



Resent-From: Paul Forrest Hickman <paul@archive.org>
From: Suzanne Shell <dsshell@ix.netcom.com>
Subject: **[info] copyright infringement notice and demand**
Date: December 12, 2005 12:46:44 PM PST
Resent-To: molly Astrid Bragg <astrid@archive.org>
To: info@archive.org
Reply-To: dsshell@ix.netcom.com
 1 Attachment, 59.0 KB 

copyright infringement notice and demand attached.

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Suzanne Shell
Director, American Family Advocacy Center
Author: Profane Justice
<http://www.profane-justice.org>

Internet Archive Copyright Agent
Internet Archive
Presidio of San Francisco
P.O. Box 29244
San Francisco, CA 94129
Phone: 415-561-6767
Email: info@archive.org

The Internet Archive respects the intellectual property rights and other proprietary rights of others. The Internet Archive may, in appropriate circumstances and at its discretion, remove certain content or disable access to content that appears to infringe the copyright or other intellectual property rights of others. If you believe that your copyright has been violated by material available through the Internet Archive, please provide the Internet Archive Copyright Agent with the following information:

Identification of the copyrighted work that you claim has been infringed;

www.profane-justice.org and aliases

An exact description of where the material about which you complain is located within the Internet Archive collections;

http://web.archive.org/web/*/http://www.profane-justice.org constituting approximately 86 copies of this entire website over a period of 6 years, which are comprised of numerous html pages, documents and pdf documents. You have copied, stored and displayed hundreds of pages of my intellectual property without my permission and without paying license fees.

Your address, telephone number, and email address;

**Suzanne Shell
14053 Eastonville Rd, Elbert, CO 80106
719-749-2971**

A statement by you that you have a good-faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law;

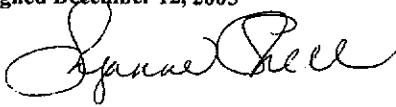
I am the copyright owner. This website is registered with the U.S. copyright office. This website has a clearly posted copyright notice and terms including the intention to generate income. You have failed to seek permission or pay license fees for copying, storing and displaying this property. You have violated the posted copyright terms by copying and displaying information for free that I charge fees for. I intend to sue you for actual and/or statutory damages. There are additional liabilities incurred relating to third party misuse of this property for the purposes of perpetrating civil rights violations against readers of the website which I have taken steps to prevent and which you have circumvented.

A statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the owner of the copyright interest involved or are authorized to act on behalf of that owner; and

I affirm under the penalty of perjury that the information provided herein is accurate and that I am the owner of the copyright to the intellectual property described above.

Your electronic or physical signature.

Signed December 12, 2005

A handwritten signature in cursive script, appearing to read "James Hill".

I am demanding a settlement of this infringement claim within 10 days or I will seek all available legal remedies. I suggest you review my copyright notice/security agreement in order to assess your liability. There is NO ambiguity about what rights are authorized.

Date: Wed, 14 Dec 2005 19:56:40 -0700
From: Suzanne Shell <dsshell@ix.netcom.com>
Reply-To: dsshell@ix.netcom.com
To: Paul Forrest Hickman <paul@archive.org>
References: <439DE1B4.9030401@ix.netcom.com> <43A0A008.4080002@archive.org>

Thank you for your prompt response, however I will point out that I demanded a settlement on this infringement. This is an offer to settle prior to litigation. I want to know how many hits came to my webpage on your your site and who accessed my pages and what pages & documents were accessed and how many times each was accessed. I know you are already being/have been sued for copyright infringement and I also intend to sue for same unless we can agree to terms of settlement by the deadline I sent in my prior letter. I will remind you that this website is registered with the copyright office and I can seek statutory damages based on willful infringement. My copyright notice is unambiguous and properly displayed with clearly defined limitations on use. I have met all conditions and I anticipate a summary judgement in my favor if I do file. Please, take that into consideration, along with attorney fees to defend, when making your offer. Thank you.

Paul Forrest Hickman wrote:

Hello Suzanne,

Your site has now been excluded from the Wayback Machine. If you have any other questions or concerns, please let me know.

Paul Forrest Hickman
Office Manager
Internet Archive
www.archive.org

Suzanne Shell wrote:

copyright infringement notice and demand attached.

