

1 Gill Sperlein (State Bar # 172887)
2 General Counsel, IO Group, Inc.
3 121 Capp Street
4 San Francisco, CA 94110
5 415-487-1211 X32
6 legal@titanmedia.com
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ORIGINAL
FILED
JUL - 9 2003
RICHARD A. WELLS
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

JSW

14 CV 03 065 JSC.

15 Declaration of D. Gill Sperlein, in Support
16 of Subpoena to Pacific Bell Internet Services

17 I, Gill Sperlein, declare as follows:

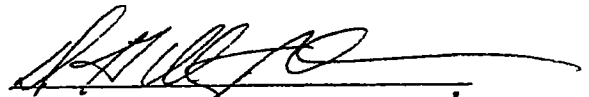
- 18
- 19 1. I am authorized to act on behalf of IO Group, Inc.;
 - 20 2. IO Group, Inc. is the owner of copyrights for works which have illegally and without
21 permission been copied, published and traded by Pacific Bell Internet Services
22 subscribers;
 - 23 3. IO Group, Inc. delivered proper notification of the infringements to Pacific Bell
24 Internet Services as described in subsection (c)(3)(A) of the Digital Millennium
25 Copyright Act. A copy of each notice is attached as Exhibit A.
 - 26 4. For convenience in fulfilling this request, a summary of the violations is attached as
27 Exhibit B.
28

Sperlein Declaration

5. The purpose for the accompanying proposed subpoena is solely to obtain the identity of the proposed infringers so that IO Group, Inc. can protect its rights under Title 17 of the United States Code.

I certify and declare under the penalty of perjury under the laws of the State of California and the United States that to my knowledge the forgoing is true and correct.

Executed this 9th day of July 2003, at San Francisco, California.


Gill Sperlein
On behalf of IO Group, Inc.

Timestamp: 7/9/2003 9:21:23 AM
Address: copyright@sbis.sbc.com
Subject: Re: Cease and Desist and Notice of DMCA Claim of Infringement [Notice ID: 1169366]

To:
Registered Agent for: Pac Bell Internet Services
208 Bush St. #5000

Notice ID: 1169366

From: Gill Sperlein, General Counsel, Titan Media, Inc.

Date: 9 Jul 2003 16:21:22 GMT

Re: Cease and Desist and Notice of DMCA Claim of Infringement
Request for Removal of Audio/Visual Files from your Webserver/s or network.
Request for denial of service to the account of the infringing user

All of the above listed entities and hosting companies are hereby given notice valid under both the DMCA copyright infringement notification requirements and 17 U.S.C section 512.

I am the designated agent of the owner of the copyrights of the images and audio/visual works listed below. I believe that the images and audio/visual works listed at the times cited below were used by the user listed below and identified by the infringing IP address below in a manner that was not authorized by the owner of the copyrights, its agent or the law.

Verified and documented infringements have been traced to URLs and/or IP Address's controlled by your company are listed below.

We demand that upon receipt of this notification of claimed infringement you expeditiously remove, or disable access to, the below claimed infringing material/s and any other Titan Media property residing on your network/system.

I certify under penalty of perjury that I have a good faith belief that the information contained in this notification is accurate to the best of my knowledge and that I am authorized to act on behalf of the owner of the aforementioned copyright protected materials.

Please advise me when the offending images have been removed or access has been blocked so that we may re-inspect the IP for compliance. When responding to this communication, please retain the Subject Notice ID number in the Subject field.

The acts of copyright infringement committed by this account are Federal offenses and ones that should not be taken lightly. You may receive a subpoena requiring you to supply us with the name and other identifying information for this subscriber and are therefore requested to retain all files and documents necessary to recover that data.

This letter does not constitute an exhaustive statement of TITAN Media's legal position nor is it a waiver of any of our rights and/or remedies in this or any other matter, all of which are expressly reserved. Your immediate attention to this matter is expected and appreciated.

