL CODE (Required for U.S. and certain international addresses)	76557
PHONE	254-853-2172
*EMAIL ADDRESS	XXXX
WEBSITE ADDRESS	www.moodyisd.org

LEGAL ENTITY INFORMATION	
*TYPE	Texas Public School District
* STATE/COUNTRY/REGION/JURISDICTION/U.S. TERRITORY WHERE LEGALLY ORGANIZED	Texas
GOODS AND/OR SERVICES AND BASIS INFORMATION	
*INTERNATIONAL CLASS	025
*IDENTIFICATION	Clothing, namely, t-shirts, sweatshirts, hats, polos and athletic apparel
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 01/01/2022
FIRST USE IN COMMERCE DATE	At least as early as 01/01/2022
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT18\IMAGEOUT18\975\607\97560717\xml1 \ FTK0003.JPG
	\\TICRS\EXPORT18\IMAGEOUT18\975\607\97560717\xml1 \ FTK0004.JPG
	\\TICRS\EXPORT18\IMAGEOUT18\975\607\97560717\xml1 \ FTK0005.JPG
	\\TICRS\EXPORT18\IMAGEOUT18\975\607\97560717\xml1 \ FTK0006.JPG
	\\TICRS\EXPORT18\IMAGEOUT18\975\607\97560717\xml1 \ FTK0007.JPG
SPECIMEN DESCRIPTION	Various forms of apparel with district branding mark.
WEBPAGE URL	None Provided
WEBPAGE DATE OF ACCESS	None Provided
*INTERNATIONAL CLASS	041
*IDENTIFICATION	Education services, namely, providing pre-kindergarten through 12th grade (pre-K-12) classroom instruction
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 01/01/2022
FIRST USE IN COMMERCE DATE	At least as early as 01/01/2022
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT18\IMAGEOUT18\975\607\97560717\xml1 \ FTK0008.JPG
SPECIMEN DESCRIPTION	Business card for the Superintendent. Also, website information is given, which is consistently branded with the mark.
WEBPAGE URL	www.moodyisd.org
WEBPAGE DATE OF ACCESS	08/23/2022
ADDITIONAL STATEMENTS SECTION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION	

(if applicable)	
* CONSENT (NAME/LIKENESS) (if applicable)	
* CONCURRENT USE CLAIM (if applicable)	
CORRESPONDENCE INFORMATION	
NAME	Moody Independent School District
DOCKET/REFERENCE NUMBER	0001
PRIMARY EMAIL ADDRESS FOR CORRESPONDENCE	andrew_miller@moodyisd.org
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES)	sherri_vann@moodyisd.org
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Plus
NUMBER OF CLASSES	2
APPLICATION FOR REGISTRATION PER CLASS	250
* TOTAL FEES DUE	500
* TOTAL FEES PAID	500
SIGNATURE INFORMATION	
* SIGNATURE	/andrew miller/
* SIGNATORY'S NAME	Andrew Miller
* SIGNATORY'S POSITION	Superintendent
SIGNATORY'S PHONE NUMBER	254-853-2172
* DATE SIGNED	08/23/2022
SIGNATURE METHOD	Signed directly within the form

PTO- 1478

Approved for use through 10/31/2024. OMB 0651-0009

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 97560717

Filing Date: 08/23/2022

To the Commissioner for Trademarks:

MARK: M (stylized and/or with design, see [mark](#))

The literal element of the mark consists of M. The color(s) green, yellow, black, white, and gray is/are claimed as a feature of the mark. The mark consists of a block M with a claw slashing the top left of the M. The M is yellow, bordered by green and black. The claw is two shades of green with white claws, bordered in black. The slashes on the M are gray, bordered in black.

The applicant, Moody Independent School District, a Texas Public School District legally organized under the laws of Texas, having an address of

12084A S. Lone Star PKWY
Moody, Texas 76557
United States
254-853-2172(phone)
XXXX

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 025: Clothing, namely, t-shirts, sweatshirts, hats, polos and athletic apparel

Use in Commerce: The applicant is using the mark in commerce on or in connection with the identified goods/services. The applicant attaches, or will later submit, one specimen as a JPG/PDF image file showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, regardless of whether the mark itself is in the standard character format or is a stylized or design mark. The specimen image file may be in color, and the image must be in color if color is being claimed as a feature of the mark.

