

the intersection

Electric Bikes: Transforming the Way We Move

Aliza A. George

FROM BEACHES to college campuses to the streets of China, electric bicycles are not just a trend—they are the future of short-distance transportation. Electric bikes, or “e-bikes,” use an electric motor to enhance the rider’s pedaling power. The extra boost of energy can help riders to climb hills or to bike for longer distances.

Electric bikes have rapidly grown into an \$11 billion global industry that continues to expand. Electric bikes gained a toehold in China in the 1990s. At that time, there were only a few thousand. Now, an estimated 120 million electric bikes can be seen cruising the roads of China.

While only 200,000 electric bikes were sold in the United States last year, the American market is ripe for great expansion. Don DiCostanzo, CEO and co-founder of Pedego, an electric bike manufacturer, explains, “Electric bikes are finally taking off in the U.S. because aging baby boomers are searching for ways to enjoy recreational activities that involve light exercise.”

Keith Mueller, a 52-year-old former television producer, started using his electric bike last April. “An electric bike makes exercise a part of your life,” said Mueller, who resides in Newport, California. Mueller’s search for an alternate mode of transportation began because his everyday errands were too far to walk but too short to drive. An electric bike was ideal since “Newport is too hilly, and the heat midday makes it difficult to ride a bicycle for 10 miles.” Mueller now uses his electric bike, now an integral part of his life, four to five times a week and rides about 40 minutes per day for his errands.

Not only do electric bikes provide their users with a recreational form of exercise but, as Americans become more environmentally conscious, electric bikes offer a green transportation alternative for short distances. When powered by a lithium ion battery (the same batteries used in laptop computers), electric bikes emit no global warming pollution, and the batteries can be easily recycled, allowing users to reduce their carbon footprint.



ICLA Founder Eric Fingerhut rides an e-bike on the National Mall.

The increased use of electric bikes also can help Americans, who on average spend about \$1,333 on gasoline per year, reduce their dependency on cars.

Ideal for traveling short distances, an electric bike with a fully charged lithium ion battery can transport its rider 15 to 30 miles before recharging. As a result, electric bikes have the potential for an array of commercial applications. Alan Levine, the president of Doctor Delivery, a restaurant delivery service in the Washington, D.C. area uses electric bikes in his business. Levine says, “We use electric bikes at Doctor Delivery where possible because they improve customer service levels and lower our costs of doing business, as there are no expenses for gas or insurance related to these vehicles.”

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ICLA is an international, non-profit, member-driven association supporting the cycling industry through affordable legal education, a pro bono legal services referral program, and targeted advocacy.

ICLA promotes understanding of, compliance with, effective use of, and change of laws and regulations affecting the cycling industry.

www.cyclinglaw.org

The Founder's Spin



WHO WOULD HAVE THOUGHT, less than six months after officially launching the International Cycling Law Association (ICLA), that it would have a 500-member bicycle industry and lawyer constituency and deliver on all three aspects of its mission—affordable legal education, pro bono referral assistance, and advocacy? And now, just in time for the 2010 National Bike Summit, we proudly present the inaugural edition of our thrice-annual newsletter, the ICLA Intersection.

The Intersection. The name of the newsletter says it all. We are trying to intersect the bicycle industry and the laws that affect its business. At the same time, we hope this newsletter will intersect the bicycle industry with its customers who comprise the market for bicycles of all shapes, sizes, and purposes.

For this first issue, we cover an array of topics focusing on legal and policy issues and profile a few of the ICLA's earliest supporters. If you believe what you read in the newspapers, electric bikes are in position to be the bicycle industry's next big thing. We have an article discussing the challenges e-bike manufacturers and distributors confront as a result of classification inconsistencies. In one feature, we took a guy who has never really ridden a bike, let alone bought one, and asked him to go shopping to show how bicycle retailers can sell more bicycles to everyday Joes by embracing them rather than alienating them. We also have a story on the Bamboo Bike Studio, a socially responsible non-profit company building bike frames from bamboo harvested in Northern New Jersey (yes, it really grows there) and sending the bikes to Ghana to improve the quality of life for Ghanians. We have pieces addressing SAFETEA-LU transportation legislation, product recalls, and the benefits of cycling sponsorships, as well as a guest lawyer submission on protecting brands in Australia, which is now the world's hottest cycling market. We also included a destination spotlight on Villard-Reculas, a sleepy village a short distance away from one of the Tour de France's most storied mountain climbs, Alpe d'Huez. And so you don't take us too seriously (we like to have fun), we included a word find puzzle.

