

Cease and Desist: Trademark Infringement

Template provided by Attorney Aaron Hall | aaronhall.com

This template should not be used without first consulting with an experienced attorney.

[DATE]

VIA CERTIFIED MAIL

Mr. John Doe

[OFFENDING COMPANY]

[STREET ADDRESS]

[CITY] [STATE] [ZIP]

Re: Infringement of Trademark Rights of [TRADEMARK OWNER].

Dear Mr. Larson:

This law firm represents [TRADEMARK OWNER] ("[TRADEMARK]") in connection with its intellectual property rights. Your use of [TRADEMARK] and [TRADEMARK] is a violation of [TRADEMARK OWNER]'s common law trademark rights, common law service mark rights, and trade name rights, and this letter constitutes [TRADEMARK OWNER]'s demand that you cease and desist any and all use of these domain names. You should immediately forward this letter to your attorney.

[TRADEMARK OWNER] is a family-owned business offering [PRODUCT AND/OR SERVICE] to consumers in the Twin Cities, [LOCATION] area, and throughout Minnesota. [TRADEMARK OWNER] was registered as a Minnesota corporation in [MONTH] [YEAR] and has continually used "[TRADEMARK]" and "[TRADEMARK]" (the "Marks") throughout Minnesota as its brand name since that time.

Since its incorporation, [TRADEMARK OWNER] has continually used the Marks in advertising campaigns and in the community, including through its website at [TRADEMARK OWNER'S WEBSITE] which [TRADEMARK OWNER] registered on [DATE]. In addition, [TRADEMARK OWNER] has been actively involved in the community in its efforts to further promote its brand including its sponsorship of various events. As a result of these efforts, [TRADEMARK OWNER]'s customers, and the general public, have come to recognize [TRADEMARK OWNER] as an established and successful [PRODUCT AND/OR SERVICE] business.

Recently, [TRADEMARK OWNER] became aware of your use of the [WWW.TRADEMARK.COM] and [WWW.TRADEMARK.COM] domain names, which redirect visitors to your website. Your domain name registration date for [WWW.TRADEMARK.COM] domain was [DATE]. Your domain name registration date for [WWW.TRADEMARK.COM] was [DATE]. Under Minnesota law, common law trademark infringement occurs when a party utilizes a

trade or service mark that creates a likelihood of consumer confusion. (footnote 1) As you are undoubtedly aware, your domain names are exactly the same as [TRADEMARK OWNER]'s Marks.

Because of your use of these two domain names, [TRADEMARK OWNER] has already witnessed actual confusion in the market. The following incidents occurred during [DATE].

1. [CONFUSION INCIDENT]
2. [CONFUSION INCIDENT]
3. [CONFUSION INCIDENT]
4. [CONFUSION INCIDENT]
5. [CONFUSION INCIDENT]
6. [CONFUSION INCIDENT]

In just [X] months, [TRADEMARK OWNER] has received a number of reports of actual consumer confusion. This presumably represents a small portion of consumers who are confused but never take the time to find another way to contact [TRADEMARK OWNER] and report the confusion caused by your use of these domain names.

[TRADEMARK OWNER] has several options under Minnesota law to enforce its legal rights in the Marks. If [TRADEMARK OWNER] were to file a lawsuit against you, it would be entitled to seek: (1) preliminary and permanent injunctions; (2) actual monetary damages; (3) disgorging of any profits you have realized through your use of the Marks; (4) reimbursement of attorney's fees required to prosecute a lawsuit against you; and (5) monetary damages for damage to [TRADEMARK OWNER]'s goodwill in the market.

Please be advised that [TRADEMARK OWNER] will undertake all appropriate steps to protect its Marks and its associated goodwill. You can avoid legal action by immediately ceasing and desisting from any and all infringing activity including use of the [WWW.TRADEMARK.COM] and [WWW.TRADEMARK.COM]. You must cease and desist all promotion and/or marketing of [PRODUCT AND/OR SERVICE] on these domain names. You are hereby put on notice that [TRADEMARK OWNER] and I will be monitoring your use of these domain names for this purpose. Additionally, you must execute a copy of this letter and send it to this firm within seven (7) days of the receipt of this letter. I recommend you consult with an attorney before taking any action.

If you or your attorney have any questions, please feel free to contact me.

Sincerely,

[ATTORNEY]

[LAW FIRM]

CC: Client

Footnote 1: Minneapple Co. v. Nomandin, 338 N.W.2d 18 (Minn. 1983).

[ATTACHED PAGE]

I, [JOHN DOE] personally and on behalf of [OFFENDING COMPANY], agree to immediately cease and desist from any and all further use of [WWW.TRADEMARK.COM] and [WWW.TRADEMARK.COM]. In the event this agreement is breached by me or [OFFENDING COMPANY], [TRADEMARK OWNER] shall be entitled to costs, attorney's fees, and collection costs related to any claims and/or action brought to enforce this agreement and shall be free to pursue all rights it had as of the date of this letter as if this letter had never been signed. I certify that I have the authority to enter into this agreement on behalf of [OFFENDING COMPANY].

By: _____ Dated: _____

Both individually and on behalf of [OFFENDING COMPANY].