

# WARGA PROFESSIONAL CORPORATION

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*Barristers / Solicitors / Notary Public*

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Date: February 24, 2010

TO:

Jeff Stanger  
PO Box 78306  
Indianapolis, IN 46268

and

Brian Groce  
PO Box 78306  
Indianapolis, Indiana 46268  
USA

And

Utter Oddcast  
c/o: Surge Bucket Media, LLC  
212 West 10th Street, Suite B-310  
Indianapolis, Indiana 46202-5416  
U.S.A.

**Requires Immediate Reply**

Dear Sir:

**Re: Notice of Infringement of Naked News trademarks**

We represent eGalaxy Multimedia Inc. ("eGalaxy") with respect to intellectual property matters. eGalaxy is the owner of the famous registered trademark "NAKED NEWS®" in the United States European Union, Australia, Canada, and in twenty (20) other countries worldwide. See for example. [www.nakednews.com](http://www.nakednews.com), [www.nakednews.co.jp](http://www.nakednews.co.jp), [www.nakednews.it](http://www.nakednews.it)

You can easily verify our trademarks by searching the USPTO records online.

Naked News also appears on television in the U.S. Canada, UK, Australia, Japan and elsewhere.

This firm has been retained to take legal action against all parties and the individuals directing any corporate entities to violate and abuse my client's trademarks.

It has recently come to our client's attention that you intentionally violating our clients mark by using my client;s mark "Naked News" in a manner confusing to the public on your website [www.utteroddcast.com](http://www.utteroddcast.com).

You are causing actual and potential confusion and the erroneous belief that such "Naked News" is associated with, or licensed, sponsored, or authorized by our client. As "Naked News" is a world famous mark, we conclude your infringement was intentional, which of course increases the measure of damages to be awarded.

Your actions constitute a violation of local trademark laws and of *The U.S. Federal Trademark Dilution Act of 1995*, **which protects famous marks (registered or unregistered)** from uses that dilute their distinctiveness, even in the absence of any likelihood of confusion or competition. This Act specifies that if the defendant willfully intended to trade on the owner's reputation or to cause dilution of the famous mark, the owner of that mark may also be entitled to other remedies available under the United States Trademark Act, including defendant's profits, damages, attorneys' fees, and destruction of the infringing goods.

eGalaxy formulated the production of the NAKED NEWS® program in the summer of 1998, began *beta* testing since at least as early as May 1999 and launched its first version of the NAKED NEWS® program on the Internet in December 1999. The NAKED NEWS® trademark is used by eGalaxy in association with NakedNews.com, *Naked News TV!* television series, merchandising and pre-recorded mdia products.

Our client has invested substantial time and capital in the mark to build a large international customer base which associates the NAKED NEWS® mark with the high quality of services offered on the Internet, television and on branded consumer products.

We submit that NAKED NEWS and NAKED NEWS TV are famous marks. Therefore, our client contends that your activities constitute trade mark infringement, copyright infringement, unjust enrichment, unfair competition and exploitation of the NAKED NEWS mark insofar as your company is permitting the NAKED NEWS mark to be used in associated with the explicit "pornographic" material offered at the Site. These acts of dilution and unfair competition substantially interfere with the merchandising and licensing of the NAKED NEWS mark.

This letter puts you on notice that our client owns the exclusive rights to the use of its valuable mark, NAKED NEWS and violation of our copyrights. Any use of the name from this date forward constitutes trademark infringement and would give rise to a cause of action under the *Cyberpiracy Prevention Act* or otherwise. Further, having been notified of the existence of our client's mark, any continued use of our client's mark or any mark confusingly similar thereto, could establish willful trade mark infringement or bad faith trade mark use, wherein the measure of damages can include exemplary damages in addition to actual damages.

Evidence of the use to which you have put the materials have been downloaded and saved onto disk and shall, by independent agent, be dated and stored. The evidence will then be used against you in the Court proceedings.

Please be advised that our client will aggressively protect the proprietary copyright and trade mark rights secured to it by law. The purpose of this letter therefore, is to demand that you immediately cease and desist from the use of our mark and content on the Site, which dilute or otherwise infringes our client's mark and copyright.

Our client has suffered and continues to suffer damages financially and to its goodwill and reputation.

**We demand that within 24 hours of the date of this notice letter you provide this firm with formal written confirmation of your decision to cease the use of our trademark in all places including printed materials, blogs, websites etc.**

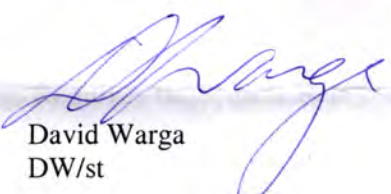
If you are making money from the use of my client's mark my client will seek full compensation and punitive damages. This will require, in addition our Court Action, that we subpoena all of the records of your sites, advertisers, processors, ISP provider, co-conspirators, and banker, for purposes of establishing the damages that my client suffered.

This letter is not a complete statement of the violations committed nor of our client's rights in connection with this matter, and nothing contained herein constitutes an express or implied waiver of any of our rights, remedies, or defences in connection with this matter, all of which are expressly reserved.

Govern yourself accordingly, as no further notice will be sent to you and we will be continually monitoring this our violations of our client's mark.

Should you remedy this violation and be found to be part of another, you will be prosecuted without notice.

**WARGA PROFESSIONAL CORPORATION**

  
David Warga  
DW/st