

Intellectual Property Law
500 W. Madison, Suite 3800
Chicago, IL 60661-2562
T (312) 876-1800
F (312) 876-2020
www.woodphillips.com



Brad R. Bertoglio
312.876.2105
brbertoglio@woodphillips.com

October 4, 2007

VIA EMAIL to abuse@pair.com

PAIR NETWORKS, INC.
c/o Jaime P.
2403 Sidney St., Suite 510
Pittsburgh, PA 15203

Re: Copyright Infringement and Trademark Infringement
Related To Content Found On tegr.org
File No. 10446Z99995

Dear Jaime:

This is in furtherance of our prior email communications, concerning the September 24, 2007 notice of copyright infringement provided to you by us, on behalf of Dr. Richard P. Phelps, in connection with a web site hosted by PAIR Networks at the domain name tegr.org. This letter also provides PAIR Networks with notice of trademark infringement committed by the tegr.org web site, and requests removal of the tegr.org web site on that basis as well.

Removal Of The Infringing Phelps Article

We have now had an opportunity to review the changes made by PAIR on September 26, 2007, to the web site hosted at tegr.org, in response to our prior DMCA Notice of Copyright Infringement. Specifically, we note that PAIR has removed access to the infringing article previously hosted at <http://www.tegr.org/Review/Articles/vol1/v1n2.htm> and at <http://www.tegr.org/Review/Articles/vol1/v1n2.pdf>. We thank you for your assistance in removing this content.

**The tegr.org Web Site As A Whole Continues To
Infringe Mr. Phelps' Copyright Rights**

In addition to the removed "Lake Wobegon" article, the September 24, 2007 notice of copyright infringement also specified that the entirety of the web site appearing at tegr.org constitutes infringing content, with the exception of the *.pdf and *.doc files appearing within subdirectories of <http://www.tegr.org/Review/Articles>. However, it appears that PAIR Networks has not yet removed this infringing content.

Please be advised that our client, Mr. Phelps, previously developed a web site that was hosted at a domain registered by him, www.thirdeeducationgroup.org. While the archived copies
Chicago, Illinois & Washington DC

of that website are not complete, we invite you to independently review Mr. Phelps' prior site, to the extent that it is archived at www.archive.org. We particularly invite you to review the content that was archived in, *e.g.*, January through May of 2005. Mr. Phelps is the exclusive owner of HTML code that has been hosted at his thirdeducationgroup.org web site, by virtue of his direct authorship, as well as via legal assignment of rights from a web site developer that he retained.

At some point, a pirated copy of Mr. Phelps' web site was erected at the domain name www.tegr.org, and hosted by PAIR Networks. While the proprietor of [tegr.org](http://www.tegr.org) has subsequently modified the site content to varying degrees, the site as a whole continues to be an infringing derivative work of Mr. Phelps' original web site code. This is evidence by, *inter alia*, the substantially identical page layout, color scheme and font selection still employed at www.tegr.org, as compared to Mr. Phelps' web pages. For example, compare <http://www.tegr.org/WhyIER.htm> to <http://web.archive.org/web/20041213131656/thirdeducationgroup.org/WhyThirdEdGroup.htm>.

In view of the foregoing, Mr. Phelps reiterates his request that PAIR Networks immediately disable access to the web pages hosted at www.tegr.org, inasmuch as they constitute infringing derivative works of copyrighted content owned exclusively by Mr. Phelps, and used without his consent.

Trademark Infringement at www.tegr.org

In addition to the copyright infringement currently being committed through the web site hosted by PAIR Networks at [tegr.org](http://www.tegr.org), we hereby place PAIR Networks on notice that the www.tegr.org web site is engaged in rampant and willful trademark infringement.

Please be advised that Mr. Phelps is the owner of United States Trademark Registration No. 3,130,754, for the mark THIRD EDUCATION GROUP, which was applied for on June 6, 2004, and issued on August 15, 2006. A copy of the Registration is attached hereto for your reference.

