Fwd: Fw: Phil Cheves

Stanton, Meridith <meridith_stanton@ios.doi.gov> Mon, Apr 7, 2014 at 3:00 PM
To: [redacted]

As you may recall, the Navajo Nation is suing Urban Outfitters under the trademark act (Lanham Act) and Indian Arts and Crafts Act. [redacted]

——— Forwarded message ———
From: **VanWey, Kenneth** <kenneth_van_wey@ios.doi.gov>
Date: Mon, Apr 7, 2014 at 2:51 PM
Subject: Re: Fw: Phil Cheves
To: [redacted]
Cc: Meridith Stanton <meridith_stanton@ios.doi.gov>

I spoke to Cheves earlier this afternoon. I was suitably vague, esp. as regards current process for criminal complaints. But he was more concerned with civil provisions, as he has been approached about helping Urban Outfitters as local counsel in NM. I directed him to the statutes, explained that the IACB or DOJ don't have to be involved in civil cases brought by a party specified under the Act, and reaffirmed the difference between State and federal laws.

Hopefully that is that.

Ken

On Wed, Apr 2, 2014 at 4:16 PM, [redacted] wrote:
ok. So I guess Meridith would have to follow up then as she could be the person you passed the info. too.

On Wed, Apr 2, 2014 at 11:18 AM, VanWey, Kenneth <kenneth_van_wey@ios.doi.gov> wrote:
I just told him that I'd pass his information along, I did not promise any response. But I did give him my name, so he may call back at some point.

On Wed, Apr 2, 2014 at 12:03 PM, [redacted] wrote:
neither do i.
How was it left when you last spoke to him, Ken? Were you going to get back to him? If so, I'd recommend saying any Fed can investigate per the Act and all fed. crimes go to the USAs office. Just be vague. Also, directly ask if he is representing someone in a case as you may be able to get him some more specific info. But don't actually give him any specific info.!

Ken, I did receive the evidence you sent. I'm pretty busy preparing stuff for my AUSA right now so I will get to it next week.

On Wed, Apr 2, 2014 at 7:47 AM, Meridith Stanton <meridith_stanton@ios.doi.gov> wrote:
I don't think that is the case....

— Original Message —
From: Nina Alexander [mailto:nina_c_alexander@ios.doi.gov]
Sent: Wednesday, April 02, 2014 06:39 AM
To: Meridith Stanton <Meridith_Stanton@ios.doi.gov>; Michele Hill <michele_hill@ios.doi.gov>; [redacted]
Subject: Phil Cheves

I met my friend, Margaret Branch, last night and since she's a top lawyer with lots of knowledge of lawyers/firms I asked her about the firm. They are high profile/expensive civil litigators- no criminal.
The only thing I can think is they could be representing a tribe for recognition- Fort Sill Apache or going against the state about casinos or oil and gas.
Sent from my iPhone

–
[redacted]
DOI / FWS
Albuquerque, NM
[redacted]

–
[redacted]
DOI / FWS
Albuquerque, NM
[redacted]

–

Meridith Z. Stanton
Director
Indian Arts and Crafts Board
Office of the Secretary
MS 2528-MIB
U.S. Department of the Interior
Washington, D.C. 20240
202-208-3773 (main)
202-208-3889 (direct)
1-888-Art-Fake (toll free)
202-208-4382 (fax)

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Re: Documents for the DOJ FPB

[redacted] Tue, Nov 13, 2012 at 5:50 PM

To: "Stanton, Meridith" <Meridith_Stanton@ios.doi.gov>
Cc: "Fry, Ashley" <Ashley_Fry@ios.doi.gov>, [redacted]

Sounds like a good approach. I'm good with the edits and modifications in the attached files and have no additional comments, edits, or modifications.

[redacted]
Southwest Region
[redacted]

"Stanton, Meridith" <Meridith_Stanton@ios.doi.gov>

11/13/2012 03:12 PM

To [redacted]

cc "Fry, Ashley" <Ashley_Fry@ios.doi.gov>

Subject Documents for the DOJ FPB

[redacted]

I have given this more thought and believe the better path forward is for me to email Patrick these edits to his draft cover letter and draft settlement agreement, and forgo the Thursday conference call with Patrick unless he feels it is necessary following receipt of the email. Before I send this along to Patrick, I wanted to run this by you in the event you may see any red flags. I will be sharing this with AUSA Dupris as well.