I want to give very special thanks to Nicole Lindquist, Andy Lewis, Robbie Pratt, Merideth Mendenhall, Aliza George, and Grant Mandsager, all attorneys in the Washington D.C. office of Howrey LLP who worked tirelessly on this newsletter. With the exception of Nicole and Grant, none of them are what you would call serious cyclists. The newsletter started as a law firm training project, but in the end they fell in love with the cycling industry and all it has to offer.

Enjoy the Bike Summit; enjoy the ICLA Intersection. Make something happen.

Eric Fingerhut, ICLA Founder

From the Top of the Hill: Insights on Cycling Laws and Lobbying for Change

Nicole Lindquist

2010 COULD BE the biggest year in the history of cycling legislation, but it will not be unless you understand the legislative landscape and how to lobby for change. This is because federal transportation laws are up for reauthorization this year, thus creating an opportunity for cycling enthusiasts to advocate for cycling friendly initiatives.

The workhorse Federal transportation law known as SAFETEA-LU is scheduled for a hotly debated overhaul later in 2010. SAFETEA-LU is the acronym for Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. Representative James L. Oberstar (D-MN), chairman of the

Committee on Transportation and Infrastructure, has proposed a comprehensive bill which includes several bike-focused provisions.

Oberstar's proposal takes a decisive step in pushing cycling into the transportation conversation. This legislation would create the Office of Livability, which would implement and administer the U.S. Bicycle Route System. This Route, spanning 50,000 miles, would connect states and landmarks across the country. The Office of Livability also would govern the Safe Routes to School Program which encourages students to walk and bike to school.

SAFETEA-LU builds on a series of bike-specific federal laws. For example, in 2009, Congress implemented the Federal Bicycle Commuter Tax Benefit, allowing cyclists a direct \$20 per month refund for their cycling expenses if they commute most of the time. Additionally, Representative Earl Blumenauer (D-OR) introduced legislation this session that would create the Green Routes to Work Act (H.R. 3271) and expand the Safe Routes to School Program to include high schools (H.R. 4021).

The SAFETEA-LU proposal also presents potential pitfalls for cyclists, amplifying the importance of effective lobbying. First, in terms of the structure of the legislation, bicyclists are included in the same category as motorcyclists and pedestrians. While cycling and motorcycling are not like driving, cycling and motorcycling are distinct. Grouping these two very different methods of transportation together could stifle the bike movement that aims to achieve greener commutes and a healthier populace.

Additionally, cost is a challenge this proposal will have to overcome. Oberstar's bill exceeds \$450 billion. This exceeds the cost of the 2005

SAFETEA-LU by more than \$100 billion. Only a small portion of Oberstar's proposal is directly geared towards biking. Because some members of Congress may view the Office of Livability as unnecessary, this section of the bill is going to require cycling enthusiasts to take a stand.

To help Congress spin in the right direction, share your passion for the open road with your representatives. Here are some talking points to encourage lawmakers to pass Oberstar's proposal:

- Support Rep. Oberstar's transportation reauthorization which creates the Office of Livability.
- Advocate for the development of a funding scheme that guarantees the longevity of the Office and its projects, including the U.S. Bike Route System.
- Recognize the important, unique benefits of bicycling.

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To help Congress spin in the right direction, share your passion for the open road with your representatives.

Protecting Your Brand in Australia

Liam Nankervis

AUSTRALIA IS a highly attractive market for makers of bikes and cycling-related products. Cycling is booming in Australia. For the past ten years, bike sales have exceeded car sales. More than a million bikes were sold in 2009—which is astounding in a population of just under 22 million people.

A maturing cycling culture in Australia has boosted both the volume and diversity of products people want. It is not only large multinational brands, but also niche bands offering something a little different, which can benefit from this growing market. As a result, an ever-wider range of brands are entering the Australian market. Will your brand be next?

If it is, there are important steps you should take immediately to ensure you that capture the full potential of your brand—and protect it.

First, register your trademarks in Australia.

If you are conducting an international filing program, Australia can be designated in a Madrid Protocol application. Alternatively, there may be advantages in filing locally in Australia. For instance, the Australian Trade Marks Office will often allow broader specifications of goods and services than will be acceptable in trademark registrations in places such as the U.S. and Japan. A clothing maker need not list exhaustively the particular items of clothing, but may specify “clothing, footwear and headgear.”

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Will your brand be next?

Two Cents from a Non-Cyclist on What the Cycling Industry Can Do Better

Andrew Lewis



As a first-time shopper, my overall impression was that the bicycle industry primarily markets to people who are already cyclists.

