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Via Email and Overnight Courier

Domains By Proxy, Inc.
15111 N. Hayden Road, Suite 160
PMB 353
Scottsdale, AZ. 85262

Re: www.annarborpublicschools.org
False Personation and Other Wrongful Content

Dear Sir or Madam:

This law firm represents the Ann Arbor Public Schools (AAPS), which maintains an official website, www.aaps.k12.mi.us. Our client recently learned of a website, www.annarborpublicschools.org, that closely impersonates the AAPS website. Copies of the home pages of the two websites are attached. According to a "WHOIS" lookup from the InterNIC.net website, the offending website is privately registered through Domains By Proxy, Inc. (DBP), which is an affiliate of GoDaddy.com, Inc. (Go Daddy). The offending DBP website violates the law and rights of AAPS in many respects. We demand that Go Daddy terminate all access to the offending site and disclose the identity of the private registrant to us within 48 hours of receiving this letter.

False Personation. The offending website in all respects appears to be an official AAPS website. It contains real names, real addresses, and even real phone numbers for AAPS facilities and personnel. Most seriously, however, the DBP website solicits visitors to send email correspondence to the AAPS Superintendent, the Board of Education, and the individual board members, providing fictitious email addresses and even hyperlinks having the domain @annarborpublicschools.org. The website appears designed to intercept email intended for real AAPS personnel. This may well violate one or more federal communications laws. At a minimum, the false addresses interrupt and hinder the superintendent and the Board from receiving communications intended for them. Michigan's penal code prohibits any person from disguising himself with the intent to intimidate, hinder or interrupt any person in the legal performance of his or her duty, whether such intent be effected or not. M.C.L. §750.217.

Violation of DBP and Go Daddy Policies. Go Daddy's website states that a person may not use its private registration services to violate the law or engage in "morally objectionable

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activities,” including statements which are abusive, harassing, and tortious. In its “Domain Name Proxy Agreement,” Go Daddy reserves the right to terminate a private registration i) to comply with ICANN’s Dispute resolution policy, ¶4i(D), or ii) if illegal or morally objectionable acts come to its attention. The policy expressly prohibits activities that embarrass or harass third parties or are tortious. *Most specifically, the Go Daddy Agreement prohibits activity that is designed or intended to impersonate the identity of a third party.* ¶4i(G)(vi).

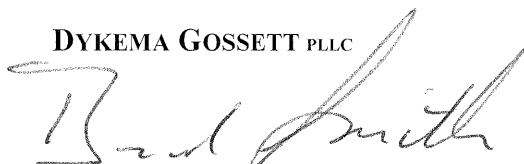
Publication of Copyrighted Materials and Service Marks. The DBP site implicates both copyright and trademark issues. The site meticulously copies the design, layout and overall “total concept and feel” of the official AAPS website, which is subject to copyright protection. The offending website also prominently publishes AAPS’s “All the best” line drawing of a tree with a hanging apple, which AAPS owns and has used continuously for over a decade. Further, it reproduces photographs that AAPS commissioned from a professional photographer, including a picture of an AAPS elementary school and a photo of the members of the Board of Education. The DBP website’s use of these materials implicates not only the rights of AAPS, but also the photographer and website designer to the extent they may retain rights in their creative works.

Unfair Trade Practices. The offending website’s domain name, the high degree of similarity between the sites, and the interwoven fact and fiction on the offending website, are bound to cause confusion among some members of the public, or deceive them into thinking that AAPS endorses statements posted on the offending site. These circumstances give rise to an unfair competition claim under Michigan common law as well as Michigan’s Consumer Protection Act, M.C.L. §445.903 (prohibiting conduct which causes a probability of confusion or misunderstanding as to the source, sponsorship, approval, or certification of services provided to individuals or families). Note that a plaintiff who succeeds in obtaining declaratory judgment for unfair trade practices recovers his attorney fees. M.C.L. §445.911(2).

The private registrant is acting unlawfully and through his/her false personation may even be violating criminal law. Again, we demand that Go Daddy and DBP immediately terminate access to the website www.annarborpublicschools.org and disclose all personal information concerning the identity of the private registrant within 48 hours of receiving this letter. Your failure or refusal to act may result in legal action against you.

Very truly yours,

DYKEMA GOSSETT PLLC



Bradley L. Smith

Encl.

cc: Liz Nowland-Margolis