The mail conveying the attachments would read –

Patrick,

Thank you for the opportunity to review the draft settlement agreement. We appreciate all your hard work towards reaching a mutually agreeable resolution.

Comments on our proposed edits for the **draft settlement agreement** follow.

Delete [redacted]

Delete second paragraph on page [redacted]

[redacted]

Add language for clarification on page [redacted]

Change [redacted] on page four
[redacted]

Add new paragraph number seven on page [redacted]

I have also made suggested changes to the **draft cover letter**, which reflects the above comments.

If you could please let me see the final version prior to sending the agreement to Mr. Ungar, that would be greatly appreciated.

Thank you,

Meridith

If you have any further thoughts, please let me know as I would like to get this to Patrick before the end of the week.

Best regards,

Meridith

Meridith Z. Stanton
Director
Indian Arts and Crafts Board
Office of the Secretary
MS 2528-MIB
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[attachment "Letter to Pendleton -IACB revisions 11-13-12.docx" deleted by [redacted]/RO/R2/FWS/DOI] [attachment "Settlement Agreement - Draft 11-2-12 with IACB edits (2).docx" deleted by [redacted] /RO/R2/FWS/DOI] [attachment "revised PWM settlement counteroffer (3) (3).doc" deleted by [redacted] /RO/R2/FWS/DOI]

[redacted]

Stanton, Meridith

From: Brian Lewis [blewis@nndoj.org]
Sent: Friday, May 04, 2012 6:56 PM
To: Stanton, Meridith
Subject: RE: Indian Arts and Crafts Act

DAG Navajo

Yes, anytime from this evening forward. Feel free to call my office at (928) 871-6194 or my cell phone at [redacted]

BLL

[redacted]

From: Stanton, Meridith [mailto:Meridith_Stanton@ios.doi.gov]
Sent: Friday, May 04, 2012 1:24 PM
To: Brian Lewis
Subject: Indian Arts and Crafts Act

Hi Brian,

Would you have five to ten minutes to talk? If so, when might be a good day/time?

[redacted]

Best Regards,

Meridith

Meridith Z. Stanton
Director
Indian Arts and Crafts Board
Office of the Secretary
MS 2528-MIB
U.S. Department of the Interior
Washington, D.C. 20240
202-208-3773 (main)
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[redacted]

NAVAJO

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

I will be touching base with Brian next week and letting him know I have discussed with FPB and am awaiting further word from FPB.

1/20/12

FINNEGAN

Fair Use
Cases Finding Fair Use
Cases Finding No Fair Use
Fair Use - Reseller
First Sale Doctrine
Genericness
Parody Cases
Sucks/Criticism Cases

Initial Interest Confusion
Cases Finding Likelihood of Confusion
Cases Finding No Likelihood of Confusion
Courts Not Adopting Initial Interest Confusion

Keywords

Metatagging

Non-Domain Name Trademark Infringement
Cases Finding Infringement
Cases Finding No Infringement

Remedies
Attorney's Fees
Automatic Registration of Domain Names
Bond
Cancellation of Domain Name
Corrective Advertising
Court Order Preventing Destruction of Evidence
Damages

Internet Trademark Case Summaries

Australian Gold, Inc. v. Hatfield

436 F.3d 1228 (10th Cir. 2006)

Three of the plaintiffs made and sold indoor tanning lotions under the marks AUSTRALIAN GOLD, CARIBBEAN GOLD, and SWEDISH BEAUTY, respectively. Plaintiff ETS distributed these products under an exclusive distribution agreement and authorized its distributors to sell plaintiffs' products only to certain types of tanning salons and prohibited them from selling the products on the Internet. Defendants resold plaintiffs' products along with competitive products on various websites. Defendants typically obtained the products under false pretenses by stating or making it appear from business names that they operated tanning salons. Defendants' websites depicted plaintiffs' products and trademarks. Defendants used plaintiffs' trademarks in the metatags of their websites, and purchased the marks "Australian Gold" and "Swedish Beauty" as search keywords. The plaintiff-manufacturers sued for trademark infringement, false advertising, and unfair competition, and plaintiff ETS sued for interference with its distribution contracts. After a trial, the jury returned a verdict in favor of plaintiffs on trademark infringement and false advertising. The jury awarded: (1) plaintiffs Australian Gold and Advanced Technology Systems damages of $325,000 and $125,000, respectively, for infringement, and $35,000 and $15,000, respectively, for false advertising; (2) damages of $500,000 to ETS for its tortious interference claim, and (3) punitive damages to ETS of more than $4,000,000 on its tortious interference/conspiracy claims. The court enjoined defendants from selling plaintiffs' products over the Internet or to the general public, displaying plaintiffs' trademarks on the Internet, using plaintiffs' trademarks as metatags or in html code on their websites, and displaying any false or misleading statements on their websites. The injunction did not address the purchase of keywords.