WHAT BETTER WAY to tune up the bicycle industry than to take notes from a first-time shopper? I've never owned a bike, but I've had a secret urge to buy one for two years now. When I started shopping for my first bicycle, I took note of what intimidated me and what excited me. I have distilled my first-time bicycle-shopping experiences into three tips for expanding sales to consumers like me: young professionals in average shape, with disposable income, who would like a casual fitness experience.

As a first-time shopper, my overall impression was that the bicycle industry primarily markets to people who are already cyclists. This marketing myopia has resulted in a fairly stagnant market for bicycles that isn't growing the way that it could be—especially in the United States. The industry should adjust its marketing strategy to promote growth across other segments of the population. The goal is to overcome non-cyclists' stereotypes and misgivings and to make cycling attractive (both the activity and the sport) .

- **Identify bicycle styles to non-cyclists in layman's terms.**

One of the most confounding problems I encountered was the lack of any standardization for "genres" of bicycles. I saw road bikes, pavement bikes, street bikes, comfort bikes, cruiser bikes, commuter bikes, beach cruisers, mountain bikes, hybrid bikes, BMX bikes, and track bikes. And just when I thought these seemed fairly specialized, I found "specialty bikes!" The lack of standardization overwhelms and confuses non-cyclists. It makes it tough for a non-cyclist to figure out what type of bike might be right, and makes it difficult to compare similar models across brands. The industry must make a better effort to standardize terminology.

Otherwise, it leaves shoppers like me wondering how a pavement bike, a road bike, and a street bike differ.

- **Don't flaunt your fitness. Market to a broad audience.**

A good example of the bicycle industry only marketing to cyclists comes from advertising imagery. For high-end bikes only a serious cyclist is likely to purchase, it's fine to depict other serious cyclists using the product. However, I was surprised to see commuter bikes and cruiser bikes advertised by beautiful, athletic people with perfect tans and bare flesh. People who already have 1% body fat from cycling are probably not the primary market for those bikes, and advertising to them will not reach consumers like me. Certainly, fit bodies have their place in bicycle advertising; good bicycle marketing should lead the consumer to conclude that buying one is a step toward being fitter. But pushing the suggestion too far can have a negative effect. A good advertisement for a beginner bicycle should enable a non-cyclist to picture himself as the person with the bike. It should send the message: "This is the kind of bike I could start with and learn to ride."

Along the same lines, it makes sense that retail bicycle stores are likely to be staffed by cyclists. But again, this can create a situation that discourages and intimidates non-cyclists. Make sure that your retail staff is sensitive to the fact that they might be selling to someone who is thinking, "I'm not that thin or athletic, there's no way I can ride a bike." How can this be overcome? Give people who are clearly not that athletic an even warmer welcome than you would to an obvious cyclist. Make the non-cyclist feel less like he's intruding in a world in which he

doesn't belong. Give the non-cyclist a bicycle-shopping experience centered on him or her. The bike-shopping process should be about helping to match customer lifestyle with the right bike.

- **Remember your market when pricing.**

Even entry-level bikes carry discouragingly hefty price tags. Even a demographic with disposable income will hesitate to invest heavily in something unfamiliar. Adjusting prices on respectable entry level bikes may decrease profits in the short term. However, in the long term this business strategy will pay off when

more non-cyclists become cyclists, and join the market for higher-end bicycles.

On the manufacturer side, this could mean creating and advertising bikes especially designed and priced for new cyclists. On the retailer side, this might mean accepting a lower profit margin on entry-level bikes, or even the creation of a "New Cyclist Program" that extends discounts or other incentives to first-time buyers.

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Electric Bikes, continued from p. 1.

Despite the many advantages of electric bikes, there are barriers to a booming American industry. Many states have laws that treat all motorized bicycles the same. In those states, electric bikes are categorized with bikes that are generally considered motor vehicles, such as motorcycles and mopeds, which are much heavier and faster than most electric bikes sold in America. These state laws require electric bikes to be licensed, registered, and/or insured. While safety is always a concern, such legislation restrains the electric bike industry by making ownership more complicated and by impeding electric bike users from enjoying the same privileges as do owners of traditional bikes.

However, other states such as California and Florida have embraced electric bikes by passing laws that treat electric bikes with speeds under 20 miles per hour like traditional bicycles. Electric bike advocates are encouraged to discuss updating their states' laws with their state legislators. Advocates should work with legislators to balance safety concerns with treating electric bikes more like traditional bikes.

Another hurdle for the electric bike industry is that the traditional cycling culture has been slow to embrace electric bikes. Many bike shops will not carry electric bikes. "Unfortunately, a history

of poor quality and unattractively designed electric bikes makes bicycle dealers hesitant to invest again," says Pedego's DiCostanzo. "They will be missing the opportunity that is now ripening. Smart dealers are aligning themselves with quality products that are not offered by discount mass merchandisers. For bicycle retailers looking for growth opportunities, electric bicycles offer something to attract new customers to their stores."

