

LAW OFFICES  
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April 1, 2008

Zazzle Copyright/Trademark Agent  
Zazzle.Com, Inc.  
1900 Seaport Blvd.  
Redwood City, CA 94063

*Via Certified Mail Return Receipt Requested*  
*Via E-mail: [content\\_agent@zazzle.com](mailto:content_agent@zazzle.com)*

***Re: Infringement of City of Memphis' BLUE CRUSH Trademarks and  
unauthorized use of image, name and likeness***

Dear Sir or Madam:

Our firm represents the City of Memphis ("Memphis") and its Director of Police, Larry Godwin.

Memphis is the owner of the trademarks BLUE CRUSH and BLUE CRUSH (and Design) used in connection with public safety and municipal law enforcement services and other related services and/or goods. Memphis' trademarks are collectively referred to as "Memphis' BLUE CRUSH Trademarks." Memphis has federal trademark protection for its Memphis BLUE CRUSH Trademarks through its use of its BLUE CRUSH Trademarks in many states across the United States, as well as registered trademark rights in Tennessee. Evidence of Memphis' Tennessee trademark registrations is enclosed.

We understand that your company sells products, such as T-shirts, coffee mugs and bumper stickers, that reference public safety and law enforcement using Memphis' BLUE CRUSH Trademarks. Specific products we have identified that are offered for sale through your website at [www.zazzle.com](http://www.zazzle.com) include Item Nos. 235466110225432878 and 168565598493491308, although there may be others. It appears from your website that these products may have been "created" by nico3974. The products have been advertised and sold into Tennessee by nico3974 and your company.

Your and nico3974's advertisement and sale of products bearing Memphis' BLUE CRUSH Trademarks on your website without Memphis' prior written approval and control are

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infringements of Memphis' BLUE CRUSH Trademarks. Your and nico3974's actions constitute a violation of § 43(a) of the federal Lanham Act (codified at 15 U.S.C. § 1125(a)), violation of the Tennessee Trade Mark Act of 2000 (Tenn. Code Ann. § 47-25-512), violations of Tennessee common law, and violations of the Tennessee Consumer Protection Act (codified at Tenn. Code Ann. § 47-18-101 *et seq.*).

Furthermore, Zazzle and nico3974 are advertising and selling products such as T-shirts and bumper stickers that depict a photograph or that display the name of the City of Memphis' Director of Police, Larry Godwin. These products are also offered for sale through your website at [www.zazzle.com](http://www.zazzle.com) under Item Nos. 128970119163758919 and 235762626946735488. It appears that these products also were "created" by nico3974. Director Godwin has not given permission for his name, likeness or appearance to be used on any products advertised or sold by Zazzle or "nico3974." For this reason, the advertisement and sale of products bearing Director Godwin's picture or name constitutes a misappropriation of Director Godwin's image, name and likeness and is a violation of Tennessee law, including Tenn. Code Ann. § 47-25-1101 *et seq.*; Tennessee common law prohibiting invasion of privacy and/or publicity by misappropriation of image, voce or likeness; false endorsement; and the Tennessee Consumer Protection Act (codified at Tenn. Code Ann. § 47-18-101 *et seq.*).

Memphis and Director Godwin demand that Zazzle immediately cease and desist from all uses of Memphis' BLUE CRUSH Trademarks and any other marks confusingly similar to its BLUE CRUSH marks, as well as Director Godwin's name, picture or likeness.

Specifically, Memphis and Director Godwin demand that Zazzle do the following:

1. Provide me the name and address of the entity or individual using the name "nico3974" which "created" the infringing designs/products and has, with your company, advertised and sold them into Tennessee;
2. Cease and desist immediately from the use of the marks BLUE CRUSH and any other marks confusingly similar;
3. Deliver to me, as counsel for Memphis, for destruction all copies of materials of whatever kind which are in your possession or under your control that display the BLUE CRUSH Trademarks, along with all printing plates and other materials in your possession or under your control used to produce any materials or products that display the BLUE CRUSH Trademarks;
4. Immediately retrieve and/or remove all advertisements or depictions of any materials or products that display the BLUE CRUSH Trademarks, including but not limited to depictions of any materials or products that display the BLUE CRUSH Trademarks displayed on your website;
5. Cease and desist immediately from the use of the name, picture or likeness of Director Godwin;

