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Via Email

February 26, 2010

Ryan Waggoner
mail@ryanwaggoner.com

Re: PRManna and prmanna.com

Dear Mr. Waggoner:

We write to bring to your attention our concern about a domain name and website that you recently created, registered, and/or operated, and the content thereof.

Please be advised that we represent Peter Shankman ("Mr. Shankman") and Two Cats and a Cup of Coffee, LLC, ("Two Cats") a New York Limited Liability Company, which is the owner and operator of the websites at the domains <HelpAReporter.com> and <ReporterSource.com> in addition to others and related intellectual property assets, including the trademarks *HelpAReporterOut*TM and *HARO*TM, related trade names, and the copyrighted material contained on the website associated with the domains ("HARO"). Mr. Shankman is the founder and sole owner of Two Cats and has been deeply involved in both operating and promoting the company from the very beginning. Two Cats and its predecessor have operated such businesses since the Spring of 2008 and Mr. Shankman and Two Cats have built up substantial name recognition world-wide. A patent application, filed on March 2009, is pending with the United States Patent and Trademark Office. Your website did not begin operating until February 2010 at the earliest.

The following recitation and analysis of fact and law is solely for the purposes of the discussion and negotiation of a potential settlement and shall not be construed to be an admission of any facts or legal conclusions. This letter is not a delineation of all of the positions, claims, rights, remedies, or defenses of our clients or of all of the facts involved, and nothing contained herein shall be deemed to limit any of our clients' rights or remedies, all of which are expressly reserved.

We believe that you have registered the domain name <prmanna.com>. A review of your site indicates that you have copied the content of our client's website, thus infringing our client's copyright in material created by it for its website. Notably, you even reference our client's website, and acknowledge that your website and content are "inspired" by Mr. Shankman's service.

NYDOCS1-940202.1

New York ■ Greenwich ■ Newark ■ Philadelphia ■ Washington, D.C.

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It is our understanding that by operating under the name *prmana.com* and *PRManna* you are engaged in the same business as our client – namely providing an online mechanism for reporters and other media members to obtain information for stories that they are working on from sources. You are improperly misappropriating the look and feel of Two Cats' website, causing confusion in the marketplace, and thus infringing upon Two Cats' goodwill and trademarks, trade names, and service marks. Further, you have unlawfully copied material created by Two Cats.

Not only does a simple Google search reveal Two Cats' substantial usage of HARO name and mark, but your statements on your own website acknowledging the similarity to HARO and your comments to blogs and on-line articles, including <http://www.readwriteweb.com/start/2010/02/prmana-tech-focussed-haro.php>, regarding HARO substantiates your infringement.

We also believe you have engaged in trade dress infringement under New York state law because you have acted in "the bad faith misappropriation of the labors and expenditures of another...." Forschner Group, Inc. v. Arrow Trading Co., Inc., 124 F.3d 402, 408 (2d Cir. 1997) (quoting Jeffrey Milstein, Inc. v. Greger, Lawlor, Roth, Inc., 58 F.3d 27, 34 (2d Cir. 1995)). The strength of a particular trade dress encompasses the totality of the product in the relevant commercial context. A trade dress such as that of our client's is strong because it possesses characteristics that closely associate its product with a specific source in the eyes of the public. Sports Auth. v. Prime Hospitality Corp., 89 F.3d 955, 960-61 (2d Cir.1996).

Such unfair trade and deceptive acts/practices are actionable at law. Deceptive acts or practices are expressly prohibited by Section 349 of New York's General Business Law. That statute declares as unlawful "deceptive acts and practices in the conduct of any business, trade or commerce or in the furnishing of any service in this state....". N.Y. Gen. Bus. L. 349. Subsection (h) of the statute creates a private cause of action for any person who has been injured by reason of any violation of the act. Id.

In addition to the foregoing, you are capitalizing on Mr. Shankman's name and likeness in violation of section 51 of the New York Civil Rights Law, which "create[s] a cause of action in favor of '[a]ny person whose name, portrait, picture or voice is used within this state for advertising purposes or for the purposes of trade without ... written consent.'" Molina v. Phoenix Sound Inc., 297 A.D.2d 595, 596, 747 N.Y.S.2d 227, 229 (1st Dep't 2002) (quoting Civil Rights Law § 51). A party can seek relief under section 51 if he or she can demonstrate "(i) usage of [his or her] name, portrait, picture, or voice, (ii) within the state of New York, (iii) for purposes of advertising or trade, (iv) without [his or her] written consent." 297 A.D.2d at 597, 747 N.Y.S.2d at 230.

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Clearly, each of these four elements are present here. First, you are using Mr. Shankman's name on your website.¹ Second, the website is available for view within the state of New York. As the Molina Court explained when it found that an advertisement on a website was within the state of New York: "Today, it cannot be disputed that an internet website simultaneously exhibits images both globally and locally. Therefore, while plaintiff's image on the Sound Factory website was indeed available for use 'on a world wide basis,' it necessarily was concurrently available within New York State." 297 A.D.2d at 598, 747 N.Y.S.2d at 230. Third, you are using Mr. Shankman's name for purposes of advertising or trade by promoting your website. Fourth, you do not have Mr. Shankman's written consent to use his name. Accordingly, you are violating Mr. Shankman's right to publicity under section 51.²

We are continuing to investigate the scope of your activities and the infringement upon our client's trade and service marks, as well as copyrighted material. Two Cats and Mr. Shankman reserve the right to raise additional claims.

We demand that you: 1) immediately cease and desist all use of *prmana.com* and *PRManna*, and any derivative of same; 2) promptly advise us as to all prior uses of same; 3) immediately cease and desist using Two Cats' content in addition to your blatant copying of the look and feel of Two Cats' websites; 4) remove all references to "Peter Shankman" from any websites and/or blogs that you have control over; and 5) transfer the domain name < *prmana.com* > to Two Cats at no cost to Two Cats. Reserving all of our clients' our rights and remedies, should these actions not be

¹ As of the date of this letter, the following statement is on your website: "This site was unashamedly inspired by Peter Shankman's excellent Help-A-Reporter. I decided to create PRManna.com because I thought I could improve upon the basic idea in a number of ways, including targeting requests, notification methods, and reputation management. If you have any suggestions, please contact me." See <http://prmana.com/about>.

² Two Cats and Mr. Shankman could also bring a right to publicity claim under California common law and/or statutory law. "In order to state a claim under California's common law right of publicity a plaintiff must show (1) the defendant's use of the plaintiff's identity; (2) the appropriation of plaintiff's name or likeness to defendant's advantage, commercially or otherwise; (3) lack of consent; and (4) resulting injury." Browne v. McCain, 611 F.Supp.2d 1062, 1069 (C.D. Cal. 2009) (internal quotation marks and citations omitted). Under the California Civil Code section 3344(a), "[a]ny person who knowingly uses another's name, voice, signature, photograph, or likeness, in any manner, on or in products, merchandise, or goods, or for purposes of advertising or selling, or soliciting purchases of, products, merchandise, goods or services, without such person's prior consent, ... shall be liable for any damages sustained by the person or persons injured as a result thereof."

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taken by March 5, 2010, with written confirmation to us, we will take such necessary and proper action as to protect our client's rights and recoup its damages.

Please direct any responses to my attention.

Very truly yours,

Jerry S. Goldman

JSG
Enclosure

cc: Peter Shankman, General Manager- Two Cats and A Cup of Coffee, LLC