

DCMA NOTIFICATION Copyright Infringement Report

Date: July 27 2005

Contact Information

Recipient Information:

Google, Inc.
Attn: Customer Support, DMCA
Complaints
[REDACTED]
Mountain View, CA 94043

Sent via: FAX to [REDACTED]

Sender Information:

Crete Complete Property
Attn: [REDACTED]

Chania 73110, Crete, GREECE

Email: [REDACTED]@crete-perfect-home.com

Fax [REDACTED]

Google DMCA Rules (www.google.com/dmca.html)

Signature: [REDACTED]

Delivery: FAX

To Whom It May Concern:

The following information is presented for the purposes of removing web content that infringes on our copyright per the Digital Millennium Copyright Act. We appreciate your enforcement of copyright law and support of our rights in this matter

Identification of Copyrighted Work

The copyrighted work at issue is the complete website (text, photographs and graphics) that appeared on www.kissamos-property.com and it's related pages from February 2001 until December 2004. For an example, see the home page archived at <http://web.archive.org/web/20030329153701/http://www.kissamos-property.com/>

A partnership dispute involving 6 months of litigation followed, and it was proved in a Greek court on 22 June 2005 that I own the domain name www.kissamos-property.com, the business name "Kissamos Property Consultants", the phrase "for your perfect home in Crete" and the intellectual property rights to the contents of the website www.kissamos-property.com, and a certified translated copy of the court decision is attached. My ex-business partner is currently in breach of the court order by continuing to publish this material.

Identification of Infringed Material

The following paragraphs, placed in quotes, were used as the search queries in Google. When a match was made to a site other than ours, we evaluated the extent of the

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copyright infringement. In this case, the entire website has been copied. We have retained but not submitted printed examples of each infringement.

Query# 1

"kissamos property consultants"

- Google search is

"http://www.google.com/search?q=%22kissamos+property+consultants%22&hl=en&lr=&c2coff=1&safe=off&rls=GGLD,GGLD:2005-14,GGLD:en&start=10&sa=N"

The URLs of the infringing search results are as follows (With query numbers in parentheses):

Kissamos Property Consultants

<http://www.kissamospropertyconsultants.gr/> (Query # 1) – ALL PAGES

Copyright Owner Contact Information

Crete Complete Property

Chania 73400

Crete

GREECE

Email: [REDACTED]@crete-perfect-home.com

Copyright Infringers Information

Omogenon Amerikis

Kissamos 73400

Crete

GREECE

Email: [REDACTED]@kissamospropertyconsultants.gr


Copyright Owners Statement

I have a good faith belief that use of the copyrighted materials described above on the allegedly infringing web pages is not authorized by the copyright owner, its agent, or the law.

I swear, under penalty of perjury, that the information in the notification is accurate and that I am the copyright owner or am authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

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Signed on this day, the 27 day of July 2005, in Chania, Crete, GREECE

----- (c/s)
Title: Senior Manager
Company: Crete Complete Property

Attached: 6 pages of the certified translated Court decision of 22 June 2005



Decision No. 1408/2005

The One-member Court of First Instance of Hania

composed of Mr. Konstantinos Kalligeris, Presiding Justice of Hania Court in the absence of a Secretary due to the urgency of the matter.-

The following action came on before the Court on May 17, 2005:

THE PETITIONER/COUNTER RESPONDENT:

DANIELA CEKIC, daughter of MIRKO and LILIANA, spouse of Konstantinos Berdios, resident of Kastelli, the Municipality of Kissamos, the Prefecture of Hania, who was represented before Court by the Athens attorneys Mr. Georgios Boubaris and Mr. Evangelos Papaioannou, who were authorised by the Hania lawyer Haralambos Zolindakis.-

THE RESPONDENT /COUNTER-CLAIMANT:

1) STUART-ROGER-TAI.BOT SIMON, son of RONALD and WENDY, citizen of the United Kingdom, real estate agent, resident of Hania, Crete at 9 Nikolaou Kazantzaki St., and 2) Hariklia Tzamariadaki, daughter of Kiriakos and Maria, private employee, resident of Hania, Crete at 9 Nikolaou Kazantzaki St., who entered an appearance through their Hania attorneys Ms. Antonia Foundoulaki-Manousogiannaki and Mr. Stilianos Tzanakis.-

The petitioner/counter-respondent requires that her petition dated 28.2.2005 be accepted, which was submitted to the Court Office with File No. 484/28.2.2005, the hearing day of which was initially set on April 19, 2004, but was subsequently postponed for the abovementioned hearing day of May 17, 2005.-

The Respondents/Counterclaimants required that the court accepts their oral counterclaim presented during the session.-

During the hearing of this matter, the attorneys of both parties set forth their allegations orally as well and required that they be accepted.-

**HAVING REGARD TO THE CASE FILES THE COURT CONSIDERED THE FOLLOWING
ACCORDING TO THE LAW**

By virtue of the petition under consideration the Petitioner claims that she is the registered beneficiary of the herein said domain names, which have been registered on the Internet and belong to her commercial enterprise with the business title "Kissamos Property Consultants"

providing real estate services, and that the Respondents make illegal and unauthorized use of these domain names, promoting, thus, the newly established business of the first Respondent creating, thus, unfair competition and causing a damage of up to €150,000 to her in accordance with the alleged facts set forth in her petition.-

On the basis of the aforementioned and since this is an urgent matter, the Petitioner seeks an injunction against the Respondent and more specifically she requires that: a) she is provisionally allowed to use these domain names, documented in detail in the said petition, b) the first Respondent is provisionally forced to provide her (the Petitioner) with the access codes and the user names for the domain names otherwise she requires that the first Respondent is provisionally prohibited from accessing or using these domain names in general and that they are rendered inactive (dead links), c) the Court orders a restraint of all assets of the Respondent in order to guarantee that the Respondent will satisfy her claim of €150,000, d) that the Respondents are sentenced to pay a fine or are arrested, whenever they violate the court decision to be issued, e) the Respondents are ordered not to engage in similar action of unfair competition in the future, and f) the court decision is published in two daily newspapers .-

The Petition is coming to be heard before this Court pursuant to the injunction procedure (articles 686 ff. of the Code of Civil Procedure) and is legal, as per provisions of articles 1 ff., 16, Act No. 2387/1920, as it is in effect today after its modification by virtue of recent statutes, 57.,59.,60 of the Civil Code, 1 of legislative decree 4264/1962, 1.,18.,20, Act No. 146/1914, 2 Act No. 2121/1993, 731.,732.,947 of the Code of Civil Procedure, except for the cause of action and her claim for the restrain of the Respondents' assets, which should be rejected as unacceptable due to vagueness, since the Petitioner merely claims that she requires an amount of €150,000 from the Respondents, as a result of the damage to which she was exposed, without explicating the findings of facts that clarify and justify her claim, namely the definite incidents from which it is obtained that the caused damage corresponds to the aforementioned amount of money.-

The Respondents by virtue of an oral statement before the Court denied the factual statements in the petition and made a counterclaim, by virtue of which they claim that the first Respondent is the intellectual author of the website to which the disputed domain names relate and that even though he has the absolute ownership right of the domain names, the Petitioner/Counter-Respondent makes an illegal and unauthorized use of them at his expense according to the findings of facts set forth, while on the basis thereof and due to the urgency of the matter, they require that injunctions are ordered and more specifically that the Petitioner is provisionally prohibited to reproduce and use the website mentioned in the counterclaim and that she is sentenced to pay a fine or be arrested, whenever she violates the court decision to be issued.-

Furthermore, the counterclaim is admissible and legal pursuant to the provisions of articles 57.,59.,60 of the Civil Code, legislative decree No. 1 4264/1962, 1.,18.,20 Act No. 146/1914. 2