As the electric bike industry works to overcome these barriers, people interested in cycling should give electric bikes a spin. Electric bicycles equipped with lithium ion batteries start at \$680 and vary based on make and model. The cost of replacing lithium ion batteries is about \$500, but they last up to five years.

ICLA's founder Eric Fingerhut, recently tried a few electric bikes and says, "Electric bikes are a lot of fun. You can actually shift into high gear and hammer on the pedals. There's nothing more amazing than pedaling up a seven percent grade hill at 15 miles per hour. Riding an e-bike makes me feel like Lance Armstrong."

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The bike-shopping process should be about helping to match customer lifestyle with the right bike.

People interested in cycling should give electric bikes a spin.

"Riding an e-bike makes me feel like Lance Armstrong."

The Bamboo Bikes That Could Change the World

M. Mendenhall

LOCATED IN the Red Hook section of Brooklyn, New York, the Bamboo Bike Studio conducts weekend workshops where participants can build their own bicycles from bamboo. The Bamboo Bike Studio was developed by Sean Murray, Marty Odlin, and Justin Aguinaldo, who first started working with bamboo bicycles as an engineering team for the Bamboo Bike Project (part of the Millennium Cities Initiative of Columbia University's Earth Institute).

During a workshop, a first-time participant can build a bamboo bike frame in approximately a 12 hour day. On a second day, the other bicycle components can be added to create a truly custom cycle. With practice, the process becomes faster; the studio's internal record for building a complete bike is 4 hours and 10 minutes.

Murray was eager to tell about the bamboo bicycles as well as the initiative behind them. Through the studio, the team aims to change the means of bicycle production by financing bamboo bicycle factories in Africa and South America, focusing on Ghana for the initial venture. They believe these factories will improve Ghanians' access to transportation and will advance sustainable entrepreneurship.

Currently, bicycles in Ghana are too expensive and too low in quality. Bamboo bicycles would be not only lower-cost, but also higher-quality. While some still consider bamboo a novel material for bicycle frames, Murray explained that the concept runs deeper. Although bicycles are often thought of as sporting goods in America, they are also tools and machines. Together bamboo, hand tools, and a couple days of labor produce a quality bicycle that can help people meet their basic transportation and hauling needs.

In addition to being a source of funding for bamboo bicycle factories, the studio is also a lab for testing new ideas to improve the bike-building process. To date, the Bamboo Bike Studio has developed the method, tooling, and sourcing to support bamboo bicycle production in Ghana; and, through the weekend workshops, it continually perfects the process.

Recently, the ICLA had the pleasure of working with the Bamboo Bike Studio as part of its pro bono referral program, which is a key element of the ICLA's mission to "bridge the gap" between the cycling industry and the laws that affect it. Through the referral program, the ICLA offers opportunities for members of the cycling industry and legal practitioners to share their knowledge and experiences, and it refers qualified non-profits and start-up companies for pro bono services.

ICLA founder Eric Fingerhut shared his recent visit to the Bamboo Bike Studio. That day, the team was preparing recently harvested bamboo by curing it with a heating process. He remarked, "I think what amazed me most about the bamboo was that it was grown in New Jersey. In addition to Bruce Springsteen, Bon Jovi, and Jeffrey Ross, my home state can now lay claim to the bamboo used in these amazing bicycles." It was interesting to hear his description of the studio and its exciting initiative: "The work of the

FTC Regulates Bamboo Products

The Federal Trade Commission recently sent warning letters to 78 companies and brought four enforcement actions against companies it believes misleadingly labeled and advertised products made with rayon as bamboo.

Rayon is a fiber made from cellulose. According to an FTC press release, the cellulose can come from any plant or tree, not just bamboo, and is "processed with harsh chemicals that release hazardous air pollution" such that there is no trace of the original bamboo plant in the resulting rayon product.

An FTC business alert explains that products made directly with bamboo fiber, also called "mechanically processed bamboo," can be advertised as bamboo if there is reliable evidence they are made of bamboo fiber. However, products for which bamboo was the plant source must be advertised using the proper generic name, such as rayon or "rayon made from bamboo."

For additional information regarding the proper use of "bamboo," see the FTC's website at <http://www.ftc.gov/bamboo>.



Stacks of bamboo wait to be handmade into custom-built, sturdy bicycles.

Bamboo Bike Studio is the model for what the cycling world does right. The ICLA is excited to be involved with socially responsible businesses like the Bamboo Bike Studio and looks forward to working with other pro bono initiatives as well.”