Sincerely,

D. Gill Sperlein, esq.
General Counsel, TITAN Media Inc.
121 Capp Street, Suite 200
San Francisco, CA 94110

415-487-1211 X32

Notice ID: 1169366

Infringing Files that must be removed and/or blocked from access are:

Title: Boner!
Infringement Source: FastTrack
Infringement Timestamp: 1 Jul 2003 08:14:08 GMT
Infringer Username: JimF@Grokster
Infringing Filename: Gay Porn - Blake Harper gets fucked (Massage scene).mpg
Infringing Filesize: 285124612
Infringer IP Address: 66.125.94.118
Infringer DNS Name: adsl-66-125-94-118.dsi.sntc01.pacbell.net
Infringing URL: 66.125.94.118

Infringing Files that must be removed and/or blocked from access are:

Title: Heat
Infringement Source: FastTrack
Infringement Timestamp: 1 Jul 2003 08:14:08 GMT
Infringer Username: JimF@Grokster
Infringing Filename: Gay - Piss - Titan Media - Heat - Piss scene.mpg
Infringing Filesize: 3182041

Infringer IP Address: 66.125.94.118
Infringer DNS Name: adsl-66-125-94-118.dsl.pacbell.net
Infringing URL: 66.125.94.118

Timestamp: 7/9/2003 9:21:29 AM
Address: copyright@sbis.sbc.com
Subject: Re: Cease and Desist and Notice of DMCA Claim of Infringement [Notice ID: 1169461]

To:
Registered Agent for: Pac Bell Internet Services
208 Bush St. #5000

Notice ID: 1169461

From: Gill Sperlein, General Counsel, Titan Media, Inc.

Date: 9 Jul 2003 16:21:29 GMT

Re: Cease and Desist and Notice of DMCA Claim of Infringement
Request for Removal of AudioVisual Files from your Webserver/s or network.
Request for denial of service to the account of the infringing user

All of the above listed entities and hosting companies are hereby given notice valid under both the DMCA copyright infringement notification requirements and 17 J.S.C section 512.

I am the designated agent of the owner of the copyrights of the images and audio/visual works listed below. I believe that the images and audio/visual works listed the times cited below were used by the user listed below and identified by the infringing IP address below in a manner that was not authorized by the owner of the copyrights, its agent or the law.

Verified and documented infringements have been traced to URLs and/or IP Address's controlled by your company are listed below.

We demand that upon receipt of this notification of claimed infringement you expeditiously remove, or disable access to, the below claimed infringing material/s at any other Titan Media property residing on your network/system.

I certify under penalty of perjury that I have a good faith belief that the information contained in this notification is accurate to the best of my knowledge and that I am authorized to act on behalf of the owner of the aforementioned copyright protected materials.

Please advise me when the offending images have been removed or access has been blocked so that we may re-inspect the IP for compliance. When responding to this communication, please retain the Subject Notice ID number in the Subject field.

The acts of copyright infringement committed by this account are Federal offenses and ones that should not be taken lightly. You may receive a subpoena requiring you to supply us with the name and other identifying information for this subscriber and are therefore requested to retain all files and documents necessary to recover that data.

This letter does not constitute an exhaustive statement of TITAN Media's legal position nor is it a waiver of any of our rights and/or remedies in this or any other matter, all of which are expressly reserved. Your immediate attention to this matter is expected and appreciated.

Sincerely,

D. Gill Sperlein, esq.
General Counsel, TITAN Media Inc.
121 Capp Street, Suite 200
San Francisco, CA 94110

415-487-1211 X32

Notice ID: 1169461

Infringing Files that must be removed and/or blocked from access are:

Title: Desert Train
Infringement Source: eDonkey
Infringement Timestamp: 1 Jul 2003 14:04:13 GMT
Infringer Username: None
Infringing Filename: Gay.-.Desert.Train.-.GayReactor.avi
Infringing Filesize: 679342080
Infringer IP Address: 63.203.103.215
Infringer DNS Name: adsl-63-203-103-215.dsl.isan03.pacbell.net
Infringing URL: ed2k://63.203.103.215:80

Infringing Files that must be removed and/or blocked from access are:

