

Daniel L. Balsam

February 19, 2007

Demand Media Inc. dba eNom/BulkRegister
15801 NE 24th St.
Bellevue, WA 98008

RE: Demand Media/eNom/BulkRegister's Liability for Unlawful Spam

Dear Demand Media:

I have received numerous spams, illegal under California law, sent from domain names for which BulkRegister or eNom is the domain registrar. The domain names at issue are:

Bammill.com
Blpzt.com
Blpzt.net
Fumig.com

Highies.com
Impond.com
Irskin.com
Roshiki.com

Seegreal.com
Unackly.com
Zorsally.com

Please be advised that many of these domain names (not all) were already included in a certified/return receipt letter that I sent to your office on January 29. Someone – I can't read the name – signed the green postcard on February 1. I have not yet received any response. If you fail to promptly provide the true registrant information, you become liable for these spams, at \$1,000 each.

Samples of the spams and Whois reports showing the hidden registration data, and identifying BulkRegister or eNom as the registrar, are attached.

ICANN Registrar Agreement

The ICANN Registrar Accreditation Agreement (http://www.icann.org/registrars/ra_agreement-17may01.htm), paragraph 3.7.7.3, states:

Any Registered Name Holder that intends to license use of a domain name to a third party is nonetheless the Registered Name Holder of record and is responsible for providing its own full contact information and for providing and updating accurate technical and administrative contact information adequate to facilitate timely resolution of any problems that arise in connection with the Registered Name. A Registered Name Holder licensing use of a Registered Name according to this provision shall accept liability for harm caused by wrongful use of the Registered Name, unless it promptly discloses the identity of the licensee to a party providing the Registered Name Holder reasonable evidence of actionable harm.

Thus, by making the business decision to offer private domain registration services to its customers – and BulkRegister and eNom should reasonably be aware that many spammers attempt to hide their identity by using such services – you voluntarily put yourself at risk for the actions of your customers.

Actionable Harm

These spams violate California Business and Professions Code § 17529.5, which authorizes liquidated damages of \$1,000 *per email* and attorneys' fees, due to falsified, misrepresentative, and forged headers. Actions under B&P § 17529.5 fall into the federal CAN-SPAM Act's express *exception* to preemption. 15 U.S.C. § 7707(b)(1).

Disclosure or Liability

I have been harmed by these unlawful spams, and you agreed to accept liability for this harm, per the ICANN agreement, unless you promptly disclose the identity of the spammer(s) using these domain names. I suspect when you do your research, you will find the actual registrant is Expedite Media Group Inc. in Aurora (formerly West Chicago) Illinois, but you are required to produce *your* regularly-kept business records to that effect. Please respond within 10 business days of your receipt of this letter.

Thank you for your prompt attention to this request.

Sincerely,

Daniel L. Balsam