In International Class 025, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 01/01/2022, and first used in commerce at least as early as 01/01/2022, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) Various forms of apparel with district branding mark..

[Specimen File1](#)

[Specimen File2](#)

[Specimen File3](#)

[Specimen File4](#)

[Specimen File5](#)

Webpage URL: None Provided

Webpage Date of Access: None Provided

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 041: Education services, namely, providing pre-kindergarten through 12th grade (pre-K-12) classroom instruction

Use in Commerce: The applicant is using the mark in commerce on or in connection with the identified goods/services. The applicant attaches, or will later submit, one specimen as a JPG/PDF image file showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, regardless of whether the mark itself is in the standard character format or is a stylized or design mark. The specimen image file may be in color, and the image must be in color if color is being claimed as a feature of the mark.

In International Class 041, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 01/01/2022, and first used in commerce at least as early as 01/01/2022, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed

goods/services, consisting of a(n) Business card for the Superintendent. Also, website information is given, which is consistently branded with the mark..

[Specimen File1](#)

Webpage URL: www.moodyisd.org

Webpage Date of Access: 08/23/2022

For informational purposes only, applicant's website address is: www.moodyisd.org

The applicant's current Correspondence Information:

Moody Independent School District

PRIMARY EMAIL FOR CORRESPONDENCE: andrew_miller@moodyisd.org

SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES): sherri_vann@moodyisd.org

The docket/reference number is 0001.

Requirement for Email and Electronic Filing: I understand that a valid email address must be maintained by the applicant owner/holder and the applicant owner's/holder's attorney, if appointed, and that all official trademark correspondence must be submitted via the Trademark Electronic Application System (TEAS).

A fee payment in the amount of \$500 has been submitted with the application, representing payment for 2 class(es).

Declaration

☒ **Basis:**

If the applicant is filing the application based on use in commerce under 15 U.S.C. § 1051(a):

- The signatory believes that the applicant is the owner of the trademark/service mark sought to be registered;
- The mark is in use in commerce and was in use in commerce as of the filing date of the application on or in connection with the goods/services in the application;
- The specimen(s) shows the mark as used on or in connection with the goods/services in the application and was used on or in connection with the goods/services in the application as of the application filing date; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

And/Or

If the applicant is filing the application based on an intent to use the mark in commerce under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e):

- The signatory believes that the applicant is entitled to use the mark in commerce;
 - The applicant has a bona fide intention to use the mark in commerce and had a bona fide intention to use the mark in commerce as of the application filing date on or in connection with the goods/services in the application; and
 - To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.
- ☒ To the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.
- ☒ To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.
- ☒ The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /andrew miller/ Date: 08/23/2022