Title: Tourist Trade
Infringement Source: eDonkey
Infringement Timestamp: 1 Jul 2003 15:02:57 GMT
Infringer Username: None
Infringing Filename: Gay Pom - TITAN - Tourist Trade.avi
Infringing Filesize: 847906816

Infringer IP Address: 63.203.103.215
Infringer DNS Name: adsl-63-203-103-215.dsl.isan03.pacbell.net
Infringing URL: ed2k://63.203.103.215:80

Timestamp: 7/9/2003 9:22:18 AM
Address: copyright@sbis.sbc.com
Subject: Re: Cease and Desist and Notice of DMCA Claim of Infringement [Notice ID: 1169981]

To:
Registered Agent for: Pac Bell Internet Services
108 Bush St. #5000

Notice ID: 1169981

From: Gill Sperlein, General Counsel, Titan Media, Inc.

Date: 9 Jul 2003 16:22:18 GMT

Re: Cease and Desist and Notice of DMCA Claim of Infringement
Request for Removal of AudioVisual Files from your Webserver/s or network.
Request for denial of service to the account of the infringing user

All of the above listed entities and hosting companies are hereby given notice valid under both the DMCA copyright infringement notification requirements and 17 U.S.C section 512.

I am the designated agent of the owner of the copyrights of the images and audio/visual works listed below. I believe that the images and audio/visual works listed the times cited below were used by the user listed below and identified by the infringing IP address below in a manner that was not authorized by the owner of the copyrights, its agent or the law.

Verified and documented infringements have been traced to URLs and/or IP Address's controlled by your company are listed below.

We demand that upon receipt of this notification of claimed infringement you expeditiously remove, or disable access to, the below claimed infringing material/s and any other Titan Media property residing on your network/system.

I certify under penalty of perjury that I have a good faith belief that the information contained in this notification is accurate to the best of my knowledge and that I am authorized to act on behalf of the owner of the aforementioned copyright protected materials.

Please advise me when the offending images have been removed or access has been blocked so that we may re-inspect the IP for compliance. When responding to this communication, please retain the Subject Notice ID number in the Subject field.

The acts of copyright infringement committed by this account are Federal offenses and ones that should not be taken lightly. You may receive a subpoena requiring you to supply us with the name and other identifying information for this subscriber and are therefore requested to retain all files and documents necessary to reconstruct that data.

This letter does not constitute an exhaustive statement of TITAN Media's legal position nor is it a waiver of any of our rights and/or remedies in this or any other matter, all of which are expressly reserved. Your immediate attention to this matter is expected and appreciated.

Sincerely,

J. Gill Sperlein, esq.
General Counsel, TITAN Media Inc.
121 Capp Street, Suite 200
San Francisco, CA 94110

115-487-1211 X32

Notice ID: 1169981

Infringing Files that must be removed and/or blocked from access are:

Title: Tourist Trade
Infringement Source: eDonkey
Infringement Timestamp: 2 Jul 2003 02:35:12 GMT
Infringer Username: None
Infringing Filename: Gay Pom - TITAN - Tourist Trade - best movie ever seen!!! [DVD2DIVX by K 9].avi
Infringing Filesize: 847906816
Infringer IP Address: 67.127.56.200
Infringer DNS Name: adsl-67-127-56-200.dsl.ptn13.pacbell.net
Infringing URL: ed2k://67.127.56.200:4662/Gay Pom - TITAN - Tourist Trade - best movie ever seen!!! [DVD2DIVX by K 9].avi

Infringing Files that must be removed and/or blocked from access are:

Title: Desire
Infringement Source: eDonkey
Infringement Timestamp: 2 Jul 2003 02:35:22 GMT
Infringer Username: None
Infringing Filename: Gay.Pom.-.TITAN.-.Desire.[DVD2MPG.by.K.9].GayReactor.mpg
Infringing Filesize: 1133298600

Infringer IP Address: 67.127.56.200
Infringer DNS Name: adsl-67-127-56-200.dsl.pltn13.pacbell.net
Infringing URL: ed2k://67.127.56.200:4662/Gay.Porn.-.TITAN.-.Desire.[DVD2MPG.by.K.9].GayReactor.mpg

