

STREET BIKERS UNITED HAWAII, INC STATE NEWSLETTER

Freedom To Choose

STREET BIKERS UNITED HAWAII, INC P.O. BOX 5003 KANEOHE, HAWAII 96744

Volume 42 Issue 3

NOVEMBER 2015 www.sbuhi.org

"One of the penalties for refusing to participate in polities is that you end up being governed by your inferiors."

A PUBLICATION FOR THE MOTORCYCLIST IN HAWAII

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What is Street Bikers United Hawaii, Inc? An ORGANIZATION that works on behalf of all motorcyclists in the state of Hawaii, promoting motorcycle safety and protecting motorcyclists from legislation that may negatively affect the right to ride free. The optional helmet law, affordable motorcycle insurance, and the ability to build and register your custom ride in Hawaii are just a few reasons why your support of Street Bikers United Hawaii, Inc is so important. Street Bikers United Hawaii, Inc is not a club but an organization that is open to all riders, regardless of club affiliation or type of motorcycle you choose to ride. Your membership donation goes to fight anti-motorcyclist legislation in Hawaii. Continue to ride free.

Become a member of Street Bikers United Hawaii, Inc

What are Street Bikers United Hawaii, Inc members entitled to? As a member of SBUHI you will receive our newsletter keeping you informed of motorcycle events and legislative issues affecting motorcyclists in Hawaii. You will gain access to the SBUHI Message Boards Area and the SBUHI Online Calendar. Additionally, SBUHI members are entitled to discounts at participating merchants. The list is continuing to grow and it's our way of saying Thank You and Mahalo for supporting

Street Bikers United Hawaii, Inc

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BRUCE PAIGE State Director



MICHAEL PANZO Oahu Chapter President







SECRETARY



CHRIS SUNDAY Secretary



ROBERT THOMAS Oahu Chapter V-President











RAY PAGAN Treasurer

MARIE BASHAW State Membership



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Message from the Desk of Bruce Paige, SBU State Director



It is already November and SBU Toy Runs on Maui and Oahu are only a month or so away.

SBU does not sponsor a Toy Run on the Big Island, but we would like to. We just need to find some riders willing to work with us on that and other SBU projects we are involved in throughout the year. When I was on the Big Island for the Labor Day run I meet with some club members both in Hilo and at the Laupahoehoe Beach Park party. The bands were great everyone had a great time. A few brothers and sisters I spoke with about SBU seemed to be interested in what SBU was doing on Oahu and Maui. They thought it would be great to have a SBU presence on the Big Island. I know it would be great. I left my cards an open invitation to let us know if any Big Island club, HOG chapter or even a group of independent riders would like to start an SBU chapter there.

I met with Ron Panzo, Maui SBU Chapter President in Hilo. He was riding with his club, Rock & Roll MC. We talked about setting a SBU State Executive meeting in Maui for a Maui/State joint meeting similar to what we did last year. Ron was enthusiastic and we set it for November 7. We will talk about the Maui Toy run and what we on Oahu can do to help our Maui chapter with their events like the Maui SBU Toy Run. We will talk about SBU state issues. With another sitting of the State Legislature due to commence in two months everyone will be interested in what new bills affecting the motorcycling community are planned for the upcom-

ing session. We will talk about what more we can do to get SBU established on the Big Island.

Ray Pagan, State Treasurer, Mike Panzo, Oahu Chapter President and I have already been attending some political fund raisers and keeping our ear to the ground for news of the prevailing political mood regarding motorcycle legislation planned for the upcoming 2016 session. I have not heard a lot about concerns regarding helmet legislation for motorcycles, but there is strong public outcry over noise violation issues. For motorcycles that usually translates into bills proposing mandatory stock exhaust or increased fines for noise violations. We expect to see some of those this year and of course we will oppose them for all the reasons we always do.