Signatory's Name: Andrew Miller

Signatory's Position: Superintendent

Signatory's Phone Number: 254-853-2172

Signature method: Signed directly within the form

Payment Sale Number: 97560717

Payment Accounting Date: 08/23/2022

Serial Number: 97560717

Internet Transmission Date: Tue Aug 23 15:25:05 ET 2022

TEAS Stamp: USPTO/FTK-XX.XX.XX.XX-202208231525067963

92-97560717-820ba2177c82e29d7fcb389e1e9f

7263346617222484baaa5f76377ce7fb3-CC-250

50857-20220823145432446360













Moody Independent School District

Andrew Miller
Moody ISD Superintendent



OFFICE: 254-853-2172

andrew_miller@moodyisd.org

EXHIBIT C

PTO- 1957

Approved for use through 11/30/2023. OMB 0651-0050

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	97560717
MARK SECTION	
MARK FILE NAME	https://tmng-al.uspto.gov/resting2/api/img/97560717/large
LITERAL ELEMENT	M
STANDARD CHARACTERS	NO
USPTO-GENERATED IMAGE	NO
DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of a block M with a claw slashing the top left of the M. The M is yellow, bordered by green and black. The claw is two shades of green with white claws, bordered in black. The slashes on the M are gray, bordered in black.
COLOR(S) CLAIMED (If applicable)	The color(s) green, yellow, black, white, and gray is/are claimed as a feature of the mark.
GOODS AND/OR SERVICES SECTION (025) (current)	
INTERNATIONAL CLASS	025
DESCRIPTION	
Clothing, namely, t-shirts, sweatshirts, hats, polos and athletic apparel	
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 01/01/2022
FIRST USE IN COMMERCE DATE	At least as early as 01/01/2022
GOODS AND/OR SERVICES SECTION (025) (proposed)	
INTERNATIONAL CLASS	025
TRACKED TEXT DESCRIPTION	
Clothing, namely, t-shirts, sweatshirts, hats, polos and athletic apparel; Clothing, namely, t-shirts, sweatshirts, hats, polo shirts and athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms	
FINAL DESCRIPTION	
Clothing, namely, t-shirts, sweatshirts, hats, polo shirts and athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms	
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 01/31/2015
FIRST USE IN COMMERCE DATE	At least as early as 01/31/2015
WEBPAGE URL	None Provided
WEBPAGE DATE OF ACCESS	None Provided
GOODS AND/OR SERVICES SECTION (041) (current)	
INTERNATIONAL CLASS	041

DESCRIPTION	
Education services, namely, providing pre-kindergarten through 12th grade (pre-K-12) classroom instruction	
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 01/01/2022
FIRST USE IN COMMERCE DATE	At least as early as 01/01/2022
GOODS AND/OR SERVICES SECTION (041) (proposed)	
INTERNATIONAL CLASS	041
DESCRIPTION	
Education services, namely, providing pre-kindergarten through 12th grade (pre-K-12) classroom instruction	
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 01/31/2015
FIRST USE IN COMMERCE DATE	At least as early as 01/31/2015
WEBPAGE URL	None Provided
WEBPAGE DATE OF ACCESS	None Provided
ADDITIONAL STATEMENTS SECTION	
MISCELLANEOUS STATEMENT	"The M mark was first used anywhere in a different form other than that sought to be registered at least as early as 1889."
ATTORNEY INFORMATION (new)	
NAME	Omowunmi Soyinka
ATTORNEY BAR MEMBERSHIP NUMBER	XXX
YEAR OF ADMISSION	XXXX
U.S. STATE/ COMMONWEALTH/ TERRITORY	XX
FIRM NAME	Baker Botts
STREET	2001 Ross Avenue, Suite 900
CITY	Dallas
STATE	Texas
POSTAL CODE	75201
COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
EMAIL	daltmdept@bakerbotts.com
OTHER APPOINTED ATTORNEY	Paul Reilly, Tyler Beas, Caroline Duncan
CORRESPONDENCE INFORMATION (current)	
NAME	MOODY INDEPENDENT SCHOOL DISTRICT
PRIMARY EMAIL ADDRESS FOR CORRESPONDENCE	andrew_miller@moodyisd.org
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES)	sherri_vann@moodyisd.org
DOCKET/REFERENCE NUMBER	0001
CORRESPONDENCE INFORMATION (proposed)	
NAME	Omowunmi Soyinka
PRIMARY EMAIL ADDRESS FOR CORRESPONDENCE	daltmdept@bakerbotts.com

SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES)	lucy.soyinka@bakerbotts.com; paul.reilly@bakerbotts.com; kathryn.hoo@bakerbotts.com
SIGNATURE SECTION	
DECLARATION SIGNATURE	/Andrew Miller/
SIGNATORY'S NAME	Andrew Miller
SIGNATORY'S POSITION	Superintendent
SIGNATORY'S PHONE NUMBER	2548532172
DATE SIGNED	07/20/2023
SIGNATURE METHOD	Sent to third party for signature
RESPONSE SIGNATURE	/Omowunmi Soyinka/
SIGNATORY'S NAME	Omowunmi Soyinka
SIGNATORY'S POSITION	Associate Attorney, Baker Botts, Texas Bar member
DATE SIGNED	07/20/2023
ROLE OF AUTHORIZED SIGNATORY	Authorized U.S.-Licensed Attorney
SIGNATURE METHOD	Signed directly within the form
FILING INFORMATION SECTION	
SUBMIT DATE	Thu Jul 20 15:07:50 ET 2023
TEAS STAMP	USPTO/ROA-XX.XX.XX.XXX-20 230720150750698788-975607 17-8508249a45472dc2b2d2e0 a3bacc6ada6a615c56a83a30 5469de5a3cc61a1722-N/A-N/ A-20230718140216412056

PTO- 1957

Approved for use through 11/30/2023. OMB 0651-0050

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **97560717** M (Stylized and/or with Design, see <https://tmng-al.uspto.gov/resting2/api/img/97560717/large>) has been amended as follows:

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following:

Current:

Class 025 for Clothing, namely, t-shirts, sweatshirts, hats, polos and athletic apparel

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 01/01/2022 and first used in commerce at least as early as 01/01/2022, and is now in use in such commerce.

Proposed:

Tracked Text Description: ~~Clothing, namely, t-shirts, sweatshirts, hats, polos and athletic apparel;~~ Clothing, namely, t-shirts, sweatshirts, hats, polo shirts and athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms

Class 025 for Clothing, namely, t-shirts, sweatshirts, hats, polo shirts and athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 01/31/2015 and first used in commerce at least as early as 01/31/2015 , and is now in use in such commerce.

Webpage URL: None Provided

Webpage Date of Access: None Provided

Applicant proposes to amend the following:

Current:

Class 041 for Education services, namely, providing pre-kindergarten through 12th grade (pre-K-12) classroom instruction

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 01/01/2022 and first used in commerce at least as early as 01/01/2022 , and is now in use in such commerce.

Proposed:

Class 041 for Education services, namely, providing pre-kindergarten through 12th grade (pre-K-12) classroom instruction

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 01/31/2015 and first used in commerce at least as early as 01/31/2015 , and is now in use in such commerce.

Webpage URL: None Provided

Webpage Date of Access: None Provided

ADDITIONAL STATEMENTS

Miscellaneous Statement

"The M mark was first used anywhere in a different form other than that sought to be registered at least as early as 1889."

The owner's/holder's proposed attorney information: Omowunmi Soyinka. Other appointed attorneys are Paul Reilly, Tyler Beas, Caroline Duncan. Omowunmi Soyinka of Baker Botts, is a member of the XX bar, admitted to the bar in XXXX, bar membership no. XXX, and the attorney(s) is located at

2001 Ross Avenue, Suite 900

Dallas, Texas 75201

United States

is appointed to submit this Response to Office Action Form on behalf of the applicant.

The email address is daltmdept@bakerbotts.com

Omowunmi Soyinka submitted the following statement: The attorney of record is an active member in good standing of the bar of the highest court of a U.S. state, the District of Columbia, or any U.S. Commonwealth or territory.

Correspondence Information (current)

MOODY INDEPENDENT SCHOOL DISTRICT

PRIMARY EMAIL FOR CORRESPONDENCE: andrew_miller@moodyisd.org

SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES): sherri_vann@moodyisd.org

The docket/reference number is 0001.

Correspondence Information (proposed)

Omowunmi Soyinka

PRIMARY EMAIL FOR CORRESPONDENCE: daltmdept@bakerbotts.com

SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES): lucy.soyinka@bakerbotts.com; paul.reilly@bakerbotts.com; kathryn.hoo@bakerbotts.com

Requirement for Email and Electronic Filing: I understand that a valid email address must be maintained by the owner/holder and the owner's/holder's attorney, if appointed, and that all official trademark correspondence must be submitted via the Trademark Electronic Application System (TEAS).

