

02/13/2009 11:22 FAX 310 282 2200

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Date: February 13, 2009

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To: Matt Mullenweg
Automattic, Inc.**Fax:** (877) 273-8550
Phone:**From:** Douglas Mirell
Personal ID: 00629
Client/Re: 213892-10001**Fax:** (310) 919-3898
Phone: (310) 282-2151**Pages (Including Cover):** 9

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MESSAGE TO ADDRESSEE:



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Via E-Mail, Fax and Certified Mail

February 13, 2009

Matt Mullenweg
Automattic, Inc.
PO Box 5446
Redwood City, California 94063

Re: Notice and Take-Down Demand for <http://fakechuckwestfall.wordpress.com/>

Dear Mr. Mullenweg:

This law firm represents Canon U.S.A., Inc., and its Japanese parent corporation, Canon Kabushiki Kaisha, the owner of numerous federally registered trademarks and service marks in the word Canon as well as the stylized Canon logo (collectively, the "Canon Marks"). Our client has first use of the Canon word mark and logo dating back over 35 years.

Canon U.S.A., Inc., currently employs Mr. Chuck Westfall as the Technical Information Advisor for its Camera Marketing Group. Mr. Westfall's job responsibilities at Canon include providing market feedback to Canon in terms of constructive comments on current equipment and software, as well as feature suggestions for future products. Accordingly, Mr. Westfall is a well-known figure in the photography community; he is frequently interviewed in many prominent publications concerning photography and photographic equipment, including magazines, online publications, special interest forums and blogs.

It has come to our clients' attention that one of the blogs hosted on the wordpress.com site – <http://fakechuckwestfall.wordpress.com> (the "Blog") – is using our client's trademark and Mr. Westfall's name and likeness without authorization, and is violating several covenants contained in your own Terms Of Service, as well as many federal and state laws including the Lanham Act, 15 U.S.C. §1125. Particularly egregious are the following:

1. The unauthorized use of the Canon stylized logo in the upper-right hand corner of the home page of the Blog (see Exhibit "A" hereto), which violates the first representation and warranty contained under Paragraph 2 of your Terms of Service;
2. Threats of physical violence toward our client and its current employees, including Mr. Westfall (see Exhibit "B" hereto), which violate the sixth representation and warranty contained under Paragraph 2 of your Terms of Service;
3. The outrageously privacy-invasive identification in the Blog of Mr. Westfall's wife, Ying, and young daughter, Anna (see Exhibit "C" hereto), which likewise violates the sixth representation and warranty contained under Paragraph 2 of your Terms of Service; and



Matt Mullenweg
February 13, 2009
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4. The overall look, feel and tone of the Blog which, especially in light of Mr. Westfall's role at Canon, is calculated to mislead recipients as to the source of the material contained therein, in contravention of the fifth and eighth representations and warranties contained under Paragraph 2 of your Terms of Service.

In relevant part, your Terms of Service provide for removal of content that violates this policy or is "in any way harmful or objectionable," as well as termination of the infringing user's account.

Accordingly, we hereby demand that you immediately remove the above-mentioned objectionable and harmful content from your website, as well as terminate the Blog author's account. We further demand that you provide us with the name and current contact information (including all mailing address(es), telephone and/or fax number(s) and e-mail address(es) you may have) for the author of the Blog.

We hereby request your written confirmation of the above by the close of the California business day on Wednesday, February 18, 2009.

Yours sincerely,

A handwritten signature in black ink that reads "Douglas E. Mirell".

Douglas E. Mirell
Partner

Enclosures

cc: James Taylor, Esq.
Melanie Howard, Esq.