Ray, Mike am I attended the Waikiki Neighborhood Association meeting on October 13, and we were surprised by the level of "organized hostility" towards mopeds and especially regarding noise violation enforcement in Waikiki and Honolulu. There were actually about four separate neighborhood associations' executives present at that meeting and they were all grilling the HPD representatives as to why the HPD officers were not handing out more tickets for noise violations. The HPD representatives stated that they had "stepped-up" the number of tickets to motorcycles considerably. The mood was that it was "not nearly enough". The mood turned even more angry when the subject of ticketing mopeds brought the response from the HPD that there is no real benefit to ticketing mopeds because they are treated like bicycles and with no annual registration, licensing, safety checks or insurance requirements, moped owners just ignore the tickets so the police really have no way to enforce noise violations. The response from the associations was that "*If regulation of mopeds is what it takes to stop the noise then regulation is what the mopeds will get*".

These neighborhood associations are very politically powerful. There was at least one legislative representative I saw and spoke to there, there may have been more. I think it is a good bet that we are going to see some up-coming bills proposing stiff new moped regulations in the next session. We'll keep you posted.

See you on the road and be safe. Aloha, Bruce.

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The Legal Corner by Bruce Paige, Esq



In the last issue, I covered the area of protecting intellectual property (often abbreviated to "IP") and in particular motorcycle club's names and logos (i.e. usually incorporated into their "Patch"). IP law generally covers the legal rights associated with patents, copy rights, trade secrets, trademarks, service marks and trade names. It is a very broad, complex and often confusing area of law. So, at best, this article can only address a few simple conceptual generalities to assist members to better appreciate the potential issues they may encounter regarding a club's name, logo or patch being used without the IP right's owner's permission.

Before getting started I always make the usual "lawyer's disclaimer" that: the following comments and observations are solely my own views and not those of SBU*. This is a general discussion and <u>Not Legal Advice</u>, which is always dependent on the specific facts of a particular client's case. You should always consult legal counsel to

be sure of how these issues affect you and if they are applicable to your particular case. In no area is this more important than IP law, which is often misunderstood by non-lawyers and often to their detriment.

There is no better example of the old adage "A (legal) ounce of prevention is worth a pound of cure" than in IP law infringement cases. Where sound legal advice and representation early on can avoid grief, frustration, litigation costs, attorney fees and even damage awards against the unwary IP "Infringer". An "Infringer" is a party (either an individual person, organization, or company) that wrongly, without permission, whether intentionally or unknowingly, uses (which is called "infringing") the IP rights of the legal owner. In our case (relating to the motorcycle club "MC" scenario), the MC is legal owner of a trade name, trademark, service mark or incorporated name of the MC for instance, including its logo, if it is synonymously used with the name such as when incorporated into the MC's Patch, on its letterhead, business cards, fund raiser posters, on its website, Facebook page, on bank documents, the MC's constitution and bylaws, business contracts, receipts, etc.

Let's try a realistic example: (1) assume the MC's name is "XXX MC" and their logo appearing on their Patch is "XXX". The MC has established its name "XXX MC" in association with their trademark "XXX" on all of the MC's documents, literature, website and it's Patch (of course). (2) Assume the MC has continually used its name and logo on Maui, Oahu and the Big Island since 2010 in association with their business transactions (e.g. annual charitable fund raisers, motorcycle rides they sponsor and participate in, t-shirt sales and even food sales events). In other words XXX MC has established its name in the community, it has widely publicized its use of its name and its logo ("XXX") in association with it various club activities continually since 2010 to the present. (3) Assume also that XXX MC has never registered their name "XXX MC" (called their "trade name") or their logo "XXX" (called their "trademark" or "service mark" or just called "mark" for short), in the United States Patent and Trademark Office (USPTO-the federal registry) or through the Hawaii Department of Commerce and Consumer Affairs Business Registry (DCCA- the state registry). (4) Assume further that the MC has never incorporated through the DCCA and thereby registered its name by that means. (5) Finally, assume that until 2015, no other party ever used the name "XXX MC" or the logo "XXX" for any purpose in Hawaii (i.e. not on a Patch, not for another business, not for another motorcycle club name, and neither the trade name "XXX MC" nor the logo "XXX" had ever been registered in the federal trademark registry (USPTO) or the state of Hawaii registry (DCCA), before 2015. We will assume that the MC is an "unincorporated nonprofit association". It has an unregistered "trade name" and an unregistered "mark" in this example. In other words the MC has "common law rights of ownership" to the trade name and the mark. The federal courts, state courts and the respective administrative review processes associated with reviewing the legal authority of the federal and state IP registration processes all recognize the legal enforceability of common law rights of ownership over trade names and marks.

