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May 4, 2009

John Leo, Chairman (VIA CERTIFIED MAIL)  
ASIS, Tidewater Chapter 043  
P.O. Box 5031  
Chesapeake, VA 23324

Dear Mr. Leo:

This letter is to notify you of the blatant disregard of the Digital Millennium Copyright Act (DMCA) and Federal Copyright laws as well as obvious verbatim plagiarism of copyrighted materials on a web site that you either own or have control over. This letter is to serve notice of my intent to file both Federal Criminal charges and a Federal Civil Lawsuit against your organization – ASIS Tidewater Chapter – and individuals within your organization (i.e., webmaster, chairman, etc) who are responsible for the infringement and continued presentation of infringed materials on your website.

During 2004 my company was commissioned to and completed a website for the San Francisco Bay Area Chapter of ASIS. That website contains a variety of elements including, but not limited to, menu structure, styles, formats, text, web forms, layouts, etc that were designed exclusively for the use of that organization only. Copyright to the finished assembled work of Web pages or Web site produced by Utkaduck Design is owned by Utkaduck Design. SFASIS, as the client, was assigned rights to use as a Web site the design, graphics, and text contained in the finished and assembled Web site. As a result of my valid ownership of these copyright materials, the unauthorized copying, reproduction, display and publication of such materials, and any creation of similar derivatives of our copyright material also constitutes copyright infringement under the Copyright Act of 1976, as amended, and the Digital Millennium Copyright Act (DMCA).

Your site, asistidewater.org, is essentially a 100% knock-off of the SFASIS site with very little original material. Your website contains, amongst many other plagiarisms and copyright infringements a sequence of identical menus and submenus, forms, formats, layouts and text that are identical to the material on the SFASIS site, in clear and undisputable violation of US Copyright and DMCA laws.

It appears that your infringement began sometime in the period of late 2006 to early 2007 and your organization has allowed the copyright infringement to continue to this day. It is clear that asistidewater.org directly benefited from the infringement as evidenced by your 2008 Chapter Website award from ASIS.

I would deem any defense of "fair use" to be speculative at best, since it is clear that you lack the ability to demonstrate the good faith and truthful prerequisites required for such a defense. You might argue that your intent was to "imitate as a form of flattery". Quite the contrary – I find it offensive that my material was used in the manner you have chose to use it in on your website for security professionals in clear violation of your very own ASIS Code of Ethics. Your blatant disregard for the intellectual property rights of Utkaduck Design falls squarely within the definition of bad faith.

Based on your actions, the undisputed fact that your organization has no relationship to Utkaduck Design, and your blatant disregard for the intellectual property rights of my company, your conduct harms me and my company - Utkaduck Design, by creating a likelihood of confusion as to the source, sponsorship, affiliation, design of or endorsement of the site. Simply removing the infringements does NOT negate that the violation has occurred.

It is illegal for anyone to violate (STEAL) any of the owner's rights provided by copyright law. An infringer of a copyright is liable for either (1) the copyright owner's actual damages (in this case, the loss of income for designing a similar site) and any additional profits of the infringer, or (2) statutory damages. Statutory damages can be awarded to a maximum of \$150,000 per infringement (per individual webpage). A violation of copyrighted works exposes the infringer to liability under the Digital Millennium Copyright Act as well, which results in even greater financial liability. In both instances, an infringer is also required to pay for the opposing party's attorney's and court fees.

Recent rulings have awarded significant monetary judgments in similar cases and I have personally been successful in 100% of my claims against individuals or companies who have violated the DMCA, copyright laws and my intellectual property rights.

Notwithstanding the foregoing, I believe that this dispute can be resolved without resorting to litigation. To save us both time and effort, I am willing to settle this case out of court for a remedy of \$20,000 based on your clear, ongoing and blatant violations. If you wish to avoid litigation and criminal charges, please send me payment (certified check only) of \$20,000 to the address listed above no later than May 20, 2009. Additionally, I require a letter of apology and further require that the asistidewater.org site is immediately redesigned to not mirror SFASIS content in any way, shape or form. I demand that you contact me within 10 days from the date of this letter to demonstrate your willingness to address the very serious issues set forth herein.

Additionally, your hosting company is being notified immediately of the infringement and to "take-down" your website. Their responsibility to comply, once notified of a copyright violation, is clearly defined under the Digital Millennium Copyright Act. If they do not follow the "notice and takedown" provisions, their company also becomes liable for the infringement and a party to any actions.

If I do not receive an adequate and timely reply, I, as the injured party, will take whatever legal action is necessary to protect my personal and company's rights, including, but not limited to seeking an injunction, damages and attorney fees, all of which are permitted under federal and state statutes and relevant case law. I will do so by filing a criminal complaint with the FBI and also initiate a \$250,000 Federal civil lawsuit (plus punitive damages), with jurisdiction in the State of California. All depositions and court appearances by you, your webmaster, and other unnamed parties will have to be done in California. I'm sure that you know that a negative finding in a criminal or civil court of law will be public record and accessible by any prospective members, employers and by ASIS International.

This is written without prejudice to my rights, all of which are hereby fully and expressly reserved. I **take this matter very seriously and I hope that you do as well.** Please be guided accordingly.

Respectfully,

Alex Dourov