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Via Fax 310-203-7199

May 27, 2008

Professor David Nimmer
Mr. Morgan Chu, Esq.
Irell & Manella LLP
1800 Avenue of the Stars
Suite 900
Los Angeles, CA 90067-4276

Re: Nimmer and Irell & Manella Continuing Misstatements Concerning Bender v. West and the Copyright of Text of Judicial Opinions

Dear David and Morgan:

I am following up on my letter to Morgan Chu and Elliot Brown of April 5, 2008, my follow up e-mail, and my letter of May 17, 2008 sent concerning statements in Law. Com attributed to Morgan Chu and statements in an article by Professor Nimmer in the Houston Law Review.

I have received no acknowledgements from any of you as to having received my prior correspondence.

I am faxing this letter in the event that you did not receive these prior communications sent to you at the e-mail addresses indicated on the web sites of Irell & Manella and UCLA Law School.

Concerning my discussion of Professor Nimmer's article, perhaps it was too long for you to have found the time to read thoroughly.

To help you out, here are a few findings from my letter of May 17, 2008:

- Nimmer in his article falsely claimed that Irell & Manella had filed a motion for summary judgment which led to the district court's HyperLaw text decision on May 19, 1997; this decision related only to HyperLaw's text motion.

- Nimmer falsely inferred, if not stated, that he and Irell & Manella had filed a petition for certiorari opposing the Second Circuit holding in favor of HyperLaw as to the copyrightability of text.

- Nimmer falsely inferred, if not stated, that he and Irell & Manella were counsel of record as to the Second Circuit opinion as to copyrightability of text.

- Nimmer failed to disclose that when the petitions for certiorari from the Second Circuit appeals had been filed, Matthew Bender had been acquired by Reed Elsevier, and that Reed Elsevier had already filed an amicus brief in the Second Circuit opposing HyperLaw's text challenge.

- Thus, not only were Nimmer and Irell & Manella and Matthew Bender neither counsel not party in HyperLaw's text copyright challenge, but, Reed Elsevier, owner of Matthew Bender, formally opposed HyperLaw.

- Nimmer's article, published in a well regarded law review, was able to perpetuate these misrepresentations, in part by failing to conform citations in his article to basic legal citation requirements universally applicable to scholarly law publications.[1]

- Nimmer's article could be considered misrepresentation of the facts for the benefit of the writer, and, Chu's reported statements to Law.Com were a further publication of these misrepresentations. Both of you have not only ethical responsibilities as lawyers, but ethical responsibilities as academic law professors.

In the Law.Com article, as I have brought to your attention, comments attributed to Chu paralleled those of Nimmer's, the two opinions were conflated, and Chu appeared to have taken credit for the text opinion, in which his actual client Reed Elsevier had filed an brief the appeal of HyperLaw's text ruling..

I await your immediate responses.

Sincerely

Alan D. Sugarman

cc: Carl Hartmann
Paul Ruskin
Elliot Brown

cc by e-mail to:
ebrown@irell.com, mchu@irell.com.nimmer@irell.com

[1] I believe both of you have been editors of the law review at your respective law schools. Among the rules ignored was ALWD Manual, Rule 12.10(b); Bluebook Rule 10.7.2, University of Chicago Manual of Legal Citation Rule 4.2(c) as to citing a case where the case name is changed on appeal. Not citing an affirming appellate opinion is very basic as well.