To see how the interrelation between common law rights of ownership to a trade name or trademark might work using the above hypothetical assume that in 2015 John Doe decided to start his own motorcycle club and he registered the name "XXX Hawaii MC" and for the logo John Doe used a stylized version of "XXX". Upon learning of the infringement on its trade name and mark, the MC contacts its attorneys (LawCo) who writes John Doe a cease and desist letter informing Mr. Doe that LawCo's client XXX MC is the common law rights owner of the trade name "XXX MC" and the mark "XXX". LawCo confirms to Mr. Doe that unless he ceases any and all forms of use and infringement of that trade name and mark immediately, legal action will be taken to enforce the MC's common law rights of ownership and that may include an injunction directing Doe to cease and desist any and all use of the trade name and mark, all court costs, attorney fees and monetary damages sustained by the MC as a result of Doe's infringement actions may also be successfully claimed against him.

Assume Doe scoffs at the LawCo letter because he was told by a "friend" that whoever is first to register a trade name in the state or federal registry gains the right to control the name. Assume further, that Doe was careful to add the word "Hawaii" in his registered name "XXX Hawaii MC" and change the logo to "XXX", because a "friend" told him that if you change something in the name or logo then "it is legal". Those are common misconceptions that can create real legal problems for the unwary Infringer.

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John Doe would be very well advised to get himself a lawyer under the facts in this example. An IP attorney would likely tell Mr. Doe to pay immediate attention to the LawCo's cease and desist letter and do not continue any form of infringement actions regarding the MC's trade name or mark. The IP attorney would likely advise Doe that the federal court, state court and the DCCA Office of Administrative Hearings ("OHA") for Revocation of Trade Names, Trademarks and Abatement Proceedings are three different potential forums and processes that he may be prosecuted in depending on the nature and extent of Doe's infringement actions. The IP attorney would probably advise Doe that under these circumstances it will be in the DCCA OHA and the MC's lawyers will seek an order for revocation of the trade name and the mark. Doe will be ordered to cease and desist all such use of both the mark and the trade name. The IP Lawyer will likely explain to Doe that the test applied generally is whether the trade name or mark are either identical or "confusingly similar" to an existing trade name or mark owned by another party (in this case the club-XXX MC), and which they are the actual trade name owners in our example. There are a number of factors used in determining if a trade name or mark is confusingly similar which include: (i) the similarity or the names or the marks; (ii) similarity of the businesses or organizations; (iii) channels of trade; (iv) evidence of actual confusion between the trade names or marks; (v) the intention of the respondent (Doe in this case), and: (vi) the strength or distinctiveness of the trade name or mark. In our example the names and marks are very similar, each is used in regard to a motorcycle club, they would be used in the same way and will be actually confusing to the public. John Doe's intention was to copy the club's trade name and mark, but change it only slightly and to register first to get control over that name and mark. The name is very unique and distinctive, and so "XXX MC" and the logo "XXX" are not weak or generic terms that are in common widespread usage with no uniqueness or exclusively associated with the MC as the exclusive owner of that trade name and mark. Adding the word "Hawaii" would be unlikely to make any difference to that uniqueness of the trade name under facts of this case. This would likely mean the IP attorney would advise Doe he has no reasonable chance to succeed in opposing the MC's infringement action against him and he would be well advised to settle as soon as possible to avoid unnecessary legal costs, attorney fees, and potential damages awarded against him.

