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October 12, 2015



Mr. Colin Fultz, President  
Kentucky Mist Moonshine, Inc.  
128 East Main Street  
Whitesburg, Kentucky 41858

Re: Kentucky Mist Moonshine, Inc.  
Our Reference: 850-109 CRR

Dear Mr. Fultz:

I am writing on behalf of my client, the University of Kentucky (“University”). The purpose of this letter is two-fold. First, the University is requesting that Kentucky Mist Moonshine, Inc. expressly abandon its effort to register the mark KENTUCKY MIST MOONSHINE & Design (U.S. Reg. App. Ser. No. 86/577,855) in Class 25. Second, the University is requesting that you continue to take care to avoid using the mark in combination with the University’s source-identifying color schemes and/or other indicia associated with the University, in connection with clothing, or any other goods or services.

As you may be aware, the University is the owner of several registrations for its marks including U.S. Registration No. 2,066,804 (copy attached) for the mark KENTUCKY to identify *inter alia* T-shirts and sweatshirts. The University has used the federally registered mark KENTUCKY as a source identifier of its goods and services continuously since at least as early as 1997. By virtue of this continuous use and the longstanding registration of the mark, the registration has become incontestable, which is presumptive evidence of its validity and enforceability throughout the entire United States.

It is our present position that Kentucky Mist Moonshine, Inc.’s use of the mark KENTUCKY MIST MOONSHINE to identify articles of clothing is likely to cause deception, confusion, and mistake as to Kentucky Mist Moonshine, Inc.’s affiliation, connection or association with the University, and as to the University’s sponsorship or approval of Kentucky Mist Moonshine, Inc.’s activities in violation of federal law. 15 U.S.C. §1125. See also, 15 U.S.C. § 1114 et seq. and applicable state law.

To avoid any such actual confusion or even a likelihood of confusion, and to protect the integrity of the University’s rights and the strength of its federally registered trademark, we find it necessary to make the above request, i.e., that Kentucky Mist Moonshine, Inc. expressly

Mr. Colin Fultz, President  
Kentucky Mist Moonshine, Inc.  
October 12, 2015  
Page 2

abandon its efforts to register the above-referenced mark in Class 25. If Kentucky Mist Moonshine, Inc. is willing to honor our request, we will consider the matter closed without more.

In the event our requests are not met, the University is prepared to file a Notice of Opposition against Kentucky Mist Moonshine, Inc.'s application to register the mark in Class 25, if and when the mark is published, and will consider further action as it deems necessary.

That said, we wish you well in your new endeavor and look forward to receiving written confirmation from you that the Class 25 goods have been deleted from the registration application preferably by the end of October. If any portion of this letter is not clear, please contact me directly.

Very truly yours,

**KING & SCHICKLI, PLLC**



Michael S. Hargis

MSH/vdc  
Enclosure

Int. Cls.: 16 and 25

Prior U.S. Cls.: 2, 5, 22, 23, 29, 37, 38, 39 and 50

Reg. No. 2,066,804

United States Patent and Trademark Office

Registered June 3, 1997

**TRADEMARK  
PRINCIPAL REGISTER**

**KENTUCKY**

UNIVERSITY OF KENTUCKY (KENTUCKY  
STATE UNIVERSITY)  
LEXINGTON, KY 405060019

FOR: MAGAZINES REGARDING COLLEGE  
ATHLETICS AND ALUMNI NEWS, ATHLETIC  
EXHIBITION SCHEDULES, TRADING CARDS,  
ART PRINTS, POSTERS, DECALS, BUMPER  
STICKERS, BOOKS REGARDING HISTORY,  
INK PENS, AND STATIONERY, IN CLASS 16  
(U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 12-31-1940; IN COMMERCE  
12-31-1940.

FOR: SWIM SUITS, HATS, SWEATERS,  
CHILDREN'S FOOTBALL/BASEBALL JER-

SEYS, SWEATSHIRTS, T-SHIRTS, SHOES,  
SHORTS, JACKETS, ATHLETIC JERSEYS,  
AND APRONS, IN CLASS 25 (U.S. CLS. 22 AND  
39).

FIRST USE 12-31-1940; IN COMMERCE  
12-31-1940.

OWNER OF U.S. REG. NOS. 1,607,719 AND  
1,618,023.

SEC. 2(F).

SER. NO. 75-084,190, FILED 4-5-1996.

NORA BUCHANAN WILL, EXAMINING AT-  
TORNEY