



# SHARTSIS FRIESE LLP

One Maritime Plaza ♦ Eighteenth Floor  
San Francisco, California 94111-3598

April 3, 2009

VIA E-MAIL AND U.S. MAIL

Douglas M. Isenberg  
The GigaLaw Firm  
5 Concourse Parkway  
Suite 300  
Atlanta, GA 30328

Re: Wikipedia Art

Dear Mr. Isenberg:

I am writing in response to your March 23, 2009 letter to Scott Kildall, which letter was written on behalf of your client Wikimedia Foundation Inc. (“Wikimedia”). Wikimedia has alleged that Mr. Kildall can be held liable for cybersquatting, trademark infringement, trademark dilution, unfair competition and other alleged violations of the law. Based on these alleged violations, Wikimedia has asked Mr. Kildall to transfer the wikipediaart.org domain name to Wikimedia. As explained in detail below, we do not believe that there is any legitimate basis for Wikimedia’s claims that Mr. Kildall has violated its legal rights.

As you know, the wikipediaart.org website is being used as a forum for debate and discussion of Wikipedia’s decision to remove the Wikipedia Art project from the Wikipedia website. The wikipediaart.org website contains links to the press and commentary surrounding Wikipedia’s removal of the Wikipedia Art entry, which decision has been a topic of discussion on numerous websites, blogs and public forums. The website also includes a brief history of the actions taken during the first fifteen hours of the Wikipedia Art project’s life, and an archive of the discussions as they existed on Wikipedia. The domain name itself constitutes a fair and accurate reference to the Wikipedia Art project, and the content of the website is comprised of factual information and opinions that constitute protected speech under the First Amendment. Such a reference to the Wikipedia Art project is a fair use that does not create a likelihood of confusion.

The wikipediaart.org home page clearly explains that Wikipedia Art is not in any way affiliated with Wikipedia. To the contrary, the website serves as a forum for discussion and

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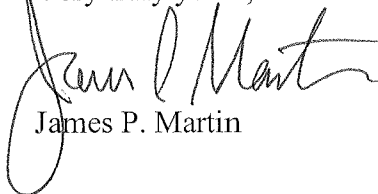
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criticism of Wikipedia's controversial decision to remove the Wikipedia Art project from the Wikipedia website. The content of the website clearly demonstrates that it is not affiliated, connected or associated with Wikipedia. Nonetheless, if you believe that some other disclaimer or explanation is appropriate to clarify that Wikipedia does not sponsor or endorse the website or any of the opinions expressed therein, my client would be willing to consider such a disclaimer.

We ask you to reconsider your legal conclusions in light of the content of the wikipediaart.org website. Neither the website itself nor the domain name is being used for any commercial purpose or financial gain, nor is my client offering any goods or services through the wikipediaart.org website. Instead, my client has registered and is using the website in good faith as a public forum for discussion. We are disappointed by Wikimedia's efforts to suppress free speech by threatening legal action.

In conclusion, after carefully considering this matter, we have concluded that my client has not violated any of Wikimedia's legal rights. At the same time, my client is willing to explore an amicable resolution to this matter because litigation is not in either party's best interests. Please contact me directly to explore whether we can reach a resolution that is acceptable to both parties.

Very truly yours,

A handwritten signature in black ink, appearing to read "James P. Martin". The signature is fluid and cursive, with a large loop at the end of the last name.

James P. Martin

JPM:smb

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