At Bamboo Bikes, the studio team has devoted countless hours in support of its admirable mission. However, Murray focused on the team’s gratitude for the support the Bamboo Bike Studio has received, not the hours they have spent on the project: “Every person that comes into the studio has contributed. We have

been wise to ask for help, and we have been very fortunate to have Eric and the ICLA.” Murray also described the satisfaction of leading workshops that remind participants that, as humans, they have the ability to make useful things.

For more information on the Bamboo Bike Studio and the weekend workshops, visit www.bamboobikestudio.com.

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Bamboo bicycles would be not only lower-cost, but also higher-quality.

Riders Beware: Cyclists Ticketed on Charity Ride

Doug Landau and Nicole Lindquist

BIKE SUMMIT RIDERS take heed: Northern Virginia police are actively enforcing traffic laws against cyclists. Attorney Doug Landau volunteered to represent riders who were ticketed, while on a charity ride, for failing to come to a complete stop at a stop sign. Landau intended to promote changing laws to protect cyclists who safely slow or perform “track stand stops” at traffic stops.

On Sunday June 7, 2009 during the “Bike MS: Beyond the Beltway” charity ride for multiple sclerosis, a group of cyclists approached a stop sign located on an open rural road. They slowed down, looked both ways, and saw no traffic. They proceeded around a roundabout. A police officer immediately ticketed them for not coming to a complete “two feet on the ground” stop.

Attorney Landau represented two of the cyclists in the Loudoun County District Court. Both pleaded not guilty to the charges. Before the judge called the case up, Landau reached an agreement with the prosecutor. His clients pleaded guilty to the minor offense of having insufficient reflectors/lights on their bicycles. This guilty plea resulted in a small fine for a non-moving violation, court costs, and no points off

their drivers’ licenses. Without Landau’s defense, the bikers could have lost their drivers’ licenses.

Landau advocates for changing the traffic laws as they pertain to safe cyclists. He believes the ticketing would not have happened if the Commonwealth of Virginia had adopted the “Idaho Stop Law.” Adopted in Idaho in 1982, this law permits cyclists to roll up to a stop sign, yield the right of way, and then proceed without stopping. In Idaho, this law only applies to stop signs because of the lighter traffic and lower car speeds. Other states, such as the bike-friendly Oregon, are considering adopting the Idaho rule, and Landau hopes Virginia follows suit.

Landau encourages all bicyclists to be aware that law enforcement authorities can (and do) strictly enforce the stop sign law, particularly in Virginia.

Multi-state lawyer and tri-athlete Doug Landau regularly represents injured cyclists throughout the east coast of the United States and enjoys racing and touring when not in court.



Cycling's Secret Paradise

Fintan McCormac

GET A GROUP OF CYCLISTS together and ask them what they love about their sport, and invariably there will be as many different opinions as there are cyclists. It is a sport, a hobby, a pastime, a mode of transport, and a tool for fitness, among many other things. Riding a bicycle is something we all learned to do as children. It is a rite of passage, and for many of us it was our first taste of freedom. Yet while so many people truly love the bike and love to ride, so many have never been to cycling's secret playground—the French Alps.

My pilgrimage to the Tour de France began as a young child growing up in Europe. Much like soccer, cycling was a part of our culture. I watched group rides whiz through my hometown on a regular basis, and I owned my first ten-speed by the time I was nine years old. However, it was not until I moved to the United States many years later that I would return to the Tour, specifically Alpe d'Huez in the French Alps and experience the place like never before.

The perfect secret was and is a small French village like no other—Villard-Reculas. Nestled at 5,500 feet on Alpe d'Huez Mountain, Villard-Reculas is a tiny secluded paradise, the sister village to Alpe d'Huez, yet the two share little in common. A sleepy place with barely 100 permanent residents, Villard-Reculas boasts the most impressive views of any location in the region. While Villard-Reculas is only a four-kilometer summer road from the famous 21 switchbacks and hustle and bustle of



Villard-Reculas is a cycling paradise for *Tour de France* enthusiasts.

the Alpe D'Huez ski resort, Villard-Reculas harkens back to an earlier vintage and retains that charm.

I fell in love with not only the village and its kind and generous people but with the entire Alpine region that has for more than 100 years seen the greatest battles of the Tour de France play out on its slopes. The climbs are legendary: Col du Glandon, Croix de Fer, Galibier, Les Deux Alpes, and Alpe d'Huez. What cyclist has not listened to Phil Liggett and Paul Sherwin announce those names as Lance Armstrong and his rivals attacked the peloton for seven consecutive years. For many, these "cols" are mythical places where cycling legends have done battle—Merckx, Indurain, Hinault, LeMond, Armstrong, Contador, and others have tested themselves through the brutal three weeks of the Tour de France, but they have suffered the most in these mountains.