April 1, 2008

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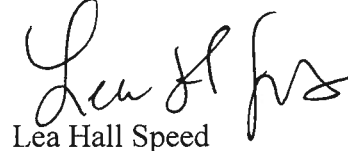
6. Deliver to me, as counsel for Memphis, for destruction all copies of materials of whatever kind which are in your possession or under your control that display Director Godwin's name, picture or likeness, along with all printing plates and other materials in your possession or under your control used to produce any materials or products that display Director Godwin's name, picture or likeness;
7. Immediately retrieve and/or remove all advertisements or depictions of any materials or products that display Director Godwin's name, picture or likeness, including but not limited to depictions of any materials or products that display Director Godwin's name, picture or likeness on your website;
8. Account for all profits and advantages derived by Zazzle from its sale of the products bearing the BLUE CRUSH Trademarks or Director Godwin's name, picture or likeness; and
9. Pay to our clients their reasonable attorney's fees and costs incurred in protecting their goodwill and rights which have been violated as set forth above.

Zazzle's prompt written acknowledgment of and confirmation of its compliance with the demands made herein are important to resolve this matter without the necessity of formal proceedings or the expenses associated therewith for which Zazzle be held liable under the applicable provisions of federal and state laws.

I look forward to hearing from you within ten (10) days of the date of this letter; otherwise, I will advise my client to take the necessary actions to protect its interests.

Sincerely,

BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, P.C.



Lea Hall Speed

LS:phr

cc: David Bearman, Esq.

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Business Services

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GO

## Division of Business Services

## Trademark Search

MARK NAME: BLUE CRUSH

**BLUE  
CRUSH**

IMAGE (if available)

REGISTRATION PENDING:	NO
REGISTRATION DATE:	11/20/2006
RENEWAL DATE:	
ASSIGNMENT DATE:	
EXPIRATION DATE:	11/20/2011

DATE FIRST USED ANYWHERE:	08/26/2005	DATE FIRST USED IN TENNESSEE:	08/26/2005
DESCRIPTION OF GOODS OR SERVICES	Public safety and municipal law enforcement services		
CONNECTED WITH MARK:			
MODE OR MANNER IN WHICH MARK IS USED:	Banners and backdrops for community meetings, media releases and press conferences; bumper stickers		
CLASS #(S) OF GOODS AND SERVICES:	45		
OWNER (OR FORMER OWNER):	The City of Memphis Memphis Police Department, 201 Poplar 12-05 Memphis TN 38103		
ASSIGNEE:			

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Business Services

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## Division of Business Services

## Trademark Search

MARK NAME: BLUE CRUSH

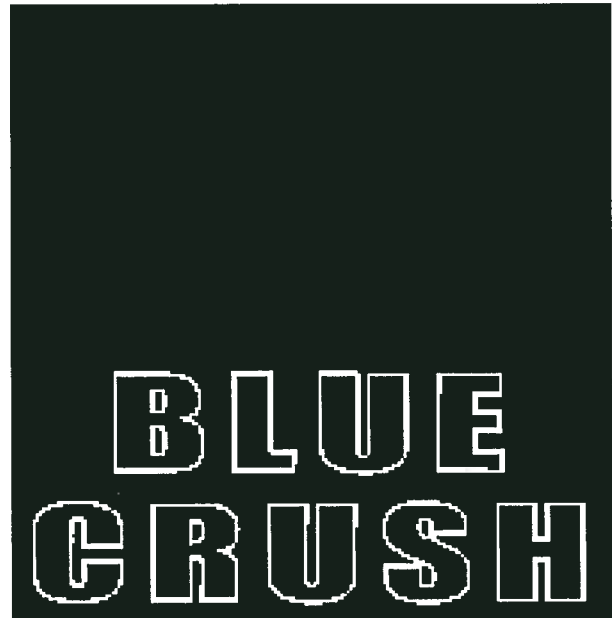


IMAGE (if available)

REGISTRATION PENDING:	NO
REGISTRATION DATE:	11/20/2006
RENEWAL DATE:	
ASSIGNMENT DATE:	
EXPIRATION DATE:	11/20/2011

DATE FIRST USED ANYWHERE:	03/28/2006	DATE FIRST USED IN TENNESSEE:	03/28/2006
DESCRIPTION OF GOODS OR SERVICES	Public safety and municipal law enforcement services		
CONNECTED WITH MARK:			
MODE OR MANNER IN WHICH MARK IS USED:	Banners and backdrops for community meetings, media releases and press conferences; bumper stickers		
CLASS #(S) OF GOODS AND SERVICES:	45		
OWNER (OR FORMER OWNER):	The City of Memphis Memphis Police Department, 201 Poplar 12-05 Memphis TN 38103		
ASSIGNEE:			

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