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INTELLECTUAL PROPERTY LAW
INCLUDING PATENT, TRADEMARK, COPYRIGHT
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(1935-1995)

October 17, 2008

RULE 408—OFFER TO COMPROMISE

Via Email Only to pschechter@capdlaw.com

Peter C. Schechter, Esq.
Edwards Angell Palmer & Dodge, LLP
750 Lexington Avenue
New York, NY 10022

Re: **BENCHMADE AND MENTOR V.
JONATHAN A. BENSON, DBA
ROADSIDE IMPORTS, USDC, District of
Oregon, Case No. CV 08-967-HA
Our File Reference: 3446.0180**

Dear Peter:

You don't seem to learn. However, you are rather adept at backing off a bluff with flair and there is an amusing quality to your bluster.

Had you wanted to focus on substance in your earlier letter, you should have taken the full extension of time you requested to review the Complaint and investigate the facts more closely. Considering your lack of preparation, the prospect of setting you straight seemed tiresome.

For example, had you read paragraphs 61, 66, 97, 101, 110 and 129 of the Complaint, you would have noted that Benchmade does indeed claim that Mr. Benson's use of Balisong infringes Benchmade's rights in BALI-SONG—thus saving you at least one paragraph of bombast and feigned confusion.

Further, Mr. Benson does ship his Benchlite in a box bearing the legend "U.S.A. Stainless Steel Knife." I have such a box and a witness who received the Benchlite in such a box from Mr. Benson. If he tells you anything different, he is misleading you.



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Still further, you accused me of lack of due care by asserting that Mr. Benson is offering conversion kits for Boker and Magnum knives. If you review his web site carefully, you will see that he is offering conversion kits for the Boker Magnum and the Boker Kalashnikov. The Magnum trademark is prominent in the Magnum conversion video while the Boker logo is more prominent in the video regarding the Kalashnikov conversion.

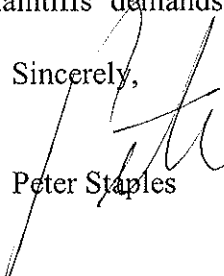
So, there is your jawboning. Let's hope that your skin is thick enough to take it and that you will **confine your further communications to substance.**

Here's your substance.

I have modified the list of demands set forth in my September 24 letter to David Ferber and they are attached. Note that I have dropped the provisions related to Benson's use of Balisong. Benchmade has long-standing incontestable trademark registrations for BALI-SONG and BALI-SONG and Butterfly Design, which provide a presumption that Benchmade is entitled to exclusive use of the marks. Removing such venerable marks from the federal register on the basis of genericness is a very tough task. Nonetheless, Benchmade is willing to drop this claim in the context of a negotiated settlement. No settlement and Benchmade pursues the claim, putting Mr. Benson to his proof.

Please respond, point-by-point, to each of plaintiffs' demands.

Sincerely,



Peter Staples

JPS:bd

Enclosures

cc: Benchmade Knife Company, Inc.
(via email only)
cc: Mentor Group, L.L.C. (via email only)
cc: Nancy J. Moriarty, Esq. (via email only)
cc: Robert N. Lyman, Esq. (via email only)

p.s. By way of an olive branch, I note from your bio that you are a fisherman who spends a lot of time on the Hudson River. I grew up on the Hudson, spending much time on the water. While not much of a fisherman in my youth, since I moved West I have become an avid fisherman. Perhaps we can find common ground to our clients' mutual benefit.