

Cruisin' for a Bluesin': Timeless Titans Tangle Over Smart-Car Technology Brands

Update

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Two titans of the American automotive industry are locking horns over branding for automated driving technologies, underscoring the importance of brand clearance *before* marketing and selling a new product or technology. GM and its subsidiaries Cruise LLC and GM Cruise Holdings LLC filed suit last week in the Northern District of California alleging federal trademark infringement, common law trademark infringement, and state and federal unfair competition claims over Ford's use of the name BlueCruise.¹

GM acquired self- and automated-driving technology company Cruise LLC in 2016. GM and its subsidiaries own and use a variety of marks with a "cruise" word element for goods and services relating to automated driving technologies. The marks include CRUISE, SUPER CRUISE, CRUISE ORIGIN, and a variety of other CRUISE-containing monikers, with most being filed or registered in 2020. The earliest application for SUPER CRUISE was filed in 2016, and the earliest registration was issued in 2018.

Several years later, in April 2021, Ford announced the upcoming release of its BlueCruise technology, an evolution of its Co-Pilot360 technology. The new technology is considered to be an SAE Level 2 driver-assist technology similar to Tesla Autopilot.² However, Ford appears to have struggled to identify a strong brand for this technology. Although the BlueCruise technology has new aspects and features, it is similar to Ford's "Active Drive Assist," released in 2020 – not to be confused with Jeep's "Active Driving Assist" or BMW's "Active Driving Assistant." No pending applications or registered trademarks for BlueCruise have been filed with the USPTO.

GM alleges that it has developed a CRUISE brand associated with safety and reliability in the automated car industry over the course of several years and has devoted "many millions of dollars" developing goodwill.³ It also alleges that Ford chose the BlueCruise brand in "a brazen attempt to trade on [Cruise's]

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goodwill.”⁴ GM even took a swing at the technology, alleging Ford’s product is “far less advanced” and will likely lead to “an inferior consumer experience, with the potential for comfort and safety issues.”⁵

Of course, this is only one side of the story, and the litigation is in its infancy. But regardless of the outcome, this case serves as a warning for all businesses who are anxious to develop a brand in new technology fields. Avoid lawsuits and legal headaches by consistently establishing your brand, clearing any possible brand families, and applying for federal registration *before* you release your technology. And remember, while names *describing* your product such as “Active Drive Assist” may help consumers understand the product, these generic or descriptive taglines are weak brands under U.S. trademark law. Choosing an arbitrary or fanciful name and putting in the time for it to be recognized by consumers often pays long-term dividends.

Bracewell’s team of experienced lawyers is ready to assist you in your trademark and branding needs. If you have questions, please reach out to **Jonathon Hance** or any one of our well-versed trademark lawyers.

1. *Cruise LLC, GM Cruise Holdings LLC, and General Motors LLC v. Ford Motor Company*, Northern District of California, Compl. filed July 23, 2021, Case No. 3:21-CV-05685.

2. Ford Press Release, *Ford’s ‘Mother of All Road Trips’ Tests BlueCruise Hands-Free Driving Ahead of Over-The-Air Push to F-150, Mustang Mach-E* (April 14, 2021), <https://ford.to/3fav11l>, last visited July 29, 2021.

3. Compl., ¶ 23.

4. *Id.*, ¶ 59.

5. *Id.*, ¶ 50.