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Our reference: YE/MJ

4 August 2010

By Post

Dear Sir

HONDA - TRADE MARK INFRINGEMENT

As you may be aware Honda Motor Europe Limited and its group of companies (hereafter together referred to as "Honda") owns many intellectual property rights including a number of well known trade marks in the United Kingdom, in the European Union and worldwide.

Honda Motor Co., Ltd was officially founded in Japan on 24 September 1948. Since then it has grown into a company with a worldwide presence and Honda has become a household name, being recognised globally with a reputation for quality and excellence throughout the world.

It has come to our attention that you are using Honda's trade mark on your website at www.lingscars.com, namely the 'H' mark. I enclose a copy of the relevant page of your website. Full particulars of the registered Community Trade Mark number 001524818 in respect of the 'H' mark are enclosed.

Using the Honda trade mark in this way on your website will lead users and customers to believe that your business is in some way authorised or endorsed by Honda, which is not the case. This causes damage to Honda's reputation and goodwill.

Your use of the abovementioned trade mark amounts to an infringement of Honda's registered trade mark and to the tort of passing off. Honda is therefore entitled to commence legal proceedings against you.

Unless you provide us with signed undertakings in the enclosed form by **5pm on 18 August 2010**, we reserve the right to commence proceedings against you in the High Court for trade mark infringement and passing off.

We await hearing from you. In the meantime all our rights are reserved.

Yours faithfully



Marissa Jones
Solicitor
Intellectual Property Department
Honda Motor Europe Limited

The UK's favourite car leasing website!

07/08/2010 To Marissa Jones, Honda Motor Europe Limited



Dear Marissa,

Here we go. I have investigated the use of the Honda name and logo. It took me less than two minutes.

First, can I point out that you haven't looked very closely at my website, as I am clearly a "Dear Madam", not a "Dear Sir". That one error clearly demonstrates the care you have taken in your and Honda's research into my website. Perhaps all us Chinese look the same to you?

Let me say that I don't want to become confrontational and would like to keep friendly dialogue with Honda. Having said that, your letter is completely incorrect.

In my view I am not "**leading customers to believe that my business is in some way authorised or endorsed by Honda**" under the United Kingdom Trade Marks Act or European legislation, rather I am supplying car-leasing services under the trademark "LINGsCARS". This is not passing-off. Or "tort" (but I thought that was a type of semi-solid cake).

I will explain: The use of "Honda" (and the tiny 70x30 pixel logo) is merely to indicate that I am leasing Honda cars, which is necessary to indicate the intended purpose of the service I provide. This is not in my view an infringement of Honda trademarks since (and you will know this) the law provides for a specific defence in this respect.

Secondly, the law says that that a Trade Mark owner (e.g. Honda) cannot use its registered trademark to prevent further dealings in their own goods once they have put those goods on the market in the UK or Europe. If Honda could, it would mean that you could effectively stop all non-authorised sales of Honda cars. In my case I am only using the name and logo to sell lease or contract-hire deals for Honda cars, which are cars which Honda themselves must have sold either to my suppliers, or to the finance providers.

So long as my use of these signs does not indicate that there is a commercial connection between Honda and LINGsCARS (in my view LINGsCARS website clearly does not indicate this) there is nothing you can do to stop me using your trademarks to advertise deals relating to your products. The crucial question in my view, therefore, is **does my use of the Honda name or logo indicate a commercial connection between Honda and LINGsCARS?** – in my view it does not, since the use appears in a scroll down list of '*Ling's best car leasing deals*', and therefore does not make any suggestion that I have any sort of link to Honda itself. At no time do I claim such a link.

As for my use of these marks suggesting that LINGsCARS is an authorised Honda dealer, this is clearly nonsense – taken as a whole my website does not make any suggestion that I am authorised in any way – I couldn't be further removed from an authorised dealer site if I tried! *Continued...*



... I eat Dragons for breakfast!

There can be no likelihood whatsoever in anyone's wildest drug-induced fantasies that any person entering my website would be deceived into thinking it was somehow connected with Honda UK, Honda Europe or Honda Japan. That assertion would be thrown out of the High Court in fits of laughter! It is absurd.

I would like to really emphasise that I would never want to give such an impression of being authorised, since one of my main selling points is my utter independence!

I have (since September 2007) managed to place over 450 Honda cars on lease with my customers, promoting the brands against substitutional sales from Mazda and Toyota and Ford and Kia and Hyundai, etc. Customer satisfaction with LINGsCARS is exceptional as witnessed by my 1,530 published online testimonials.

As I am clearly not representing my website as an authorised Honda franchise, wouldn't it make more sense for Honda (while reserving your rights) to place the trademark High Court threat where it belongs and agree I should use the best possible method to promote your products over rival brands? Indeed, if you choose to make more products at attractive discounts available to me, I will certainly sell many more cars for you. More Civics sold mean more jobs for UK workers.

Please let me know your feelings, as it makes sense to strive to sell or place more products by whatever means, in the current climate, while maintaining high brand values (and I certainly do not demean the Honda brand). You should note that new Honda car brand sales in the UK are 32% down in July 2010, compared to July 2009. As Tesco says "Every Little Helps", eh? I would rather think Honda would be better-focussed encouraging additional sales, not trying to stifle them.

I am an independent Chinese female playing in the big-boys playground of new UK car sales. To be seen to be **bullied** on incorrect points of law by a massive Japanese company at this current economic time will certainly be newsworthy, for both of us.

I would point out that if any Honda dealer whom I speak to reports to me any form of "blacklisting" which some people allege takes place in the motor industry, I would immediately take action against Honda.

You will note that you have a dealer in Lowestoft area called "Lings Honda". I allow them to write sentences containing the string "Lings cars". Now, "LINGsCARS" is a registered trademark under the United Kingdom Trade Marks Act in relation to car sales. Do you agree that I should be more attentive in trying to stop that company trading in that manner? In your view it must seem like they are passing themselves off as LINGsCARS. I think in retrospect you need to reconsider your letter, on many levels.

Please write or email, with your response, to the logo thing. And please don't call me "sir" as I am female... "Ling", "Madam" or the more socially equitable "Comrade" will be fine.

Yours,
Ling Valentine

Boss
LINGsCARS.com