The web site hosted at www.tegr.org makes unauthorized and infringing use of Mr. Phelps' THIRD EDUCATION GROUP mark. As an electronic publication directly competing against Mr. Phelps' own web site, hosted at www.thirdeducationgroup.org, this unauthorized use of THIRD EDUCATION GROUP at [tegr.org](http://www.tegr.org) constitutes blatant and willful trademark infringement, that is likely to cause confusion (and in fact, has caused extensive actual confusion) amongst current and prospective users of Mr. Phelps' site. Below are several examples of the trademark infringement currently committed by www.tegr.org:

- The www.tegr.org web site expressly identifies itself using the registered THIRD EDUCATION GROUP designation on the web page hosted at <http://tegr.org/aboutus.htm>.

- The link to “Contact the Webmaster” provided at the bottom of the tegr.org home page (<http://tegr.org/index.htm>) initiates an email nominally directed to webmaster@thirdeducationgroup.net.
- The web page appearing at <http://tegr.org/WhyIER.htm> identifies the web site as “**Third Education Group, Inc.**”
- The domain name at which the site is hosted, www.tegr.org, gives rise to a likelihood of confusion, inasmuch as “tegr” is clearly an abbreviation for THIRD EDUCATION GROUP REVIEW – a phrase which contains both Mr. Phelps’ registered trademark, as well as the name of Mr. Phelps’ own electronic publication.
- The web site hosted at www.tegr.org purports to host an electronic serial publication identified with ISSN 1557-2870. This ISSN number is in fact registered to Mr. Phelps, for his own electronic serial publication hosted at www.thirdeducationgroup.org. This blatant copying of Mr. Phelps’ ISSN number further gives rise to a likelihood of confusion.
- While PAIR has removed the infringing copy of Mr. Phelps’ article entitled “The Source of Lake Wobegon” from the tegr.org web site, tegr.org continues to provide a prominent portion of its home page purporting to link to Mr. Phelps’ article, and identifying Mr. Phelps by name, contributing yet further to the likelihood of confusion created by the unauthorized use of Mr. Phelps’ trademarks.

For at least these reasons, the web site hosted by PAIR Networks at tegr.org is currently infringing Mr. Phelps’ trademark rights (including Mr. Phelps’ Federal Trademark Registration No. 3,130,754), in violation of state and federal law.

Please also be advised that the owner of the web site hosted at tegr.org has been advised of Mr. Phelps’ Federal Trademark Registration No. 3,130,754, and was requested to remove all reference to Mr. Phelps and his THIRD EDUCATION GROUP mark from that web site. The owner’s continued refusal to comply with these requests, despite actual knowledge of Mr. Phelps’ trademark rights, constitutes willful and wanton infringement.

Request For Removal Of Infringing Web Site

In view of the above-mentioned infringement of Mr. Phelps’ copyright and trademark rights, including his Federal Trademark Registration No. 3,130,754, we hereby reiterate our request that PAIR Networks promptly remove the web site currently hosted at www.tegr.org, with the exception of the *.pdf and *.doc files appearing within subdirectories of <http://www.tegr.org/Review/Articles>, so that any further direct and contributory infringement of Mr. Phelps’ copyright and/or trademark rights can be avoided.

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We look forward to your compliance with this request. In the interim, should you require any further information regarding this matter, please do not hesitate contact our offices.

Sincerely,

A handwritten signature in black ink, appearing to read 'BRB', with a long, wavy horizontal line extending to the right.

Brad R. Bertoglio

Int. Cl.: 41

Prior U.S. Cls.: 100, 101, and 107

United States Patent and Trademark Office

Reg. No. 3,130,754

Registered Aug. 15, 2006

SERVICE MARK
PRINCIPAL REGISTER

Third Education
Group

PHELPS, RICHARD P. (UNITED STATES INDIVIDUAL)

80 BARRETT ST. APT. 5

NORTHAMPTON, MA 01060

FOR: EDUCATIONAL RESEARCH, IN CLASS 41
(U.S. CLS. 100, 101 AND 107).

FIRST USE 12-30-2004; IN COMMERCE 1-1-2005.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "EDUCATION GROUP", APART FROM THE MARK AS SHOWN.

SN 78-430,624, FILED 6-6-2004.

JASON BLAIR, EXAMINING ATTORNEY