Finally, when Doe asks the IP attorney why if he registered the trade name and mark that should not be enough for him to win the action over MC? The IP attorney will explain that registration of a trade name or trademark does not create ownership. It only gives rise to a presumption of ownership, which can be rebutted (defeated) by evidence of prior continual, exclusive and consistent use of the name and mark by the owner (i.e. the MC in our case). So it is use of a name and a mark that creates common law rights of ownership in a name or mark, which must be established with clear proof that use preexists registration. If so, then the common law ownership rights prevail. However, registration of a trade name or a mark with continual and exclusive use that preexists any unregistered user's claim will virtually always be superior form of IP rights ownership. So lawyers generally recommend registration whenever possible. I hope this was helpful. Remember, in a corner always look where you want to go. Similarly, for legal matters do some research, get some advice and decide where you want to go before you start. It will save you time and money in the long run.

Aloha, Bruce.



Message from the Desk of Michael Panzo, SBU Oahu Chapter Prersident

Last year, **Toys for Tots Hawaii** collected more than 45,000 **toys** to help make the holidays brighter for Hawaii's children, of which over 10,000 was collected at the Street Bikers Hawaii Annual Toy Run.

Apparently, a biker was a guest on I-94 FM, where he stated, toys collected by the Tots for Tots Program, was shipped to the mainland and due to this, this biker and his contacts where going to be doing their own T4T to benefit a community on the Leeward side....so the toys stay here. Now I'm not to sure who this biker was, or where he got his information.

The truth of the matter is, it's always been where 100% of the Toys collected stays right here in Hawaii. Some of the toy's are shipped to the outer islands, but all toys collect, strictly benefit Hawaii's, and only Hawaii's residence.

Should there be any questions, please do not hesitate to contact any of the officers of Street Bikers United Hawaii,

Thank you, ride safe and amazing adventures

Michael J Panzo Oahu Chapter President Executive Board



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•	CHAPTER MEETING	•
米	Dec 20, January 3,	米
米	February 7, March 6,	米
米	April 3	米
米	FLEET RESERVE ASSN	米
米	@ 9:00 AM	米
米	*******	米

Christopher Ferrara, attorney at law, has been riding street, dirt, and sport bikes for over 40 years, with 30 years of legal experience. He concentrates in:

Motorcycle * Aviation Law * Personal Injury Law

Christopher D. Ferrara Attorney At Law 3555 Harding Ave. Ste. 2F Honolulu, Hawaii 96816 Office: 808.522.1660 Mobile: 808.479.8420 Fax: 808.522-16661 chris@ferraralawhawaii.com



who rides.

The attached

article was in

morning's paper

December 9, 2010

QUESTION: Is it true that when you donate toys in Hawaii for Toys for Tots that some toys are shipped to the mainland? If so, I think this will upset a lot of people, who are expecting these toys to go to a local child in need, not to some child on the mainland.

ANSWER: It's not true.

Toys donated locally are distributed only to children in Hawaii, while donated money is used in the islands to buy toys or to help pay for operational costs, said Marine Staff Sgt. Rafael Arriaga Jr., Toys for Tots Hawaii coordinator.

Aside from organizers wanting to give the toys to Hawaii's children, shipping costs would be prohibitive.

"The only thing that gets shipped anywhere is (Toys for Tots) supplies" to neighbor islands, he said.

Arriaga, whose passion for the cause is clear, explained, "Toys for Tots is set up to allow people like myself to give back to the communities we live in. ... It's an opportunity for service members and the community to give back to those in greater need." The Hawaii goal this year is to collect 45,000 toys. As of Friday, the organization was 23,000 toys short. But 11 events Saturday and the "huge" Street Bikers United event Sunday brought in \$4,000 in cash and 2,500 to 3,000 more toys.

With about two more weeks to go, Arriaga is hoping to meet the goal.

The Marine Corps has participated in Toys for Tots nationwide since 1948. It is partnered with the Salvation Army, which distributes the toys through various nonprofit agencies.

See http://kaneohe-bay-hi.toysfortots.org/ for drop-off locations or call 257-7147.



Write to "Kokua Line" at Honolulu Star-Advertiser, 7 Waterfront Plaza, Suite 210, 500 Ala Moana Blvd., Honolulu 96813; call 5294773; fax 5294750; or e-mail **kokualine@staradvertiser.com**.



