



October 8, 2009

VIA OVERNIGHT MAIL & ELECTRONIC DELIVERY

Kyle Olson
Vice President, Education Action Group Foundation
801 W. Norton, Suite 1
Muskegon, MI 49441

Dear Mr. Olson:

It has come to our attention that your organization is responsible for editing and maintaining the website AFTExposed.com, which not only uses the AFT acronym in its domain name and site title but also uses the AFT's distinctive shield logo as part of its banner. Your organization's use of the "AFT" registered acronym and shield logo on the AFTExposed.com website constitutes a clear infringement of the American Federation of Teachers trademark rights, as the use of the acronym and logo is likely to cause confusion. We therefore call upon you to cease and desist all use of the trademarked AFT acronym and logo, including immediate cessation of use of the domain AFTExposed.com or any other variant that includes the acronym AFT.

The American Federation of Teachers ("AFT") is a labor union representing 1.4 million teachers, paraprofessionals, and other school-related personnel, higher education faculty and professional staff, healthcare workers, and federal, state, and local government employees. The AFT advocates various public education policies, including academic and conduct standards for students and greater professionalism for teachers and school staff; excellence in public service; and high-quality healthcare provided by qualified professionals. The union was founded in 1916, and since then, has consistently used its name and the acronym AFT in its dealings with the public.

Under the Lanham Act and corresponding case law, the test for infringement of a service mark or trademark is whether there is a likelihood of confusion. A federal claim under the Lanham Act for infringement of a registered mark is governed by the test of whether the defendant's use is "likely to cause confusion, or to cause mistake, or to deceive." 15 U.S.C. §1114(1). Your organization's use of the AFT acronym and logo meets this test.

As you may be aware, the Lanham Act of 1946, codified at 15 U.S.C. §1051 *et seq.*, as well as the common law of trademarks, protects the exclusive rights of the first party that uses a trademark, including service marks and membership marks, in commerce against infringing use by other parties. The acronym AFT has been

American Federation
of Teachers, AFL-CIO

AFT Teachers
AFT PSRP
AFT Higher Education
AFT Public Employees
AFT Healthcare

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continuously in use since 1916, and appears on membership materials, promotional literature, and publications and press releases produced at the national, state, and local level, as well as on our website, www.aft.org. The AFT acronym is currently registered and active with the U.S. Patent and Trademark Office ("USPTO"). Similarly, the AFT shield logo is also registered and active with the USPTO, and is used on all AFT publications and materials and on the AFT website.

In contrast, your organization states that its website AFTExposed.com has the purpose of broadcasting its opinion to the public that the AFT is a "teachers' union opposed to sensible reform and ... based on self-interest--at the expense of students." The AFTExposed.com website itself further states that "the AFT bullies elected and appointed school leaders, contributes dues dollars to fringe groups, and does its best to stifle efforts to reform the educational system because it puts the interests of its members ahead of students." This opposition to the goals and policies of the AFT on the AFTExposed.com website, which uses the AFT acronym in its content and its domain name as well as using the AFT logo, is likely to cause confusion.

Moreover, at common law, actual use creates rights and priority over others when deciding which party has priority of use of a particular mark. Because the American Federation of Teachers has been using the AFT acronym and shield logo for a longer period of time than has your organization, we have priority over the use of the AFT acronym and logo.

Additionally, your use of the domain name "AFTExposed" violates the Internet Corporation for Assigned Names and Numbers ("ICANN") Uniform Domain Name Dispute Resolution Policy, which was incorporated by reference into your registration agreement when you registered the domain name AFTExposed.com. Under this policy, if the registered domain name is "identical or confusingly similar" to one in which a complainant has rights, and you have no rights or legitimate interests in respect of the domain name, and the domain name has been registered and used in bad faith, then you may be required to turn the domain name over to the complainant following a mandatory administrative proceeding.

In this case, the domain name "AFTExposed" is confusingly similar to the AFT's name and your organization has no rights in the AFT trade name. As explained above, rights to the AFT acronym properly belong to the American Federation of Teachers. In addition, your organization has no legitimate interests in using AFT's acronym in the domain name, and appears to have registered the name in bad faith in order to dilute the AFT's name and to disrupt AFT's mission. Use of the AFT acronym at the start of the domain name further indicates your bad faith in the choice of domain name. While your organization certainly has the right to express

its opinion regarding the AFT or any other organization, it may not hold itself out as having rights to the use of the AFT acronym or logo while doing so.

Therefore, consistent with our ongoing efforts to protect our name and service mark, we call upon you to immediately cease and desist all use of the AFT acronym and logo, including use of the domain name AFTExposed.com. Correspondingly, we request that you turn over your registration of the AFTExposed domain name to us. We also request immediate placement of a disclaimer on all of your materials, including your organization's website and any website that takes the place of or is maintained for similar purposes to AFTExposed.com. Such a disclaimer should state that the website or materials at issue are in no way affiliated with, sanctioned, or approved by the American Federation of Teachers or by any AFT-affiliated state federation or local union.

If you do not comply with our requests, we will be forced to consider legal relief, potentially including an injunction barring you from use of the AFT acronym and logo and enjoining any further acts of unfair competition by you. If we are forced to seek such an injunction, we will have no choice but to seek damages under the Lanham Act and the common law of trademarks. If you continue to use the AFTExposed.com domain name, we may also have recourse under the ICANN Uniform Domain Name Dispute Policy in addition to any legal relief available to us under the Lanham Act and at common law.

You or your counsel may contact me at (202) 393-7472 to discuss this matter. We would prefer to resolve this issue without resorting to formal legal proceedings. However, if we do not receive a response by October 19, 2009, we will interpret this as a refusal to accede, and will be forced to resort to legal action.

Sincerely,



David J. Strom
AFT General Counsel

cc: Randi Weingarten
Rita Freedman
Phil Kugler
Tim Shea