

WAL-QAEDA
Freedom Haters **ALWAYS**

Home About Walocaust

Disclaimer: wal-qaeda.com nor the owner/creator(s) have any affiliation with Wal-Mart Stores, Inc. whatsoever. If you wish to visit Wal-Mart's site please try this link www.walmart.com.

Hillary: A Company Woman

I recently authored a critical of Wal-Mart's business practices, and published a website called walocaust.com. I then arranged for CoriPress.com to put my designs on T-shirts, hats, bumper stickers and other items for sale on the Internet so that other people could display my designs and receive support for my cause. Wal-Mart, in violation of its own policies for infringing and diluting its trademarks and demanding I stop selling my items and stop using the domain name "walocaust.com" and transfer it to them. Wal-Mart made a similar threat to CoriPress.com, which immediately stopped making and selling the items. With the help of some outstanding bloggers and other websites I am able to resist Wal-Mart's attempts to suppress the free speech of its critics.

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Chilling Effects

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Boston Beer Froths at "Sam Adams for Mayor" Website

October 17, 2007

Sender Information:
City: Boston
Country: United States
City: Boston
State: Massachusetts
City: Boston
State: Massachusetts

Recipient Information:
City: Boston
Country: United States
City: Boston
State: Massachusetts
City: Boston
State: Massachusetts

Source:
The Domain Name Disputes

Case Summary:
The website of the Boston Beer Company ("Sam Adams") was targeted by a cease and desist letter from the Boston Beer Company ("Boston Beer") on October 17, 2007. The letter demanded that the recipient cease and desist from operating the website and to transfer the domain name "samadams.com" to Boston Beer. The recipient has since complied with Boston Beer's demand and has ceased operating the website. The recipient has since transferred the domain name "samadams.com" to Boston Beer.

Case Details:
The recipient has since complied with Boston Beer's demand and has ceased operating the website. The recipient has since transferred the domain name "samadams.com" to Boston Beer.

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Store	Free Shipping on any purchase
Gift Idea	Free Shipping on any purchase
Internet	Free Shipping on any purchase
Buy	Free Shipping on any purchase
License Gift	Free Shipping on any purchase
Region	Free Shipping on any purchase
Product	Free Shipping on any purchase
Search	Free Shipping on any purchase
Payment	Free Shipping on any purchase
Site	Free Shipping on any purchase
Free Coupon	Free Shipping on any purchase

UDRP

- Arbitration-like proceeding, mandatory for domain name registrant if [¶ 4(a)]
 - (i) your domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
 - (ii) you have no rights or legitimate interests in respect of the domain name; and
 - (iii) your domain name has been registered and is being used in bad faith.

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UDRP

- UDRP is relatively quick, cheap (~\$2,000)
- Complaining trademark owner files a complaint with dispute-resolution provider (WIPO, CPR, NAF, ADNDRC)
- Domain name registrant gets notice and opportunity to respond
- Panel (1 or 3 panelists) issues decision based entirely on written record: for complainant (usually transfer of domain name) or for respondent
- No appeal: If either party to a UDRP complaint is dissatisfied with the results, it can challenge the decision in court

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Madonna.com

- Domain name pointing to "adult entertainment services"
 - "Madonna.com is not affiliated or endorsed by the Catholic Church, Madonna College, Madonna Hospital or Madonna the singer."
- Gambling?
- Artistic depiction of the Virgin Mary?
- Madonna Rehabilitation Hospital?

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ICANN's UDRP

- 4. Mandatory Administrative Proceeding.
- (a) Applicable Disputes. The complainant must prove:
 - (i) domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
 - (ii) no rights or legitimate interests in respect of the domain name; and
 - (iii) domain name has been registered and is being used in bad faith.
- (b) Evidence of Registration and Use in Bad Faith.
 - (i) registration / acquisition of domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant mark-owner or competitor; or
 - (ii) intent to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, with a pattern of such conduct; or
 - (iii) intent primarily to disrupt the business of a competitor; or
 - (iv) intent to confuse, attempt to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.

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ICANN's UDRP: Defenses

- 4. Mandatory Administrative Proceeding.
- (c) Demonstrate Your Rights to and Legitimate Interests in the Domain Name
 - (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
 - (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
 - (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

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Beyond UDRP

- Trademark owner can go to court without ever going through the UDRP process
- Is UDRP congruent with federal trademark law?
 - Does it include all infringement/dilution?
 - Does it exclude all non-infringement/fair use?
- Do its panelists make the law correctly?
 - vivendiuniversalsucks.com "confusingly similar" to "Vivendi Universal"?

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terriwelles.com



META-TAGS: <title>Terri Welles Erotica</title> <META NAME="description" CONTENT="Playboy Playmate Of The Year 1981 Terri Welles website featuring erotic nude photos, semi-nude photos, softcore and exclusive Members Club"> <META NAME="keywords" CONTENT="terri, welles, playmate, playboy, model, models, nude, naked, ...

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Nominative fair use

- Goods or services not readily identifiable without use of the trademark
- Defendant used only so much as is necessary
- Defendant did not suggest sponsorship or endorsement

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Alternatives

- Search engines
 - "Sponsored Results"?
 - Keyword sales to advertisers?
- Shared splash screen,
<http://www.scrabble.com/>
- Keywords (RealNames)

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Trademark

- **Infringement**
- Protect: Any TM
- Plaintiff must show:
 - D used in commerce
 - In connection with sale/etc.
 - Likely to cause consumer confusion
- Scope: class of goods or service, where use or likely expansion
- **Dilution**
- Protects: Famous marks
- Plaintiff must show
 - P has famous mark
 - P's mark is distinctive
 - D made "commercial use in commerce"
 - * Began after P's mark became famous
 - Causes dilution of the distinctive quality of the mark
- Scope: all goods and services

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Infringement

- TM plaintiff must prove
 - It possesses a mark
 - **Defendant used the mark**
 - ...in commerce
 - ...in connection with the sale, offering for sale, distribution, or advertising of goods or services
 - ...without authorization
 - Use was likely to confuse consumers

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