On appeal, the Tenth Circuit affirmed the jury's decision and the court's injunction on the Lanham Act claims. The appeals court rejected defendants' argument that plaintiffs did not present evidence of a likelihood of consumer confusion. Initially, the court recognized the doctrine of initial-interest confusion. Here, the court noted that defendants' use of plaintiffs' marks on their websites, in their metatags, and in the purchase of keywords could "lure" consumers to the lotions from plaintiffs' competitors. The court held that five of the six prongs of the test for initial-interest confusion favored plaintiffs: (1) the marks were identical, (2) defendants deliberately

Default Judgment
Defendant Allowed to Use Domain Name Temporarily to Refer to New Website
De-Listing Website From Search Engines or Directories
Disclaimer Ordered or Rejected by Court
Ex Parte Temporary Restraining Order
Extraterritorial Relief
Freezing of Assets
Giving Notice of Court Order to Third Parties
Link to Defendant's Website
Ordering Registry to Change Registrars
Posting Court Order on Website
Registrar Screening/Monitoring of Infringing Domain Names
Rule 11 Sanctions
Shutdown of Entire Website
Stay Pending Appeal
Transfer of Domain Name as Sanction
Transfer or Cancellation of Domain Name Pending Decision on the Merits

Voluntary Disclaimers
Voluntary Disclaimer Effective
Voluntary Disclaimer Ineffective

used plaintiffs' marks to divert traffic to defendants' sites to sell both plaintiffs' and competitors' products, (3) the products were the same or similar, (4) the degree of care taken by consumers favored plaintiffs because these "low-cost products were subject to impulse purchases," and (5) plaintiffs' trademarks were strong. Plaintiffs' failure to offer any evidence of actual confusion did not overcome these factors. Moreover, the court held that defendants' disclaimers on their websites were "inadequate" because they did "not tie particular trademarks to particular holders." Nor could defendants' disclaimers "prevent the damage of initial interest confusion," which already occurred when consumers looking for plaintiffs' sites were misdirected to defendants' sites. The court then held that the first-sale doctrine did not shield defendants' actions because it did "not protect resellers who use other entities' trademarks to give the impression that they are favored or authorized dealers for a product when in fact they are not." Here, defendants did more with plaintiff's marks than "merely displaying and stocking trademarked items." Instead, defendants' actions indicated "an intent to cause consumer confusion." Regarding defendant's challenge to the damages awarded under the Lanham Act, the Tenth Circuit held that plaintiffs "clearly suffered damages as a result of [d]efendants' actions because: (1) plaintiffs lost opportunities for "up-selling" that would have been present with sales direct to salons, (2) some consumers looking for plaintiffs' products undoubtedly purchased competitors' products from defendants' sites, and (3) plaintiffs "faced the potential for lawsuits and dimunition of [their products'] reputation" because the products sold online did not come with use or safety instructions. And although plaintiffs presented sparse evidence of the amount of actual damages, the evidence of the value of defendants' sales of plaintiffs' products and defendant's sales prices provided enough evidence for a jury to assess plaintiff's lost "upselling possibilities." Finally, the Tenth Circuit held that the district court did not grant "overly broad" injunctive relief and that defendants' use of disclaimers did not adequately remedy any possible confusion.

A Message from the Director

We're here to help you build a successful business on the Navajo Nation. We are the Division of Economic Development (DED), a department within the executive arm of the Navajo Nation. Our sole purpose is to create an environment that is conducive to promoting economic development through our business services in the Commercial, Tourism, Industrial, Small Business, and other sectors of the Navajo Nation economy, thereby creating jobs and business opportunities for Navajos and non-Navajos alike. To get started **click here.**

Our current priorities are to create new job growth, utilize our growth centers to generate new business opportunities, and focus our efforts for the near future on the industrial and tourism development sectors. We will support new and growing business owners each step of the way throughout the process of establishing your business. This site is your first step in becoming familiar with who we are and what we can offer you.

Take some time to familiarize yourself with the information on this site. I highly recommend you spend time in the "Doing Business" section; it will give you a feel for our Programs and Business Incentives. You won't want to miss the "Tribal Development" section to discover new business opportunities and uncover our current economic strategies. The "Fast Facts" and "Infrastructure" areas provide specific data about the nation itself.