Infringing Files that must be removed and/or blocked from access are:

Title: Slammer
Infringement Source: eDonkey
Infringement Timestamp: 2 Jul 2003 03:12:24 GMT
Infringer Username: None
Infringing Filename: Gay-Titan-Slammer_DVD_RIP_Complete_DIVX.avi
Infringing Filesize: 1123454976
Infringer IP Address: 67.127.56.200
Infringer DNS Name: adsl-67-127-56-200.dsl.pltn13.pacbell.net
Infringing URL: ed2k://67.127.56.200:4662/Gay-Titan-Slammer_DVD_RIP_Complete_DIVX.avi

Infringing Files that must be removed and/or blocked from access are:

Title: Slammer
Infringement Source: eDonkey
Infringement Timestamp: 2 Jul 2003 03:37:39 GMT
Infringer Username: None
Infringing Filename: Gay-Titan-Slammer_DVD_RIP_Complete_DIVX.avi
Infringing Filesize: 1123454976
Infringer IP Address: 67.127.56.200
Infringer DNS Name: adsl-67-127-56-200.dsl.pltn13.pacbell.net
Infringing URL: ed2k://67.127.56.200:4662

Infringing Files that must be removed and/or blocked from access are:

Title: Desire
Infringement Source: eDonkey
Infringement Timestamp: 2 Jul 2003 03:41:04 GMT
Infringer Username: None
Infringing Filename: Gay.Porn.-.TITAN.-.Desire.[DVD2MPG.by.K.9].GayReactor.mpg
Infringing Filesize: 1133298600
Infringer IP Address: 67.127.56.200
Infringer DNS Name: adsl-67-127-56-200.dsl.pltn13.pacbell.net
Infringing URL: ed2k://67.127.56.200:4662

Timestamp: 7/9/2003 9:22:14 AM
Address: copyright@sbis.sbc.com
Subject: Re: Cease and Desist and Notice of DMCA Claim of Infringement [Notice ID: 1169925]

To:
Registered Agent for: Pac Bell Internet Services
108 Bush St. #5000

Notice ID: 1169925

From: Gill Sperlein, General Counsel, Titan Media, Inc.

Date: 9 Jul 2003 16:22:14 GMT

Re: Cease and Desist and Notice of DMCA Claim of Infringement
Request for Removal of Audio/Visual Files from your Webserver/s or network.
Request for denial of service to the account of the infringing user

All of the above listed entities and hosting companies are hereby given notice valid under both the DMCA copyright infringement notification requirements and 17 U.S.C section 512.

I am the designated agent of the owner of the copyrights of the images and audio/visual works listed below. I believe that the images and audio/visual works listed the times cited below were used by the user listed below and identified by the infringing IP address below in a manner that was not authorized by the owner of the copyrights, its agent or the law.

Verified and documented infringements have been traced to URLs and/or IP Address's controlled by your company are listed below.

We demand that upon receipt of this notification of claimed infringement you expeditiously remove, or disable access to, the below claimed infringing material/s and any other Titan Media property residing on your network/system.

I certify under penalty of perjury that I have a good faith belief that the information contained in this notification is accurate to the best of my knowledge and that I am authorized to act on behalf of the owner of the aforementioned copyright protected materials.

Please advise me when the offending images have been removed or access has been blocked so that we may re-inspect the IP for compliance. When responding to this communication, please retain the Subject Notice ID number in the Subject field.

The acts of copyright infringement committed by this account are Federal offenses and ones that should not be taken lightly. You may receive a subpoena requiring you to supply us with the name and other identifying information for this subscriber and are therefore requested to retain all files and documents necessary to reconstruct that data.

This letter does not constitute an exhaustive statement of TITAN Media's legal position nor is it a waiver of any of our rights and/or remedies in this or any other matter, all of which are expressly reserved. Your immediate attention to this matter is expected and appreciated.

