

Motorcycle club sues St. Albans man for using trademarked material

3/3/2011 10:10 AM By Kyla Asbury -Kanawha Bureau

CHARLESTON - Brothers of the Wheel Motorcycle Club Executive Council, Inc., is suing a St. Albans man after it claims he misused trademarked material.

Brothers of the Wheel Motorcycle Club began in 1977 and has continuously used its club logo and patch since then, according to a complaint filed Feb. 15 in the United States District Court for the Southern District of West Virginia.

The motorcycle club claims Gerald R. Mollohan became a full member of the club and received permission to use the trademarked materials in accordance with the by-laws of the club. When Mollohan retired from the club in 2000, he was given permission to use the trademarked materials on a limited basis, also in accordance to the by-laws of the club.

Mollohan has since been using the initials "BOTW" and the Brothers of the Wheel patch or symbol in derogation of his license to use the protected items and in violation of the federal laws protecting trademarks, according to the suit.

The motorcycle club claims Mollohan has misappropriated the protected trademark of the club by unlawfully using it in conjunction with several Web sites.

Mollohan is also "wrongfully selling the protected items to others and illegally licensing others to use the protected trademark of the Brothers of the Wheel," according to the suit.

The club claims Mollohan is using the protected trademark to represent a motorcycle club he had formed and calls Brothers of the Wheel Nomads, which the club claims will cause confusion and impair the ability of the Brothers of the Wheel to raise funds for charity.

Brothers of the Wheel has requested Mollohan cease his activities on several occasions, but has continued to violate the motorcycle club's trademark, according to the suit.

The motorcycle club is seeking for the court to enter judgment that Mollohan has used in commerce a colorable imitation of the Brothers of the Wheel mark in violation of United States Code; enter a judgment that he used false designation of origins, false description and false representations all in bad faith and in willful violation of United States Code; award actual damages in an amount no less than \$1,000 and no more than \$100,000 per domain name; enter an order that Mollohan forfeit, cancel or transfer the domain name botw.com to the Brothers of the Wheel; and order Mollohan to return to the Brothers of the Wheel all protected items he was given permission to use. The club is being represented by Richard J. Lindroth.

Case number: 2:11-cv-00104