We would enjoy speaking with you about your venture and our services. If you'd like to contact us --> **click here.**

Thank you for your interest in doing business on the Navajo Nation.

Sincerely,

Albert Damon, Jr., Director
Division of Economic Development

Navajo Nation, DED
1-928-871-6544

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WHAT'S NEW CLOTHES ACCESSORIES SHOES INTIMATELY FP VINTAGE LOVES ENDLESS SUMMER sale FEATURES

vintage loves previous item [redacted] 500 email us return policy shipping info

Vintage Navajo Squash Necklace

Style 22550823

10"oz squash necklace made from trading post and commercial-made beads

PRICE: $698.00

PLEASE NOTE

VINTAGE LOVES ITEMS ARE NOT RETURNABLE.

Help/Info

QUESTIONS AND ANSWERS

ask a question:

Name Email

SUBMIT

quantity: 1

ADD TO BASKET

Like OR TELL A FRIEND

sizing:

Length: 0"

condition:

fair good mint

condition details:

Some discoloration

How we rate condition

need help?
call 800-309-1500
or contact us

shop your country

customer service
help
order status
size chart
shipping information
returns & exchanges
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vintage loves previous item next item need help? 1.800.309.1500 email us return policy shipping info

Vintage Navajo Squash Necklace

Style: 23550858

19"os handmade Navajo squash necklace with bench made beads and horseshoe and turquoise pendant Hook closure

PRICE: $398.00

PLEASE NOTE:

VINTAGE LOVES ITEMS ARE NOT RETURNABLE.

Help/Info

QUESTIONS AND ANSWERS

ask a question:

Name Email

color: turquoise

size: 0

quantity: 1

ADD TO BASKET

Like OR TELL A FRIEND

sizing:

Length: 151 2" (closed)

condition:

fair good mint

condition details:

In good condition

How we rate condition

SUBMIT

need help?
call 800-309-1500
contact us

customer service
help
order status
size chart
shipping information
returns & exchanges
personal and orders

company
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Vintage loves previous item next item need help? 1.800.309.1500 email us return policy shipping info

[redacted]

Vintage Navajo Handmade Necklace

style 2355090

1970s handmade Navajo necklace with hand-stamped feathers and beautiful stone pendants

PRICE: $328.00

PLEASE NOTE

VINTAGE LOVES ITEMS ARE NOT RETURNABLE.

Help/Info

QUESTIONS AND ANSWERS

ask a question:

Name Email

SUBMIT

color: turquoise

size: one size

quantity: 1

ADD TO BASKET

Like OR TELL A FRIEND

sizing:

Length: 11"

condition:

fair good mint

condition details:

In great condition.

How we rate condition

need help?
call 800-309-1500
or contact us

shop your country

customer service
help
order status
size chart
shipping information
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WHAT'S NEW CLOTHES ACCESSORIES SHOES INTIMATELY FP VINTAGE LOVES? ENDLESS SUMMER sale | FEATURES

vintage loves previous item next item need help? 1.800.309.1500 email us return policy shipping info

Vintage Navajo Handmade Cuff

Style: 23545569

Handmade Navajo cuff originally sold at a trading post. Features circle turquoise stone and etched arrow details.

PRICE: $148.00

PLEASE NOTE

VINTAGE LOVES ITEMS ARE NOT RETURNABLE

Help/Info

QUESTIONS AND ANSWERS

discussion about this product:

Morgan at 4:01:36 PM on 08.28.2011

"Would this fit around an arm like an arm cuff?"

vintage@freepeople.com at 4:24:00 PM on 08.29.2011

"Hello, This is more of a bracelet, The diameter is only 2 1/4" so it would probably not fit very high on the arm. Hope this helps!"

ask a question:

Name: Email:

SUBMIT

[redacted]

size: one size

quantity: 1

ADD TO BASKET

Like OR TELL A FRIEND

sizing:

Diameter: 2 1/4"
Width: 1/2"

condition:

fair good mint

condition details:

In good condition.

How we rate condition

need help?
call 800-309-1500
or contact us

customer service
help
order status
size chart
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[redacted]

Vintage Navajo Cuff

Style: 23551070

1970s-80s hippie-made Navajo cuff with two turquoise stones.

PRICE: $298.00

PLEASE NOTE

VINTAGE LOVES ITEMS ARE NOT RETURNABLE.