SIGNATURE(S)

Declaration Signature

DECLARATION: The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that, if the applicant submitted the application or allegation of use (AOU) unsigned, all statements in the application or AOU and this submission based on the signatory's own knowledge are true, and all statements in the application or AOU and this submission made on information and belief are believed to be true.

STATEMENTS FOR UNSIGNED SECTION 1(a) APPLICATION/AOU: If the applicant filed an unsigned application under 15 U.S.C. §1051(a) or AOU under 15 U.S.C. §1051(c), the signatory additionally believes that: the applicant is the owner of the mark sought to be registered; the mark is in use in commerce and was in use in commerce as of the filing date of the application or AOU on or in connection with the goods/services/collective membership organization in the application or AOU; the original specimen(s), if applicable, shows the mark in use in commerce as of the filing date of the application or AOU on or in connection with the goods/services/collective membership organization in the application or AOU; **for a collective trademark, collective service mark, collective membership mark application, or certification mark application**, the applicant is exercising legitimate control over the use of the mark in commerce and was exercising legitimate control over the use of the mark in commerce as of the filing date of the application or AOU; **for a certification mark application**, the applicant is not engaged in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant. **To the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive.**

STATEMENTS FOR UNSIGNED SECTION 1(b)/SECTION 44 APPLICATION AND FOR SECTION 66(a)

COLLECTIVE/CERTIFICATION MARK APPLICATION: If the applicant filed an unsigned application under 15 U.S.C. §§ 1051(b), 1126(d), and/or 1126(e), or filed a collective/certification mark application under 15 U.S.C. §1141f(a), the signatory additionally believes that: **for a trademark or service mark application**, the applicant is entitled to use the mark in commerce on or in connection with the goods/services specified in the application; the applicant has a bona fide intention to use the mark in commerce and had a bona fide intention to use the mark in commerce as of the application filing date; **for a collective trademark, collective service mark, collective membership mark, or certification mark application**, the applicant has a bona fide intention, and is entitled, to exercise legitimate control over the use of the mark in commerce and had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce as of the application filing date; the signatory is properly authorized to execute the declaration on behalf of the applicant; **for a certification mark application**, the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant. **To the best of the signatory's knowledge and belief, no other persons, except, if applicable, authorized users, members, and/or concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services/collective membership organization of such other persons, to cause confusion or mistake, or to deceive.**

Signature: /Andrew Miller/ Date: 07/20/2023

Signatory's Name: Andrew Miller

Signatory's Position: Superintendent

Signatory's Phone Number: 2548532172

Signature method: Sent to third party for signature

Response Signature

Signature: /Omowunmi Soyinka/ Date: 07/20/2023

Signatory's Name: Omowunmi Soyinka

Signatory's Position: Associate Attorney, Baker Botts, Texas Bar member

Signature method: Signed directly within the form

The signatory has confirmed that he/she is a U.S.-licensed attorney who is an active member in good standing of the bar of the highest court of a U.S. state (including the District of Columbia and any U.S. Commonwealth or territory); and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S.-licensed attorney not currently associated

with his/her company/firm previously represented the owner/holder in this matter: the owner/holder has revoked their power of attorney by a signed revocation or substitute power of attorney with the USPTO; the USPTO has granted that attorney's withdrawal request; the owner/holder has filed a power of attorney appointing him/her in this matter; or the owner's/holder's appointed U.S.-licensed attorney has filed a power of attorney appointing him/her as an associate attorney in this matter.

Mailing Address: MOODY INDEPENDENT SCHOOL DISTRICT

12084A S. LONE STAR PKWY

MOODY, Texas 76557

Mailing Address: Omowunmi Soyinka

Baker Botts

2001 Ross Avenue, Suite 900

Dallas, Texas 75201

Serial Number: 97560717

Internet Transmission Date: Thu Jul 20 15:07:50 ET 2023

TEAS Stamp: USPTO/ROA-XX.XX.XX.XXX-20230720150750698

788-97560717-8508249a45472dc2b2d2e0a3bac

ca6ada6a615c56a83a305469de5a3cc61a1722-N

/A-N/A-20230718140216412056