Five years ago, I formed my company, Reilly Cycling Tours, and made Villard-Reculas our base. I had worked as a guide for another bicycle tour company and seen the different types of trips offered to Tour De France enthusiasts. Mediocre accommodations, sloppy food, and poorly prepared bike guides seemed to be the norm. The guests on these tours appeared to accept it. I knew a trip could be better organized, more affordable, and less hectic, thereby giving guests an opportunity to ride more and experience cycling's most prestigious stage race like the locals.

I was lucky to find Villard-Reculas, which had every famous Alpine climb within striking distance. I also found the most beautiful chalet nestled smack in the middle of the tiny town—*Il Fera Beau Demain* ("tomorrow the weather will be beautiful"). Our hosts Clara and Jan Scholtz met each other on Alpe d'Huez and returned to the mountain many years later to build their dream chalet.

The chalet also is home to the region's premier restaurant, *Bonsoir Clara*. In my opinion, Reilly Cycling Tours is unique because it provides not only the ultimate rider's experience but also the very best in food and accommodations. Our trips test your abilities but then reward you with a beautiful chef-prepared meal, wine, and a restful night.

If a Tour de France cycling trip is on your bucket list, yet doing it or affording it seem out of reach, we have the trip of your

dreams at cycling's perfect secret. Look us up on the web at www.reillycyclingtours.com and come along for the ride of your life.

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Cycling Sponsorships: Shifting Strategies

Robert Pratt

FOR YEARS, competitive cycling was largely unnoticed by mainstream America. To most Americans, competitive cycling was what you did if you were European and not good at skiing. That was a time when most people probably thought "Lance Armstrong" was the brother of a guy who walked on the moon and a "Tour" was something people wandered away from at museums.

But today, competitive cycling in the United States is more popular than ever. There are now large, multi-stage bike races in Missouri and California, and smaller competitions in other states. With the increasing popularity of cycling, more companies than ever should be pondering the question: "How can I use cycling to promote my business?"

One need only look at a cycling sponsorship success story in Virginia to find the answer. In 2007, a small cycling race called "The Baker's Dozen" began on a scenic piece of farmland in Leesburg, Virginia. Today, it has grown into one of the largest endurance cycling races in the mid-Atlantic region. When registration opened for 2010, the event was filled in less than an hour.

The driving force behind this expansion was the sponsorship of Plum Grove Cyclery, a high-end specialty bicycle shop located in Leesburg. In addition to the Baker's Dozen, Plum Grove Cyclery now sponsors three other races throughout the year: the "Snotcycle," the "Hotcycle," and "Speedfreaks." "What started out as a small project amongst some friends has grown into a broad, cost-effective marketing tool for the shop," said Tom Stokes, general manager of Plum Grove Cyclery. Plum Grove uses race sponsorship to increase its visibility and to invest in the store's future.

Cycling sponsorships also offer marketing potential to businesses outside the traditional bicycle industry such as food and beverage companies, clothing brands, nutritional products, and electronics companies. Cycling events tap into an important advertising demographic. Most of the people who compete in and watch the races sponsored by Plum Grove are professionals in their thirties and forties who have significant disposable income. The growing nature of the competitive cycling community in the United States makes now the perfect time to become involved. Cycling sponsorships today can provide a better bang for your buck than may be available three years from now as the popularity of cycling increases.

Cycling sponsorship is a flexible strategy that can work for companies of many sizes. For small businesses like Plum Grove, investing in local cycling events is a great strategy. Larger companies should consider sponsoring a cycling team that will travel to many areas and reach wider audiences. Even small financial commitments, such as partnering with organizers of cycling events to provide sample products or allow competitors to test new equipment at races, could be a great investment opportunity. "We're always interested in working with companies outside the bicycle industry to provide marketing opportunities that give greater value to event participants while still maintaining the intrinsic quality that makes our races so popular," said Stokes. For many businesses, now may be the time to shift gears and sponsor cycling.

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Cycling sponsorship is a flexible strategy that can work for companies of many sizes.



Past Is Prologue

Grant Mandsager

THE EARLY DECADES of last century witnessed the arrival of a new vehicle on the American landscape. Owned by passionate hobbyists, it was often ridiculed, if not vilified, by the communities it traveled through. Police officers issued citations to its operators premised on vague or non-existent laws. The transportation infrastructure, based on then-dominant modes of travel, was woefully inadequate to make full use of the new vehicle's unique characteristics. Sound familiar? Of course, I am describing the automobile, which in the 1910s and 20s was only a hobby vehicle, and its status as America's preferred transport was still a fantasy. Reading through contemporary accounts, the similarities with respect to cultural acceptance between the car then and the bike now are eerie.

