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## Feds Take Aim at Biker Gang's 'Colors'

Government will try to seize group's logo, saying it serves as a license to commit crime

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Federal prosecutors are trying a novel legal tactic to strike at the heart of what they consider a notorious outlaw motorcycle gang: using trademark law to take away its treasured logo.

In a pending racketeering trial in Los Angeles, the Justice Department will attempt to legally seize the black-and-white emblem worn on leather jackets by members of the Mongols Motorcycle Club, which depicts a muscled, ponytailed warrior with a Fu Manchu mustache speeding on a chopper. The trial was to begin in early June but was delayed last week after the case was assigned to a new judge.

For years, federal authorities have claimed that the Mongols name and logo, which the club has registered as trademarks with the federal government, serve as a source of intimidation and a banner under which members have committed crimes. By taking over the trademarks, which would make it illegal to display the Mongols "colors," the Justice Department believes it can essentially neuter the club.

Leaders of the Mongols—which started as a group of primarily Hispanic bikers in California and, according to prosecutors, grew to more than 60 chapters including branches in Sweden and Germany—dispute the characterization of the club as criminal. They say they are a band of loyal motorcycle enthusiasts who are being unfairly persecuted by authorities because of the actions of a few.

"Law enforcement is going out there trying to demonize and vilify us. But we are just like everyone else," said David "Lil Dave" Santillan, the Mongols' international president. "We are a motorcycle club. We just want to ride and be free."

The case is playing out in the wake of a [bloody shootout among rival bikers](#) in Waco, Texas, in May that left nine dead and 18 wounded, an event that drew national attention to the subculture of outlaw motorcycle gangs.

That turf-war incident—which didn't involve the Mongols—exploded into violence after members of one gang began wearing a patch that signified its dominance in Texas, infuriating a rival group.

Motorcycle clubs around the nation are watching the Los Angeles trial closely. “They are worried that if they can do this to the Mongols, they can do it to anybody,” said Donald Charles Davis, an expert on motorcycle clubs who chronicles biker news on his blog, the Aging Rebel. “The idea seems to be that you can ban motorcycle clubs by stripping them of their insignia.”

The case against the Mongols dates to 2008, when federal prosecutors charged dozens of members with crimes ranging from murder to weapons trafficking to money laundering, after undercover agents with the Bureau of Alcohol, Tobacco, Firearms and Explosives infiltrated the group. Prosecutors won convictions against members including former president Ruben “Doc” Cavazos.

But they went a step further and formally sought to take possession of the club’s trademarked name and logo. That is an unusual use of federal forfeiture law, which empowers the government to seize assets from convicted criminals.

In a statement announcing the 2008 indictment, Thomas O’Brien, then U.S. attorney in Los Angeles, said a forfeiture would allow police officers to stop any member wearing the gang’s patch “and literally take the jacket right off his back.”

But lawyers for the Mongols have won preliminary court rulings in recent years that found the government can’t seize the group’s name and insignia because the club, itself, hadn’t been charged with criminal conduct.

In an attempt to sidestep that argument and appropriate the logo, federal prosecutors in 2013 indicted the entire Mongol Nation, charging the group with a racketeering conspiracy. The government is expected to argue that displaying Mongols paraphernalia is tantamount to making a threat and that the club remains steeped in violence and criminal activity.

In court filings, prosecutors alleged that prospective Mongols had to show their willingness to commit crimes on behalf of the gang before being accepted and permitted to wear its patch. They also said that Mongols, acting under the authority conveyed by the gang’s name and logo, “murdered, attempted to murder, assaulted, and threatened those who posed a threat to the Mongols Gang.”

A lawyer for the Mongols said the club has modified its code of conduct to bar substance abuse and criminal activity, noting that the government’s allegations are based on the actions of members who have since made deals with prosecutors.

The Mongols have said a minority of its members have been charged with crimes. They say the asset seizure would violate the First Amendment rights of members to proclaim their association with a group by wearing its distinctive logo.

“Any organization—whether it’s a motorcycle club or law enforcement—is made up of individuals,” said their lawyer, Joe Yanny, noting that the group had banished members who committed crimes. “There are people in here that have made mistakes. But most of these clubs have cleaned up their act.”

A number of organizations have sided with the Mongols in criticizing the case, including the libertarian Cato Institute, which has long condemned government use of forfeiture powers. Tim Lynch, a lawyer for the group, said prosecutors should focus on addressing the alleged illegal conduct of Mongols members rather than “going after the very lifestyle” of the club.

“Motorcycles are also a vital part of the organization,” Mr. Lynch said. “Can the government pressure them into giving up their motorcycles and force them to ride in mini cars?”

Biker experts say that if the government succeeded in seizing the Mongols’ logo, it could have a chilling effect on other motorcycle organizations.

“If anyone from another motorcycle club commits an illegal act, then the precedent is there,” said William Dulaney, a professor at Air University in Alabama and an expert on biker culture. “That organization’s colors could conceivably be confiscated.”