

APPENDIX A

EXHIBIT 1

Re: Lulu launches a Billion dollar lawsuit against Newscorp trying t...

Subject: Re: Lulu launches a Billion dollar lawsuit against Newscorp trying to steal its Intellectual Property.
From: Bob Young <rfy@lulu.com>
Date: Wed, 29 Aug 2007 22:21:08 -0400
To: gart davis <gart@lulu.com>
CC: Chris Dean <cdean@lulu.com>, "Bob Young (E-mail)" <bob@lulu.com>

While I'm very interested in what our counsel counsel, my bias is:

1. cease letter and suit with PR, together. I believe these guys are big enough, with enough in-house lawyers, to have researched the issues around using Hulu and they believe they are legally safe. We need to show them that even if they are legally safe, they are not on very strong moral ground. The only way to win our case (and cause them enough pain fast enough) in the court of public opinion.

2. other...

We cannot "threaten" a lawsuit. It is actually illegal to do so.

The alternative is:

1. cease letter and private direct campaign to get them to cease.
2. suit and PR if they do not respond to 1. promptly.

Unless we want to do something tongue in cheek, such as:

1. cease letter and
"Lulu launches largest-ever small claims court action."
"Lulu.com has taken Newscorp and NBC to small claims court in Wake County, NC, for 300,000 claims of \$1,000 each on behalf of each of Lulu's 300,000 published authors, or a total value of \$300,000,000.00"

2. other...

But PR only works if we launch the suit. It is the suit that makes the story newsworthy.

And there are some legal advantages to launching the suit early. If Newscorp believes we are about to launch a suit they can take legal defensive actions that would make our action more difficult. But we'll learn more tomorrow.

Cheers, Bob.

gart davis wrote:

Chris and Bob,

What are our goals with this effort?

This timeline (Cease letter, pause for response, then suit and press release if necessary) absolutely satisfies the goal of defending the trademark and maximizing the chance that NewsCorp will quietly disannouce their non-site.

Re: Lulu launches a Billion dollar lawsuit against Newscorp trying t...

If we swizzle the order: (cease letter, press release threatening suit, PR push with many interviews, pause, lawsuit if necessary) we force the opposition to defend a weak position or lose face. Should they aggressively defend, we stand to benefit from a lingering spotlight on righteous spunky little Lulu fighting it out with Bad Mr. Big. Since 99% of news on trademark stuff is boring (big guy beats up little guy... again, e.g. "Barbie comes out swinging", a headline from yesterday) this reversal might sustain journalist's interest. If our legal counsel advises us that the NewsCorp guys have absolutely made a mistake with hulu, perhaps it makes sense to defend our trademark and promote what it stands for at the same time. Gart

Chris Dean wrote:

Bob & Gart -

As I read your release and I keep reflecting, a few things come to mind:

- I think we are as good as any website on the net when it comes to policing licensed content off our site. we are always vigorous on searching and removing on lulu.com and .tv - with comments like yours below Bob, we need to be sure nothing sneaks by.
- last month in the branding talks we spoke on continuing our diligence that when we use the lulu brand, we always use it consistently. whether that be lulu.com, on print on demand.com, globally and on lulu.tv etc. i found it interesting that even the text type on hulu was similar to our core brand. we have worked hard to protect and trademark our core marks. i think continuing to roll it out consistently as per plan is a good thing.
- i presume we need to send a clear cease letter and then wait for the response. once that happens, if they do not see that this will hurt the clarity of our brand in the USG and Licensed content space, then we follow with whatever legal action/announcement. I will be curious what legal advises.
- hulu is in both the USG and licensed content space. so are we. Our Getty, Universal Press, Collegiate Images type deals hopefully will showcase to Fox and NBC that we are engaged in a similar joint space.
- The CEO being from Amazon takes away any excuse they have for not being aware of Lulu. If there is a company on the net clearly aware of our efforts, they are it.

Anyway, an interesting day to be sure. Interesting that the CNN Money writer saw the name confusion within hours of the launch.

Hope you both are having a good night

Chris

Bob Young wrote:

Chris and Gart,

Don't pass this around to anyone who might over-react.

But I wanted to start you thinking about the approach we could take tomorrow to get the point across that we are determined to protect our market position.

Cheers, Bob.

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Re: Lulu launches a Billion dollar lawsuit against Newscorp trying t...

Press Release.

Dateline: Raleigh, NC.

Title: Lulu.com launches Billion Dollar suit against Newscorp and NBC for IP theft.

Fast growing Lulu Enterprises, Inc, a successful user-generated content marketplace and already among the 2,000 most popular websites on the global Internet, is suing Newscorp and NBC for intentionally and maliciously attempting to confuse the marketplace for digital content on the Internet.

"The whole point of trademark law is to protect consumers from immoral businessmen who attempt to confuse consumers for their own selfish benefit." Said Bob Young, Founder and CEO of Lulu. He went on "I'm astounded that reputable content publishers Newscorp and NBC, who publicly worry about others illegally using their copyrighted content, would be involved in such a cavalier and self-serving attempt to confuse Lulu's millions of enthusiastic users with such a blatant encroachment on Lulu's well-respected trademarks."

Young was referring to Newscorp and NBC yesterday jointly announcing a competing user-generated content website they have named hulu.com.

Lulu is...