

**From:** David Elia [<mailto:DAE14031@aol.com>]  
**Sent:** Saturday, November 24, 2007 1:27 AM  
**To:** [copyright-complaints@register.com](mailto:copyright-complaints@register.com)  
**Subject:** www.damon-moreymisconduct.com

Dear Sir or Madam:

You are hereby notified that you have breached Service Agreements, are in violation of the ICANN Uniform Domain Name Dispute Resolution Policy and have abridged fundamental Constitutional First Amendment rights by denying access to certain true and accurate information previously retrievable through the website duly registered under the domain name [www.damon-moreymisconduct.com](http://www.damon-moreymisconduct.com) <<http://www.damon-moreymisconduct.com/>> . Although access to the home page remains possible, the user is now unable to ascertain the veracity of statements made therein since you have disabled web pages that are necessary to prove the truth of Registrant's assertions. By taking this action, you have reduced credibility that is critical to the Registrant's purpose, have obstructed its lawful activities and have thereby caused it significant economic and reputational damage. Your action is particularly egregious since it amounts to selective editing that has and continues to cause irreparable harm to the Registrant because all interested parties that have learned of subject website through expensive advertising undertaken by the Registrant are now unable to view the intended information and will consequently doubt the trustworthiness of the Registrant.

The impropriety of your unilateral action is clearly evidenced by the information originally presented on the website itself. It conclusively demonstrates the Registrant's rights and legitimate interests to the domain name were asserted in order that it could publish information that was already publicly available for purposes explicitly allowed under ICANN Paragraph 4(a) (iii). Specifically, as mandated by the Constitution and in accordance with the requirements of ICANN, the Registrant has made legitimate noncommercial and fair use of the domain name and website content, without intent for commercial gain, for the purpose of providing public access to truthful information about attorney misconduct that has previously been submitted to governmental entities under penalties of perjury.

As can be recognized by even a superficial examination of materials presented by the Registrant for publication on the website, the website is intended to publicize misconduct of the law firm known as "Damon & Morey, LLP". The public could not be confused by the Registrant's use of the domain name. Further, Damon & Morey, LLP has no legally cognizable right to the domain name "damon-moreymisconduct", due to the differences caused by hyphenation in lieu of the conjunctive "&" and the word "misconduct".

As you know, under the DCMA, claimants who make misrepresentations concerning copyright infringement may be liable for damages incurred as a result of the removal or blocking of the material, court costs, and attorneys fees. Further, the mandatory administrative proceeding requirements of ICANN do not preclude the submission of this dispute to a court of competent jurisdiction. Although ICANN normally provides you safe harbor, liability may attach in the event of selective editing and/or reckless disregard causing the suppression of clearly protected speech.

I hereby declare under penalty of perjury that I have a good faith belief that the material was removed or disabled as a result of mistake or misunderstanding of the true facts relevant to this matter. The Registrant consents to the jurisdiction of the United States District Court for the Western District of New York and will accept service of process from the complainant.

I understand that in accordance with our Agreement and the DMCA, that upon receipt of this counter-notification email, Register.com will promptly restore the removed material and re-enable access.

As time is of the essence, I look forward to your prompt action in this matter.

Sincerely,

David A. Elia  
Law Office of David A. Elia  
PO Box 658  
Clarence, NY 14031  
Direct Line: (716) 759-2060  
Cell: (716) 866-0723

\*\*\*\*\*  
This communication is from a patent attorney (USPTO Atty Reg # 54,081) and may contain legally privileged, confidential and/or trade secret information. It is intended solely for the use of the addressee. If you are not the intended recipient, you are strictly prohibited from disclosing, copying, distributing or using any of this information. If you received this communication in error, please contact the sender immediately and destroy the material in its entirety, whether electronic or hard copy.  
\*\*\*\*\*