Sincerely,

J. Gill Sperlein, esq.
General Counsel, TITAN Media Inc.
121 Capp Street, Suite 200
San Francisco, CA 94110

15-487-1211 X32

Notice ID: 1169925

Infringing Files that must be removed and/or blocked from access are:

Title: Desert Train
Infringement Source: eDonkey
Infringement Timestamp: 2 Jul 2003 02:40:42 GMT
Infringer Username: None
Infringing Filename: Gay Pom - Desert Train - Titan Media.mpg
Infringing Filesize: 912662688
Infringer IP Address: 67.112.218.253
Infringer DNS Name: adsl-67-112-218-253.dsl.sntc01.pacbell.net
Infringing URL: ed2k://67.112.218.253:4662

Infringing Files that must be removed and/or blocked from access are:

Title: Desert Train
Infringement Source: eDonkey
Infringement Timestamp: 2 Jul 2003 02:35:59 GMT
Infringer Username: None
Infringing Filename: Gay Pom - Desert Train - Titan Media.mpg
Infringing Filesize: 912662688

Infringer IP Address: 67.112.218.253

Infringer DNS Name: adsl-67-112-218-253.dsl.sntc01.pacbell.net

Infringing URL: ed2k://67.112.218.253:4662/Gay Pom - Desert Train - Titan Media.mpg

Timestamp: 7/9/2003 9:22:55 AM
Address: copyright@sbis.sbc.com
Subject:Re: Cease and Desist and Notice of DMCA Claim of Infringement [Notice ID: 1170541]

To:
Registered Agent for: Pac Bell Internet Services
208 Bush St. #5000

Notice ID: 1170541

From: Gill Sperlein, General Counsel, Titan Media, Inc.

Date: 9 Jul 2003 16:22:55 GMT

Re: Cease and Desist and Notice of DMCA Claim of Infringement
Request for Removal of AudioVisual Files from your Webserver/s or network.
Request for denial of service to the account of the infringing user

All of the above listed entities and hosting companies are hereby given notice valid under both the DMCA copyright infringement notification requirements and 17 U.S.C section 512.

I am the designated agent of the owner of the copyrights of the images and audio/visual works listed below. I believe that the images and audio/visual works list the times cited below were used by the user listed below and identified by the infringing IP address below in a manner that was not authorized by the owner of the copyrights, its agent or the law.

Verified and documented infringements have been traced to URLs and/or IP Address's controlled by your company are listed below.

We demand that upon receipt of this notification of claimed infringement you expeditiously remove, or disable access to, the below claimed infringing material/s or any other Titan Media property residing on your network/system.

I certify under penalty of perjury that I have a good faith belief that the information contained in this notification is accurate to the best of my knowledge and that authorized to act on behalf of the owner of the aforementioned copyright protected materials.

Please advise me when the offending images have been removed or access has been blocked so that we may re-inspect the IP for compliance. When response to this communication, please retain the Subject Notice ID number in the Subject field.

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Sincerely,

D. Gill Sperlein, esq.
General Counsel, TITAN Media Inc.
121 Capp Street, Suite 200
San Francisco, CA 94110

415-487-1211 X32

Notice ID: 1170541

Infringing Files that must be removed and/or blocked from access are:

Title: Tourist Trade
Infringement Source: FastTrack
Infringement Timestamp: 2 Jul 2003 05:02:00 GMT
Infringer Username: LWLimited@KaZaA
Infringing Filename: Gay Pom - TITAN - Tourist Trade - best movie ever seen!!! [DVD2DIVX by K 9].avi
Infringing Filesize: 847906816
Infringer IP Address: 67.113.6.153
Infringer DNS Name: adsl-67-113-6-153.dsl.isan03.pacbell.net
Infringing URL: 67.113.6.153

Timestamp: 7/9/2003 9:22:57 AM
Address: copyright@sbis.sbc.com
Subject: Re: Cease and Desist and Notice of DMCA Claim of Infringement [Notice ID: 1170569]

To:
Registered Agent for: Pac Bell Internet Services
208 Bush St. #5000

Notice ID: 1170569

From: Gill Sperlein, General Counsel, Titan Media, Inc.