Act No 2121/1993, 731,732,947 of the Code of Civil Procedure and it should, thus, be considered together with the petition and be examined upon the merits of the case.—

On the basis of the sworn statement of the witness submitted to the court and the unsworn statement from a second Respondent, the affidavits No. 301 and 302/18-5-2005 that were drawn up before the Notary Public of Kastelli, the province of Kissamos Ms. Maria Tzeirani-Tzanaki and the documents submitted by the parties, the following facts were considered probable: The first Respondent, an English national specialising in Information Technology (development of PC programs, Internet websites, etc), came in September 2000 to Greece and settled in Kastelli, the province of Kissamos, the prefecture of Hania in order to start a real estate agency selling Cretan property to English nationals that would express respective interest. In February 2001 the first Respondent registered on the Internet the name of the business (that was going to be established) "KISSAMOS PROPERTY CONSULTANTS", its abbreviation "KPC", the phrase "FOR YOUR PERFECT HOME IN CRETE", and four domain names, i.e. "Kissamos-property.com", "Kissamosproperty.com", "Kissamos-property.net" and "Kissamosproperty.net" and later he and Mr. Konstantinos Berdios, spouse of the Petitioner, set up a de facto company operating as a real estate agency, each one contributing a 50% to the income and expenses of the company. Formally, however, and mainly for tax reasons, i.e. in order to not overburden Mr. Konstantinos Berdios taxwise, who had been already professionally active as a building contractor, they decided not to present the business under the name of Mr. Konstantinos Berdios, but under the name of his spouse – the Petitioner. This business operated from November 15, 2001 by the aforementioned partners, without the Petitioner having any active participation whatsoever in the transactions of the corporate affairs (with the aforementioned scope) until October 2004, when the partners agreed to its dissolution and in terms of the corporate assets distribution they agreed that the first Respondent operates the office in Tavronitis, while the Petitioner's spouse operates the office in Kastelli. Subsequently, after the dissolution of the business, the Petitioner created a new website on the Internet by copying the website and the business title from the first Respondent illegally, without his knowledge or prior consent, while this website was registered with the Greek domain name server.—

In this way, however, the Petitioner/Counter-respondent infringed upon the intellectual rights of the first Respondent, who is the intellectual author and owner of the aforementioned website, which constitutes an original personal creation with particular individuality. On the other hand, the exactly opposite relevant statement of the Petitioner according to which she herself is the owner of this website and registered domain is unfounded and so are her assertions that the business hosted on the Internet as "Kissamos Property Consultants" was her own enterprise and that the first Respondent was her employee. In addition, as far as the second

Respondent/Counterclaimant is concerned, she is not the author of the website that was mentioned above and, thus, none of her relevant right were violated by the Petitioner/Counter-respondent.-

Therefore in accordance with the aforementioned alleged facts, the Petition should be rejected as unfounded upon the merits of the case, the counterclaim should be accepted as reasonable and well-founded when it comes to the first counterclaimant, while it should be rejected as unfounded upon the merits of the case when it comes to the second counterclaimant . Furthermore, the injunctions set forth in the prayer are issued against the counter-respondent, so that the right of the first counterclaimant can be protected. The legal charges shall burden the Petitioner due to her defeat at Court (article 176 of the Code of Civil Procedure).-

WHEREFORE THE COURT:

- Holds a contradictory hearing .-
- Considers both the petition and the counterclaim.-
- Rejects the petition.-
- Rejects the counterclaim when it comes to the second counterclaimant.-
- Accepts the counterclaim when it comes to the first counterclaimant.-
- Provisionally prohibits the Applicant to reproduce and use the website - domain name "KISSAMOS PROPERTY CONSULTANTS" and the abbreviation "KPC" thereof, the phrase "FOR YOUR PERFECT HOME IN CRETE", the following domain names: www.kissamos-property.com, www.kissamosproperty.com, www.kissamosproperty.net, www.kissamos-property.net, www.kissamosproperty.info, www.kissamos-property.info, www.kissamosproperty.biz and www.kissamos-property.biz, together with the 69 domain names with the elements: (1) kissamosproperty.com, (2) kissamos-property.com, (3) kissamosproperty.net, (4) kissamos-property.net, (5) kissamosproperty. info, (6) kissamos-property.info, (7) kissamosproperty.biz, (8) kissamos-property.biz, (9) properties-crete.com, (10) crete-ouest.co.uk, (11) crete-ouest.com, (12) crete-west.co.uk, (13) crete-west.com, (14) immobilier-kissamos.com, (15) kissamos-immobilier.com, (16) kissamos-real-estate.com, (17) kreta-western.com, (18) property-kissamos.com, (19) real-estate-kissamos.com, (20) western-crete.com, (21) western-kreta.com, (22) kissamos-real-estate.co.uk, (23) property-kissamos.co.uk, (24) real-estate-kissamos.co.uk, (25) build-crete.com, (26) chania.business.com, (27) chania-hause.com, (28) chania-home.com, (29) chania-immobilier.com, (30) chania-land.com, (31) chania-maison.com, (32) chania-property.com, (33) chania-real-estate.com, (34) chania-villa.com, (35) construction-crete.com, (36) crete.build.com, (37) crete-construction.com, (38) crete-hause.com, (39) crete-hause.com, (40) crete-immobilier.com, (41) crete-land.com, (42) crete-maison.com, (43) crete-modern.com,

(44) crete-stone.com, (45) crete-traditional.com, (46) hause-chania.com, (47) hause-crete.com, (48) hause-kreta.com, (49) home-chania.com, (50) home-crete.com, (51) homes-crete.com, (52) house-crete.com, (53) houses-crete.com, (54) immobilien-chania.com, (55) immobilien-crete.com, (56) kissamos-home.com, (57) kissamos-house.com, (58) kissamos-land.com, (59) kissamos-villa.com, (60) kreta-hause.com, (61) land-chania.com, (62) land-crete.com, (63) maison-crete.com, (64) modern-crete.com, (65) property-chania.com, (66) real-estate-chania.com, (67) traditional-crete.com, (68) villa-chania.com and (69) kissamos-property.co.uk, including the content of these domain names, which were legally registered and hosted internationally under the name of the first Respondent.-

- Threatens to impose a fine of €1.000 to the Petitioner/Counter-respondent and imprisonment of one (1) month, in case the petitioner violates the aforementioned order.-
- Adjudges that the counter-respondent/petitioner covers the legal charges amounting to €250.-

The aforementioned has been entered, ordered and published in Hania, June 14, 2005, during an extraordinary public hearing in open Court in the absence of the parties and their attorneys.

THE PRESIDING JUDGE

THE SECRETARY
(For publication)

This is a true translation of the attached and legally certified document from the greek language into english.

Chania, 21-07-2005

The lawyer who translated

ΕΠΙΣΗΜΩΣ ΤΟ ΥΠΕΡΘΕΤΟ ΤΗΣ ΑΠΟΦΑΣΗΣ
ΤΟΥ ΔΙΚΗΓΟΡΟΥ Παναγιώτης Παπαδόπουλος
Σταμάτης Παπαδόπουλος
ΑΔΑΠΕ 91.1-6005
Ε. Π. Κ. ΕΛΠΙΣ
ΤΟΥ ΔΙΚΗΓΟΡΟΥ ΣΥΜΒΟΛΟΥ ΚΑΘΩΣ
ΚΑΙ ΚΑΤ' ΕΞΟΥΣΙΟΔΟΤΗΣΗ


ΠΑΝΑΓΙΩΤΗΣ ΠΑΠΑΔΟΠΟΥΛΟΣ