EXHIBIT A

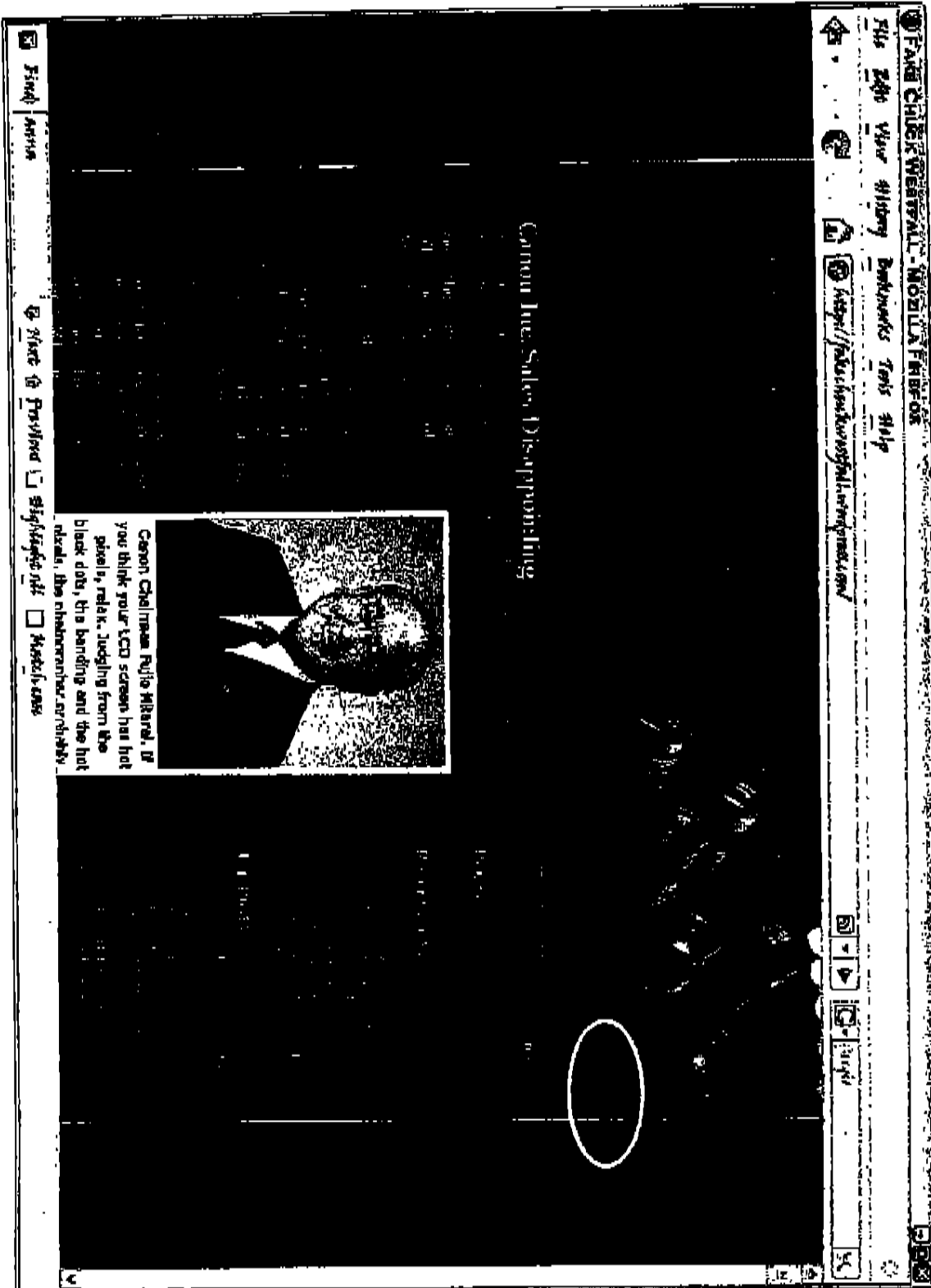


EXHIBIT B

Thank you Maeda! « Fake Chuck Westfall

<http://fakechuckwestfall.wordpress.com/2008/10/08/thank-you-maed..>

"Explorers Of Light" is insignificant compared to the quality and creativity of each "Explorer." Creativity is "king and queen" in this industry — not size. Nikon understands they make "tools" for photographers — Canon does NOT get it and may never. Nevertheless, good luck in your quest, just be careful of "tilting at windmills" Don Quixote.

11. 
Fake Chuck Westfall Says:
October 12, 2008 at 6:04 pm

Michael, you don't give me a lot of hope with your comment, but I'm sure you know that. Do you think they'll listen to me if I come in one day at the office and start bashing their heads with a two by four? Or perhaps I could also come in with a shotgun and lots of ammo and start shooting in the wild. I'm not going to kill anyone, just scare the ever loving crap out of them and show them I mean business now. Do you think that would make a difference?

But your comment about Nikon making tools for photographers is right on, even though, I must admit, I hate to admit that. I guess I'm a bit jealous, but I really hoped we could have gone more in that direction with our latest products. I guess it'll have to wait for a while.

12. *George Says:*
October 13, 2008 at 11:01 pm

Keep it up, Canon is just plain nuts!

13. *Rootbeer Says:*
October 14, 2008 at 1:32 am

Atta boy Chuck! I thought I could count on you, regardless of who signs your pay-check. ☺

Now take the gloves off and let em have it!

JP

14. *Tech Tips for October 13, 2008 « Fake Chuck Westfall Says:*
October 13, 2008 at 5:32 pm

[...] of previous posts, but for those of you who don't, Michael Newler AKA Captain Explorer has left some interesting comments in last week's Tech Tips. As you may know, Michael was at Canon a few years ago, and he was the one who created the Canon [...]

15. *Captain Explorer Says:*
October 15, 2008 at 3:36 am

Chuck, I believe the ONLY way you can get "them" to listen to you is to state your case with no options — leave them no choice — either do it your way or fire you, which they would be stupid enough to do, and regret it later. However, their pride and heritage will NEVER let them admit they were wrong. Canon has never appreciated you and the knowledge you bring to their imaging products. After all these years, it is about time you did something to rock their boat. When it comes to how imagemakers actually use cameras and lenses Canon is clueless, and forget about Canon's ability to recognize creativity. Canon knows boxes, sales, and lens attachment ratios. Do the "powers that be" in the Imaging Division know anything about the individual "Explorers Of Light" including what they shoot and how? Making photographic "tools" is the easy part, but understanding how the imagemaker wants to use the "tool" is something Canon still does NOT get after all these years. Shake them up Chuck as much as you can, and fall on your sword if need be — there will always be an imaging company ready to scoop you up in a heartbeat. The main reason I was NOT "scooped up" is because I have been battling cancer since Canon "dismissed" me. Now, three surgeries later including chemotherapy, I am back to being "abi-normal" again.

16. 

EXHIBIT C