NOVLIVIDEN									
Sunday	1	SBUHI Meeting @ 9am Fleet Reserve Assoc. Branch 46 891 Valkenburgh St. Honolulu, Hi 96818							
Sunday	8	Vietnam Vets / Legacy Vets MCVeteran's Day Run Moanalua Gardens 9:00a - LBO 10:30a Cost TBD POC Moose@ 808-386-9649							
Thursday	26	Meals On Wheels FRA 9:00a or Lanakila Rehab Center 9:30a POC Chief @ 224-6022							
	DECEMBER								
Saturday	5	Koa Puna 22nd Annual Ho'olaulea Oahu / 35th Anniversary Statewide							
Sunday	6	Toys For Tots SBUHI Magic Island 7 to 11 AM							
Sunday	6	Kanaka Hekili 11th Annual Christmas PartyProceeds Benefit Big Brothers, Big Sisters of Honolulu Kemoo Farms							
Sunday	20	SBUHI Meeting @ 9am Fleet Reserve Assoc. Branch 46 891 Valkenburgh St. Honolulu, Hi 96818							
Sunday	20	SBUHI Calendar Meeting Fleet Reserve Assn. @ 10am							
Sunday	20	Pacific Knights MC 5th Annual Food Drive Fleet Reserve Assoc. Collecting Donations 8:30a - 11:30a							
Thursday	25	Meals On Wheels FRA 9:00a or Lanakila Rehab Center @ 9:30a							

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41st ANNUAL STREET BIKERS UNITED TOY PARADE



U.S. MARINE CORPS RESERVE TOYS FOR TOTS SUNDAY, DECEMBER 6, 2015





Parade Starts -- 11:00 A.M. (Park open 7A.M.) Parade route

ALA MOANA BEACH PARK (MAGIC ISLAND) To KAPIOLANI COMMUNITY COLLEGE (KCC)

SPECIAL NOTES: TO HELP WITH COST OF SBU TOY PARADE All participants in the Parade will be issued a special SBU wristband. (SBU recommends buying the wristbands early). ADVANCE WRISTBAND WILL BE \$3.00 PER BIKE. DAY OF PARADE \$5.00 PER BIKE. TO ORDER YOUR WRISTBAND EMAIL: onerican@hawaii.rr.com



Entry into the Parade Staging Area will be done only through the Ewa entrance into Ala Moana Beach Park. Upon reaching Magic Island there will be two lanes, one for prepaid individuals, the other for those needing to purchase admission. For those purchasing admission on site, please have exact \$5.00 to help speed up the process.

SCHEDULE OF EVENTS:

7:00am to 10:45am Access into Magic Island Parking Lot 11:00am to 11:30am Last Bike Out 12:00pm to 1:00pm Parade ends at KCC.

ADVISORY: No unlicensed, unregistered, or uninsured Motorcycles/Vehicles will be permitted to participate in the Parade, by order of Honolulu City & County permit and insurance requirements.

Pre-Order Toy Run Wristband in Advance Go to SBUHI.ORG (Member Benefits, SBUHI STORE) or mail your money order to: SBUHI— P.O. Box 5003— Kaneohe, Hi. 96744 For Questions, contact your Ray Pagan at 282-6419



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ELLIE & EMI'S ISLAND FIREHOUSE MAFNAS CATERING & PRIVATE MEALS PAGE 15 STREET BIKERS UNITED HAWAII, INC

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SEE YOU THERE!

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FAR

SBU Hawaii Motorcycle 2016 Event Calendar Meeting Hosted by SBUHI Oahu Chapter



Date: SUNDAY December 20, 2015 Time: 10:00 to 11:00 AM Location: Fleet Reserve Association (FRA) 891 Valkenburgh Street Honolulu, HI 96818

> SBUHI P.O. BOX 5003 KANEOHE, HI 96744

> > sbuhi.org

Everyone is Welcome to attend!!!

