

Press Release

**MULCAHYREEVES WINS SIGNIFICANT RULING ON BEHALF OF ISUZU, PROVIDING A TEMPLATE FOR FRANCHISORS**

IRVINE, CA (October 9, 2007) – MulcahyReeves, LLP wins successful ruling for their client, American Isuzu Motors, Inc., (Isuzu), in *American Isuzu Motors, Inc. v. Fladeboe Volkswagen, Inc.*, decided by the Ninth Circuit Court on September 27, 2007. The Ninth Circuit ruling, was won on appeal, and made it clear that a dealer who believes that its franchisor has wrongfully withheld consent to a transfer may not simply proceed with the transfer, and that doing so will expose the dealer to liability to its franchisor for trademark infringement and related unfair competition claims.

"We are very pleased with the ruling, and the impact this will have for franchisors," stated Jim Mulcahy, attorney with MulcahyReeves, LLP.

In 2002, for tax reasons, Ray Fladeboe Lincoln Mercury ("RFLM") secretly transferred its Isuzu dealership to a related entity known as Fladeboe Volkswagen ("Fladeboe VW"). Fladeboe VW operated the dealership using the unique dealer code assigned to RFLM. Because of deadlines related to the tax issues, RFLM transferred the dealership without first obtaining Isuzu's consent. When Isuzu learned of the secret transfer, Isuzu, represented by MulcahyReeves, sued Fladeboe VW for trademark infringement and related torts.

Fladeboe VW argued to the district court that Isuzu unreasonably withheld consent to the transfer, and that this alleged conduct provided it with a defense to Isuzu's claims. Isuzu filed motions in limine to prevent the introduction of any purported evidence that Isuzu unreasonably withheld consent to the transfer, on the grounds that any such "evidence" was irrelevant to the issue of whether or not Fladeboe VW infringed Isuzu's trademarks. The district court granted the motions. After a jury trial, Isuzu won an award of \$375,000.

On appeal, Fladeboe VW contended that the district court erred in granting the motions in limine. Isuzu, represented by MulcahyReeves on appeal as well, countered that the dispute between Fladeboe VW and Isuzu with respect to the transfer of the Isuzu dealership did not provide Fladeboe VW a defense to trademark infringement and Isuzu's other claims, and that purported evidence of any allegedly unreasonable withholding of consent by Isuzu was therefore irrelevant to Isuzu's claims. The Ninth Circuit agreed and affirmed the award in full.

**About The Firm**

The firm was founded in 2001 by Jim Mulcahy after many years as a lawyer in private practice and as General Counsel for a \$2 billion corporation. MulcahyReeves counsels national clients on all aspects of franchise and distribution issues with an eye toward minimizing the risk of future litigation. They are experienced litigators of intellectual property claims, and additional claims, which frequently arise in the context of franchise and distribution disputes, with a unique approach in resolving conflicts creatively and, if necessary, aggressively, and relying on their experience as trial lawyers, not just litigators. You may view their website :

[www.mulcahyreeves.com](http://www.mulcahyreeves.com).