Ultimately, in response to the myriad of legal challenges faced by motorists, a number of enthusiasts in the Northeast formed the Automobile Legal Association (ALA). From collected dues, the ALA funded the legal defense of its members for traffic violations. It also published an annual Green Book, containing turn-by-turn trip directions, touring tips, and an abstract of state automobile laws, as well as the monthly *Automobilist* magazine, which reported on road conditions and new laws. The ALA coupled its defensive strategy with a solid "offense": to improve the image and acceptance of the automobile by advocating the adoption of safety standards and encouraging members to report reckless driving. The concerted efforts of dedicated enthusiasts such as the ALA helped forge our automotive landscape.

We, as cyclists, should learn from studying the historical development of the car from hobby vehicle to garage favorite. Indeed, Mikael Colville-Andersen of Copenhagenize.com, in a presentation last year in Washington, D.C. on bike

culture and policies in Denmark, asserted that the cycling industry should learn to market itself like the car. The suggestion has a great deal of merit, as we have in many ways come full circle from 100 years ago. Due to congestion and urbanization, the bicycle is the optimum vehicle for many Americans. A vast majority of trips in this country are short enough that a bike is both faster and more efficient than a car. We have crossed the hump of a transportation Laffer curve, where adding more miles of auto roadways will actually increase, not decrease, congestion; it is called the Braess Paradox.

Additionally, interest in cycling is rapidly increasing. More trips are taken by bike than in the past decade. Thousands of miles of trails are being built. Sports enthusiast (racers, triathletes, cyclo-tourists) membership rolls are swelling. Communities are beginning to realize that spending on cycling infrastructure both costs less and produces a higher return than roadways. We stand on a mountain of potential that needs focus and direction.

Just as the ALA before it, the International Cycling Legal Association, composed of lawyers enthusiastic and passionate about cycling, can provide invaluable service to its members. While the needs of the cycling industry differ from those of the ALA's original membership, there is no shortage of legal issues facing cycling—from day-to-day issues to larger policy questions. This newsletter is an important first step to address those needs, complemented by a robust and resourceful website, educational programs, and an annual legal conference. Past truly is prologue, and now it is time to move on to the next stage.

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We, as cyclists, should learn from studying the historical development of the car from hobby vehicle to garage favorite.

Protecting Your Brand in Australia, continued from p. 3.

Claiming broad coverage will reduce the risk of needing additional trademark filings if your product range expands over time. A trademark owner must intend to use its trademark in relation to the goods and services specified in its application, but there is no requirement to file a declaration of use or intended use.

Trademark registrations in Australia do not become vulnerable to attack for non-use until five years after registration (if the mark has been unused for three continuous years), so there is a substantial period for maintaining a reasonable buffer for your brand without risk. This also provides time to obtain trademark protection well before commencing sales or promotional activities in Australia.

Recent Australian cases have shown that, even if your brand is well-established overseas, it will be difficult to protect it in Australia without a trademark registration or evidence of active trading in Australia.

Before filing, it is prudent to conduct availability searches. These searches should cover not only existing trademark applications and registrations but also use of unregistered marks. Searches for unregistered marks are important because a prior user could prevent your trademark gaining registration or, worse still, sue for passing off or under Australia's consumer protection laws.

Second, file a Customs notice

Brand protection should start at the border. Trademark owners can file a "Notice of Objection" with the Australian Customs Service which will empower Customs to seize unauthorized goods (for example, counterfeits). Your Notice should list current trademark registrations covering goods, and you must provide Customs with details of any authorized importers.

There are no official fees for lodging a Notice or for Customs to make seizures of authorized

goods. However, trademark owners must provide an undertaking to cover Customs' costs. The undertakings are rarely, if ever, called upon and are a measure to cover unusual circumstances such as extremely large seizures which lead to storage costs.

