

Handlebar Maker Takes Justice Into Own Hands

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Toni "TJ" Carlini Jr. has been around hogs his whole life.

As the son of a chopper industry pioneer, Toni Carlini Sr., the junior Carlini has continued to create customized products for Harley Davidson owners.

"I've always been brought up thinking Harley Davidson was the coolest company in the world," Carlini said. "It's a sin to infuse inferior quality parts with a Harley Davidson."

So after discovering that knock-off handlebars of his own design and name were on the market, Carlini took matters into his own hands — literally.

Carlini sued the manufacturers, alleging that V-Twin, Tedd Cycle and Zoom Cycle had sold counterfeit handlebars between October 2004 and June 2005.

In October, he won a settlement ordering the three firms to halt production and destroy the remaining handlebars. *Carlini Enterprises v. V-Twin Manufacturing*, SACV 04-1299.

Defense lawyers did not return calls seeking comment.

The settlement is under protective order, but "the key objective was to stop these cheap bars from being out there," said Becky Christensen, an intellectual-property lawyer who represented Santa Ana-based Carlini Enterprises.

When the East Coast-based firms did not comply with destroying the handlebars, Carlini had them sent to California.

"The official plan was to drive a forklift over the handlebars, but then we realized we were going to ruin the forklift," Christensen said.

Carlini, whose father started Carlini Enterprises 30 years ago, decided to destroy the imitation SuperSweeps himself.

"I think it was good for him," said Christensen of O'Connor Christensen & McLaughlin in Irvine. "He has worked so hard to protect the Carlini name."

Though there is no law preventing it, a plaintiff personally destroying imitations is very unusual, said Jane Shay Wald, a trademark lawyer with Irell & Manella in Century City.

Though Carlini won his lawsuit and got the handlebars off the market, attor-

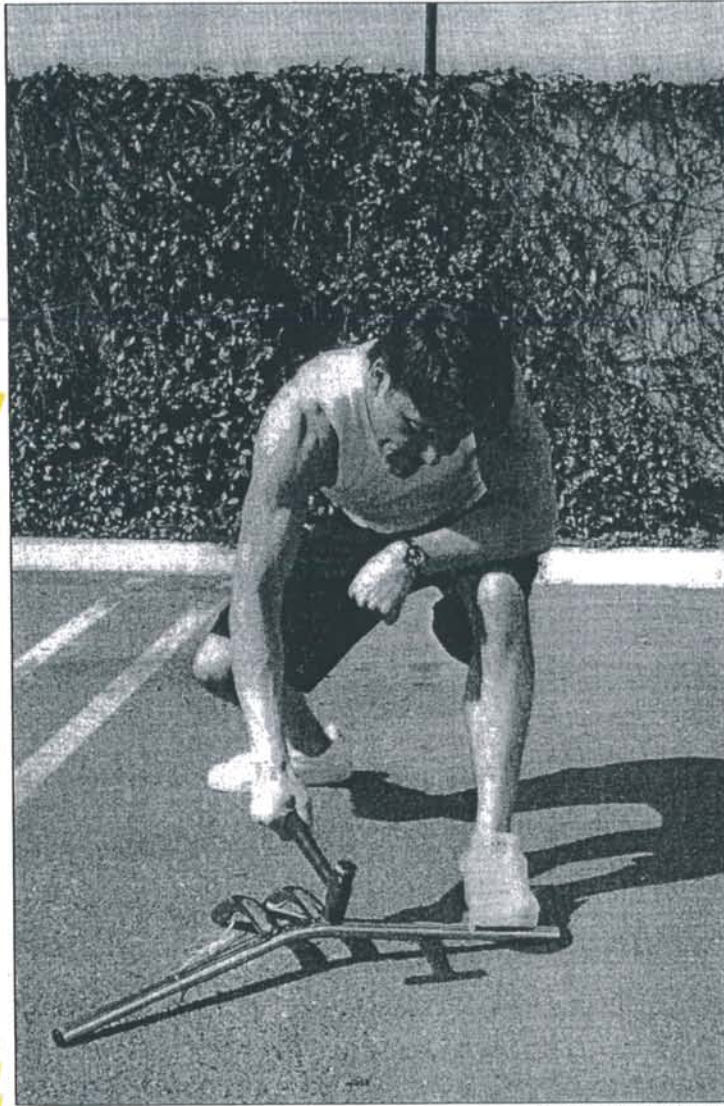


Photo courtesy of Carlini Enterprises

Toni "TJ" Carlini Jr. takes matters into his own hands, destroying counterfeit handlebars after he won a settlement against companies imitating his work.

neys say the marketing of knock-offs on the Internet and in dealership catalogues is an ongoing problem.

"Obviously the Internet is a preferred

method for counterfeiters," said Marc Gorelnik, a trademark and copyright attorney at Townsend and Townsend and Crew in San Francisco.

Gorelnik said the Internet has made the marketplace easier for counterfeiters because it's a cheap way to reach a lot of potential customers.

In the *Carlini* case, it was difficult for the Internet shopper to tell the difference between an imitation and the authentic SuperSweeps.

"It was about confusing the consumer," Christensen said.

Direct marketing to wholesale distributors is another channel for counterfeiters. This enables the imitation product to hit the retail market before the brand-name company can notice.

"It is in the interest of the counterfeit-er to blend in as much as possible," Gorelnik said.

But big-brand companies know the market and typically become aware of the imitations quickly. They notice when nondealers start offering the same goods or when a dealer complains to the manufacturer that a competitor is offering the same product at a cheaper price.

"Harley Davidson is a great brand," Gorelnik said. "A counterfeit is better off copying a known brand. The goal is to profit from the goodwill of the 'mark.'"

Carlini said his customer sincerely thought he had purchased a Carlini product, and came in to return it.

"I opened up the box, and immediately I could see," Carlini said. "And I gotta tell you, it hurt. There's a ton of passion about what I do. My name is on every handlebar."

"They were light, tinny, with shoddy welding," Christensen said. "Carlini's are really heavy, and you can't even see the welds. It turns out [the imitations] weren't even the right size."

On Jan. 31, three pallets of the imitation handlebars arrived at Carlini Enterprises. Lawyers for both sides were there to witness the destruction.

Carlini raised a hammer and, with a few friends and family members, began destroying the imitations, one by one.

"I just couldn't live another day with this lingering over my head," he said. "They looked at me like I was crazy because I was swinging this hammer for four hours with no break, but I didn't care."