

Going "Medieval" on Trademark Enforcement

BY ROBERT G. YOUNG • JANUARY 17, 2018

Who says trademark disputes can't be fun? Well, plenty of people, but that's beside the point. Anheuser Busch InBev recently showed that a serious legal message can be delivered in a humorous form.

As anyone who has watched football (or just about anything else on TV, for that matter) over the past few months is well aware, AB InBev's latest marketing campaign for its flagship Bud Light brand involves the catchphrase "Dilly Dilly" incanted by medieval royalty and serfs alike. Modist Brewing Company, a craft brewer in Minnesota, decided to use the phrase as the name for a new Double IPA and announced its release in early December.

AB InBev could not abide this appropriation of its marketing slogan, however. It sent a cease and desist letter to Modist, instructing it not to use the "Dilly Dilly" name on any further batches of the beer. But the manner in which AB InBev sent the message has garnered Internet fame.

AB InBev sent a "medieval scribe" to Modist to deliver, and read aloud, the cease and desist letter. Instead of the typical lawyerly references to "litigation" and "Lanham Act," the letter contained a warning that future use of the "Dilly Dilly" name could result in a "private tour of the pit of misery." As an olive branch, AB Inbev also offered two Super Bowl tickets to Modist (the game will be in Minneapolis this year).

While this is perhaps the most light-hearted example of trademark enforcement, the issue it highlights is serious. Craft brewers should always take care to research potential beer names to make sure that no one else is already using the name. Not doing so could result in an unpleasant trip to a real Pit of Misery (also known as a lawyer's office) . . .

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