Date: 9 Jul 2003 16:22:57 GMT

Re: Cease and Desist and Notice of DMCA Claim of Infringement
Request for Removal of Audio/Visual Files from your Webserver/s or network.
Request for denial of service to the account of the infringing user

All of the above listed entities and hosting companies are hereby given notice valid under both the DMCA copyright infringement notification requirements and 17 U.S.C section 512.

I am the designated agent of the owner of the copyrights of the images and audio/visual works listed below. I believe that the images and audio/visual works listed the times cited below were used by the user listed below and identified by the infringing IP address below in a manner that was not authorized by the owner of the copyrights, its agent or the law.

Verified and documented infringements have been traced to URLs and/or IP Address's controlled by your company are listed below.

We demand that upon receipt of this notification of claimed infringement you expeditiously remove, or disable access to, the below claimed infringing material/s and any other Titan Media property residing on your network/system.

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Please advise me when the offending images have been removed or access has been blocked so that we may re-inspect the IP for compliance. When responding to this communication, please retain the Subject Notice ID number in the Subject field.

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Sincerely,

D. Gill Sperlein, esq.
General Counsel, TITAN Media Inc.
121 Capp Street, Suite 200
San Francisco, CA 94110

415-487-1211 X32

Notice ID: 1170569

Infringing Files that must be removed and/or blocked from access are:

Title: Trespass
Infringement Source: FastTrack
Infringement Timestamp: 2 Jul 2003 07:22:29 GMT
Infringer Username: emptypants@Grokster
Infringing Filename: Trespass 20.asf
Infringing Filesize: 18795279
Infringer IP Address: 67.125.157.140
Infringer DNS Name: adsl-67-125-157-140.dsl.irvna.pacbell.net
Infringing URL: 67.125.157.140

Timestamp: 7/9/2003 9:22:58 AM
Address: copyright@sbis.sbc.com
Subject: Re: Cease and Desist and Notice of DMCA Claim of Infringement [Notice ID: 1170581]

To:
Registered Agent for: Pac Bell Internet Services
208 Bush St. #5000

Notice ID: 1170581

From: Gill Sperlein, General Counsel, Titan Media, Inc.

Date: 9 Jul 2003 16:22:57 GMT

Re: Cease and Desist and Notice of DMCA Claim of Infringement
Request for Removal of AudioVisual Files from your Webserver/s or network.
Request for denial of service to the account of the infringing user

All of the above listed entities and hosting companies are hereby given notice valid under both the DMCA copyright infringement notification requirements and U.S.C section 512.

I am the designated agent of the owner of the copyrights of the images and audio/visual works listed below. I believe that the images and audio/visual works the times cited below were used by the user listed below and identified by the infringing IP address below in a manner that was not authorized by the owner or its agent or the law.

Verified and documented infringements have been traced to URLs and/or IP Address's controlled by your company are listed below.

We demand that upon receipt of this notification of claimed infringement you expeditiously remove, or disable access to, the below claimed infringing material from any other Titan Media property residing on your network/system.

I certify under penalty of perjury that I have a good faith belief that the information contained in this notification is accurate to the best of my knowledge and that I am authorized to act on behalf of the owner of the aforementioned copyright protected materials.

Please advise me when the offending images have been removed or access has been blocked so that we may re-inspect the IP for compliance. When responding to this communication, please retain the Subject Notice ID number in the Subject field.

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Sincerely,

D. Gill Sperlein, esq.
General Counsel, TITAN Media Inc.
121 Capp Street, Suite 200
San Francisco, CA 94110

415-487-1211 X32

Notice ID: 1170581

Infringing Files that must be removed and/or blocked from access are:

Title: Island Guardian
Infringement Source: FastTrack
Infringement Timestamp: 2 Jul 2003 08:35:55 GMT
Infringer Username: BLUUEBALLS@KaZaA
Infringing Filename: Island Guardian.mpg
Infringing Filesize: 47826948
Infringer IP Address: 64.160.54.16
Infringer DNS Name: adsl-64-160-54-16.dsl.snfc21.pacbell.net
Infringing URL: 64.160.54.16

