

Orange County

Court Ruling Ends Boat Show Battle

A promoter who staged his first show in 1973 wins an injunction to keep a competitor from using his Newport Beach Boat Show name.

By DAVID REYES
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In the crowded waters of Newport Beach, there's apparently not enough room for more than one boat show named after the yacht-dotted harbor.

So when one of Duncan McIntosh's competitors prepared to stage a boat show this year with a name that sounded remarkably similar to his long-running Newport Beach Boat Show, he successfully sued for trademark infringement.

Last month, U.S. District Judge Alicemarie H. Stotler issued a preliminary injunction against the newer show's promoters, the Newport Beach Dunes Resort and Marina and the Southern California Marine Assn., who had planned to call the event they are staging the Newport Beach Boat Show at the Dunes.

"Imagine someone wanting to hold a parade in Pasadena a few days before New Year's and call-

ing it the 'Tournament of Rose Petals Parade,' and you tell me how tournament people would feel," said McIntosh's attorney, Konrad Trope. "Duncan's boat show is an institution."

Although not as large as shows in Miami and New York, this year's Newport Beach Boat Show has about 300 boats and displays and is expected to draw 10,000 visitors, making it the largest "in-the-water" venue on the West Coast. It runs Wednesday through Sunday at Lido Marina Village.

Under the judge's order, McIntosh's competitors have had to redo their marketing and advertising using a name that doesn't infringe on his trademark. Already, it has cost them \$60,000, said their attorney, who considers the judge's decision a partial victory because his client can still put on a boat show.

"The primary [legal] relief was to shut our show down, and they didn't succeed," said Paul Marron, who represented the marine association, a nonprofit organization that promotes boating. "We feel that this is a tremendous victory for competition."

The Dunes' new event is called SCMA's 2004 Boat Show at the Dunes in Newport Beach and must carry a disclaimer on its website and its advertising that states it is not associated

with McIntosh's company. The Dunes show runs April 28 through May 2.

Boat shows are the bread and butter of boat manufacturers and retailers, akin to annual car shows for the automobile industry.

In-the-water venues offer customers the added advantage of seeing the boat in the water, rather than under fluorescent lighting.

"These boat shows are huge for manufacturers and retailers," said Brexon Nichols, a salesman at Boat City Yachts in Newport Beach, who was familiar with both the Newport boat show and Duncan McIntosh. "They're boosts for new boat sales, where about 60% to 70% of sales come from."

The shows are also economically important for boating's huge accessories industry, said Joe Braun with West Marine Inc. in Watsonville.

"When we go to a boat show, we're just one of maybe 400 different vendors. We don't make boats, but we have nearly 70,000 items in our sales catalog we sell for boats," Braun said.

McIntosh, who lives in Newport Beach, helped pioneer in-the-water shows, holding his first in 1973 in Newport Beach, when he had a boat dealership. He also produces the Lido Yacht Expo, now in its 26th year.



CALMER WATERS: Duncan McIntosh, aboard a yacht at the Lido Marina Village in Newport Beach. His and other shows are to the boat world what auto shows are to the automotive world.

McIntosh also publishes two magazines, *Sea*, for aficionados of luxury boats, and *Go Boating*, aimed at family boaters.

McIntosh's company charges boat-builders and retailers a display fee, and the public a \$10 admission to the Newport show. The company earned \$5 million from the show in a 10-year period from 1993 to 2003, according to court documents.

For the last 11 years, McIntosh had produced the Newport

Boat show every spring at the Dunes marina in Newport Bay. But last September, he and the Dunes severed their relationship and the Dunes asked him which dates would be best for holding the annual show, he said.

McIntosh said the marine association then held a news conference at which the Dunes announced it had awarded the show to the marine group.

"Not only did they knock off our name," McIntosh said, "but

to add insult to injury, they had asked us when to have the show, and they gave SCMA those dates."

"I'm 62 now, and I've spent half my life doing these boat shows in Newport Beach," McIntosh said. "But we became concerned over the amount of confusion they were causing. My reputation and our pride was at stake, and when you trample over something like that you have to do something."

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