

A Winthrop & Weinstine blog dedicated to bridging the gap between legal & marketing types.

[Unauthorized Use Double Whammy?](#)

Posted on September 23, 2010 by [Susan Perera](#)

Always on the look out for interesting shopping finds, my husband snapped these photos of a product at a local Lands End store last week. I couldn't find the backpack on their website to get any further information about it but I do find this use of BMW pretty interesting.



We often see clothing and other merchandise bearing well-known marks but usually this involves a license agreement to use the mark. Even without inspecting this backpack first hand I'm guessing there is no license agreement here – unless, unbeknownst to me BMW has acquired rights in what appears to be the Dodge Viper.



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Furthermore, I would think a license agreement to use the BMW mark would involve the highly recognizable circular BMW logo, as shown here, rather than just the word mark.

So, if you are the owner of the Ultimate Driving Machine what is the greater offense – the unauthorized use of your mark, or the fact that the possible infringer is associating your mark with someone else’s product image?