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Suzanne Shell
Director, American Family Advocacy Center
Author: Profane Justice
<http://www.profane-justice.org>

From: Suzanne Shell <dsshell@ix.netcom.com>
Subject: **Re: [Fwd: Re: [Info] copyright infringement notice and demand]**
Date: December 17, 2005 10:29:40 AM PST
To: Molly Astrid Bragg <astrid@archive.org>
Reply-To: dsshell@ix.netcom.com

Dear Ms. Bragg

I appreciate your position regarding fair use, however I am prepared to argue that any fair use defense must be predicated by the purchase of the original property from which the copies were produced and/or displayed for education or research purposes. My website had a clearly published license fee for copying to ANY medium, and you did not attempt to seek a waiver of that fee nor negotiate a reduction of the fee nor seek permission in any form to steal the copies that you placed on your website - regardless of whether those copies were made available for public access, viewing and copying. I am a published author. No library or school can STEAL a copy of my book from my warehouse and then engage in "fair use" from the stolen copy and hope to achieve immunity for that use. Libraries and schools purchase the original book and then use it for their educational or other fair use purposes. You did not do that. You stole a copy of my ENTIRE website and made it available under conditions which cost me the income it was intended to generate.

It will be my argument that you

1. Trespassed into my server (trespass to chattel) located in El Paso County, Colorado and
2. Stole my intellectual property (civil theft/conversion) for your use without paying the published license fee for obtaining that original copy, and without contacting me to negotiate a license fee reduction or waiver. This is prima facie bad faith.
3. This resulted in a significant loss of income re: the sale of the original copy. In other words, you deprived me of the benefit and use of that property, and infringed my exclusive rights under my copyright. Under the Colorado civil theft statute, this entitles me to triple damages, court costs and attorney fees.

Additionally, I am entitled to sue anyone who accessed my pages on your website and copied them and sue them for copyright infringement also. That is why I demanded the information relating to that access, which you have declined to provide. I reiterate that demand now.

Molly Astrid Bragg wrote:

Hello,

The Internet Archive is a 501(c)(3) public nonprofit that was founded to build an Internet library, with the purpose of offering permanent access for researchers, historians, scholars and the public to historical collections that exist in digital format. The Internet Archive is working to prevent the Internet—a new medium with major historical significance—and other "born-digital" materials from disappearing into the past. Collaborating with institutions, including the Library of Congress and the Smithsonian, we are working to preserve a record for generations to come. The Internet Archive believes that its activities are a "fair use" under the Copyright Act.

As a non-profit the Internet Archive is not capable of settling monetarily if that is what you are referring to. We believe that we have satisfied your request to remove the material from the Wayback Machine although we do not believe we had a legal obligation to do so. If there is additional data archived on a different web site belonging to you, please let us know and we can exclude that as well per our policies.

Regards,
molly

Molly Astrid Bragg
Project Coordinator
Internet Archive

----- Original Message -----

Subject: Re: [Info] copyright infringement notice and demand

From: Suzanne Shell <dsshell@ix.netcom.com>
Subject: **Re: [Fwd: Re: [info] copyright infringement notice and demand]**
Date: January 8, 2006 11:49:11 AM PST
To: Molly Astrid Bragg <astrid@archive.org>
Reply-To: dsshell@ix.netcom.com

Dear Ms. Astrid Bragg

You asked what I want from Internet Archive in addition to removing my pages. I want to be paid the published rate for the property you copied and published without purchasing it. My web site is intended to generate income. You stole my property and made that content available to the public for free.

However, realizing the great expense of the actual published license fees associated with your theft of my property, I am willing to negotiate a settlement in lieu of filing a lawsuit for civil theft/conversion (triple damages, costs and fees) , copyright infringement (I will cite your unclean hands in acquiring the original copies to preclude any fair use immunities you might claim) and possibly RICO (also triple damages, costs and fees - you did harm my business & I can cite wire fraud and multiple acts of criminal copyright infringement as predicate acts and there are multiple victims of this scheme in various states).

I will settle for \$100,000.00 before Jan. 20, 2006. This is a minute fraction of my actual damages, not even counting triple damages. BTW - before I contacted you, I copied what you had stolen. I will be able to cite actual damages, based on what you published, of well over a few million dollars. This offer will be withdrawn at noon Mountain time on Jan, 20, 2006.

Molly Astrid Bragg wrote:

Hello,

Thank you for your message. Because I am not personally in a position to evaluate your legal claims, I have forwarded your email to our outside counsel. Unfortunately, our outside counsel is out of the office until January 1. I will get back to you with a more detailed response after I have had a chance to discuss this situation with counsel. In the meantime, it would be really helpful to know exactly what it is that you want from Internet Archive in addition to taking down your content (which we have already done), as it will help us to fully assess your claim.

Regards,
Molly

Molly Astrid Bragg
Project Coordinator
Internet Archive

On Dec 17, 2005, at 10:29 AM, Suzanne Shell wrote:

Dear Ms. Bragg

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It will be my argument that you

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Project Coordinator
Internet Archive

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Date: Wed, 14 Dec 2005 19:56:40 -0700

From: Suzanne Shell <dsshell@ix.netcom.com>

Reply-To: dsshell@ix.netcom.com

To: Paul Forrest Hickman <paul@archive.org>

References: <439DE1B4.9030401@ix.netcom.com> <43A0A008.4080002@archive.org>

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