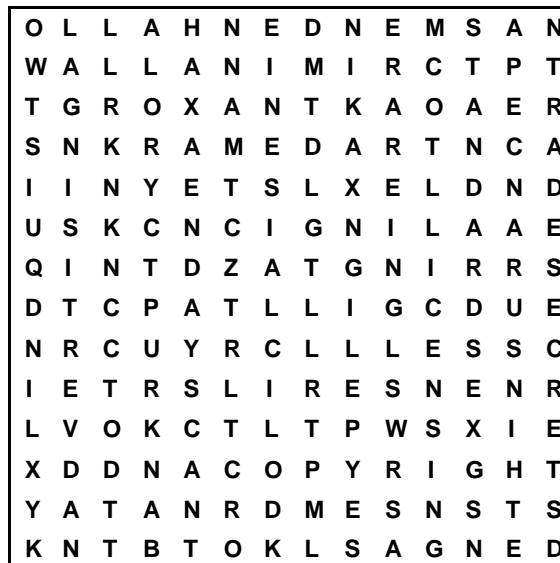
Notices of Objection can also be lodged in relation to copyright works, following a similar system.

Review your distribution and licensing agreements

Australian trademark law will not prevent parallel imports. That is, anyone who imports goods bearing a trademark applied with the trademark owner's consent will not infringe the relevant Australian trademark registration.

The value of any distributorship offered in Australia will partly depend on the extent to which you can assure the distributor exclusivity. For this reason, it is worth reviewing distribution arrangements in other countries to limit or remove the potential for on-shipping of parallel imports to Australia.

Liam Nankervis is a Senior Associate at Blake Dawson in Australia. Liam specializes in enforcing intellectual property rights in trademarks, including deceptive labeling and Internet domain name disputes. He can be reached at liam.nankervis@blakedawson.com.



Even if your brand is well-established overseas, it will be difficult to protect it in Australia without a trademark registration or evidence of active trading in Australia.

ICLA Word-Find

Can you find all of the legal issues involved in the cycling industry? Good luck!

- ICLA
- Trade Secrets
- Patent
- Licensing
- Copyright
- Trademark
- Advertising
- Customs
- Recalls
- Tax
- Insurance
- Bankruptcy
- Standards
- Tort
- Criminal Law

Product Recalls: Planning for the Worst While Hoping for the Best

Andrew Lewis

THERE'S AN OLD JOKE in which a man goes to a doctor and says, "Doctor it hurts when I do *this*." And the doctor replies, "Well, don't *do that*!" In a similar vein of humor, the best advice for dealing with product safety recalls might be: "Well, don't make a defective product!" Of course, no one *intends* to make or sell a defective product. However, the reality is that product safety recalls are part of every industry, including bicycle manufacturing. From manufacturers to retailers to the consumer, bicycle safety recalls affect the entire industry. When a dangerous product defect is discovered, manufacturers have to take steps to minimize liability and comply with the law.

In the United States, the Consumer Product Safety Commission (CPSC) helps manufacturers and retailers do this. The CPSC helps businesses notify as many affected consumers as quickly and inexpensively as possible.

The CPSC offers a variety of helpful tools and resources for businesses at www.cpsc.gov/businfo/corrective.html. Its "Recall Checklist" provides a simple list of things a company should do when it discovers a defective product. And the "Recall Handbook" describes what companies must do to comply with the law. The CPSC also has an Office of Compliance that gives guidance to companies. It can be reached at (301) 504-7913.

In addition, other countries and individual U.S. states and territories have their own important consumer safety agencies and regulations. Learning what regulations apply is not only an obligation; it is a vital business strategy.

In general, here's a run-down of how to prepare for the worst:

- **Prepare in advance.**

One of the most important things a company can do is to establish recall policies and procedures in advance. Waiting until the worst happens wastes valuable time. Establishing a policy in advance eliminates lag time and helps minimize liability.

- **Manufacturers: Plan to notify retailers.**

Manufacturers should work with retailers to establish methods for initiating a recall. A manufacturer should make sure its retailers have pre-established plans and policies for notifying consumers, blocking sales, and isolating inventory.

- **Retailers: Plan to isolate and identify.**

Retailers should have established policies for dealing with defective products. A retailer needs to be able to stop selling the defective product and use business records to identify customers who need to be notified.

Get Involved!



If you love cycling and are interested in law and policy, the ICLA welcomes your help and ideas to fulfill our mission to provide legal education, pro bono assistance, and advocacy. We are looking for lawyers to serve on webinar panels, write articles for publication in our newsletter, organize brown bag and other networking meetings, join local rides, and collaborate with each other to marry our passion and profession.

Similarly, we want cyclists and bicycle industry members to reach out to us for help. Are you concerned about a bicycle-related legal or policy issue? Let us know and we'll find you a lawyer or lobbyist to help. Do you want to learn more about product defects and recalls? Let us know and we'll connect you with a structural engineer. Maybe you or your organization need help on the legal aspects of sponsoring a race. The ICLA cannot give legal advice, but we can refer you to lawyers who will.

To get involved, send an email to ICLA Founder Eric Fingerhut at eric.fingerhut@cyclinglaw.org.