Sports bike riders, chopper riders, touring bike riders, custom bike riders, classic bike riders, sponsors of motorcycle events, vendors, & charity organization. If you are involved with an organization that schedules motorcycle events in Hawaii, please attend

The purpose of this meeting is to:
 Bring everyone together to plan ahead for the upcoming year for events, charity runs, club runs, other activities involving motorcycle riders in the State of Hawaii...

2. Keeps events from "doubling up" on the same day...

3. Establish a contact person for the events...

4. Provide contact information for posting the events on the SBUHI calendar for all island

The Advantages of attending this meeting:

Breakfast is available at the FRA—7:00 A.M.– Noon Meeting other Motorcycle Enthusiasts, Club Representatives & Supports in Hawaii. "Working events out" so there is ONE event on pre-selected date. FREE Local, State & National Posting of your event with updates Motorcycle community of Hawaii is getting together show STRENGTH & UNITY



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Membership Application STREET BIKERS UNITED HAWAII, INC P.O. Box 5003 – Kaneohe, Hawaii 96744 Please accept my application for membership as follows: New MembershipRenewal Single Membership\$20.00 per yr\$35.00 / 2 Yrs\$55.00 / 3 Couples Membership\$30.00 per yr\$55.00 / 2 Yrs\$75.00 / 3 Street Bikers United Patches (\$5.00)Street Bikers United Pins (\$5 Street Bikers United Decals\$1.00-2 inch,\$2.00-4 inch SBUHI LOGO T-SHIRTS (\$20.00) SIZE Pay online with PayPal www.sbuhi.org										
	Address							ļ		
	City							I		
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	E-Mail Address							İ		
Club Affiliations (optional) STREET BIKERS UNITED HAWAII, INC is a non-profit organization. The Officers and Committee Members provide their services as volunteers who are elected into the position they hold. They receive no fees for the services they provide. In accordance with state and federal laws contributions are not tax deductible.										
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Last Name	First Name	Join	Last Name	First Name	Join	Last Name	First Name	Join		
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Adkins	William	Apr	Huntley	Brandon			Timothy	Aug		
	Dylan	U	Joseph	Levi	_		Kevin	Apr		
Balisacan	Michael		Kahumoku	Daniel	0	Reel Mullins	Matthew	Apr		
	Norman		Kamekona	Harlan		Rivera	Robert	May		
Becker	Richard		Kamekona	Reggie		Robert Jones	Teyah Peyer &	Apr		
Boner	Timothy			Robert		Sangermano		May		
Cho Cindy Galeon	Edson Edwayne Dela Cruz &		Keating Langton	Eric Mark & J ami		Sarah Schultz Simmons	Ricardo Montoya Douglas	May May		
Collins	Bucksand	Ŭ	Lingard	Nathan		Stephanie Vernon		Apr		
Cook	Tharan		Lopez	Jesus			Warren	Aug		
Cruz	Roger	U U	Louie	Nathan & Deneen			Malcolm	Apr		
Daniel	Cory	-	Lucas	Corey		Tigilau	Mathew	Apr		
DiSopa	Carmella		Machado	Joseph			Wilfred & Diane	Apr		
	Howard	Aug	Manabe	Layne		Tukenko	Andy	Aug		
Duncan	Charles	Apr	Mastorio	Billy	· ·		Benjamin	Apr		
Fiegle	Christopher	Aug	McCaffery	Bill	Apr	Warden	Steven	Apr		
Foster	Trey	May	McDonough	Joshua	May	Webb	Johnny	Aug		
Fuson	Charles "Ace"	May	Morris	David	Apr	Wonaszek	Christopher	May		
Hacker	Jean	May	Mullins	Jeremy	May	Yamaoka	Taisen	Apr		
Hew-len	Mario	Apr		Randy		Yonamine	Don & Classie	May		
Hicks	Terrence			Steve & Christine			Joseph	Jul		
Hirakawa	Bruce	Jul	Pfau-Cervantes	Alexander	May					

STREET BIKERS UNITED HAWAII , INC P.O. BOX 5003 KANEOHE, HAWAII 96744



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