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December 19, 2007

**This Communication Is Protected By All Settlement Privileges**

Theodore J. Minch  
Sovich Minch, LLP  
10099 Chesapeake Dr., Ste. 100  
McCordsville, IN 46055

Re: *Nerds on Call, Inc. v. Internet Billing Services, Inc., et al.*

Dear Mr. Minch:

This responds to your letter dated December 14, 2007 to Mr. Jonathan Polak.

By now you have been electronically served with Nerds On Call's answer and counterclaims to your client's complaint. That filing should suffice as Nerds On Call's response to your suggestion that the lawsuit you filed in Indiana should simply be dismissed. The more direct response is that we reject your suggestion and expect your opposition to our motion to dismiss be filed as promised on or before December 21, 2007.

All previous settlement offers made by Nerds On Call are rescinded—they being, in any event, not “reasonable” according to your letter.

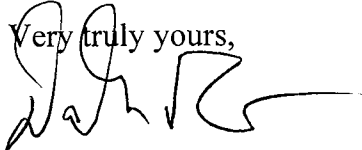
Your decisions to file this lawsuit in Indiana and then to pursue it without any bases in personal jurisdiction law or trademark law has caused my client to spend a considerable amount of money in unnecessary attorneys' fees. The only alternatives to continued litigation are for your client to dismiss its lawsuit, and all of its claims, with prejudice or to dismiss without prejudice and to pay my client the \$12,000 in attorneys' fees it has spent defending this case to date.<sup>1</sup> In short, your client does not get to haul mine into a foreign

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<sup>1</sup> See 28 U.S.C. section 1927 and 15 U.S.C. section 1117 for the law regarding the award of attorneys' fees for vexatious litigation and the following controlling case law on point: *Dal Pozzo v. Basic Mach. Co., Inc.*, 463 F.3d 609, 614 (7th Cir. 2006) (standard for recovery under 28 U.S.C. section 1927); *The Jolly Group, Ltd. v. Medline Indus., Inc.*, 435 F.3d 717, 720 (7th Cir. 2006) (same); *Te-Ta-Ma Truth v. World Church of the Creator*, 392 F.3d 248, 261-63 (7th Cir. 2004) (standard for defendants' recovery under the Lanham Act).

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court on claims you knew were baseless and then walk away with no detriment. I respectfully suggest that your client seriously consider one of the two settlement options offered. Please respond to me directly and carbon copy Mr. Polak.

Very truly yours,  
  
Daniel N. Ballard

DNB  
cc: Jonathan Polak, Esq. (jpolak@sommerbarnard.com)

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