Help/Info

QUESTIONS AND ANSWERS

ask a question:

Name* Email

SUBMIT

color: turquoise

size: one size

quantity: 1

ADD TO BASKET

Like OR TELL A FRIEND

sizing:

Diameter: 2"
Width: 1.5"

condition:

fair good mint

condition details:

Good condition

How we rate condition

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[redacted]

Vintage Navajo Cuff

Style 23551088

1950s Navajo cuff with [redacted] only turquoise stone

PRICE: $298.00

color: turquoise

size: one size

quantity: 1

ADD TO BASKET

PLEASE NOTE

VINTAGE LOVES ITEMS ARE NOT RETURNABLE.

Like OR TELL A FRIEND

Help/Info

sizing:

Diameter: 2 3/4"

QUESTIONS AND ANSWERS

ask a question:

Name Email

SUBMIT

condition:

fair good mint

condition details:

In good condition with some minor signs of wear.

How we rate condition

need help?
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or contact us

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size chart
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Vintage Handmade Navajo Necklace

Style 21550610

10" of chain link necklace with beautiful turquoise stone details. Adjustable hook closure

PRICE: $328.00

PLEASE NOTE:
VINTAGE LOVES ITEMS ARE NOT RETURNABLE.

Help/Info

QUESTIONS AND ANSWERS

discussion about this product:

Enrica at 10:23:42 PM on 09.08.2011

"is the metal 925 silver? thanks"

vintage@freepeople.com at 2:33:00 PM on 09.13.2011

"Hello, we don't believe that it is, we think that its earlier, but are unable to post specifics since it is not clearly documented on the piece. Sorry we don't have more detail, but we would never want to be misleading!"

ask a question:

Name | Email

SUBMIT

color: turquoise

size: one size

quantity: 1

ADD TO BASKET

Like | OR TELL A FRIEND

sizing:

Length: 12 1/2"

condition:

fair | good | mint

condition details:

In good condition

How we rate condition

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MENS ACCESSORIES

ONV027_112_HEATHEROATMEAL

NAVAJO SOCKS

OBEY heathered tube sock with color blocked heel and toe.
Has a jacquard navajo pattern at top.

$19.00

Colors

Quantity

4 colors

VINTAGE LOVES

About Vintage Loves

Vintage Heishi Bead Earrings

Style: 24530305

Vintage pair of Heishi bead earrings with hooks.

Heishi are small discs or tubes shaped beads made of organic shells or ground and polished stones. They originate from the Santo Domingo Pueblo Indians in New Mexico.

PRICE: $228.00

Help/Info

color: multi

size: one size

quantity: 1

OR TELL A FRIEND

sizing:

Total Length: 2 1/2"

condition:

condition details:

In mint condition.

How we rate condition

ask a question:

Name: Email:

SUBMIT

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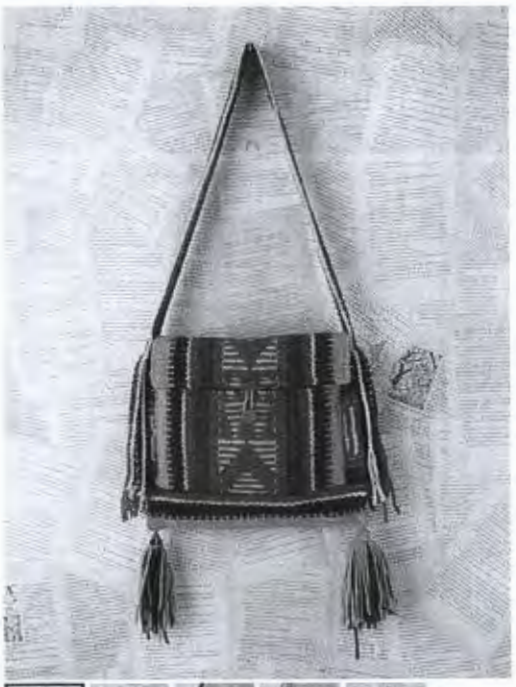

VINTAGE LOVES

Vintage Woven Bag

Style: 23819915

Vintage Native American Indian woven bag with yarn tassels at all corners. Flap closure with button. Inside lined with floral printed fabric. One outside zipper pocket.

PRICE: $228.00

Help/Info

color: multi

size: one size

quantity: 1

OR TELL A FRIEND

sizing:

Length: 11"
Width: 12"
Depth: 1"
Strap Length: 31 ½"

condition:

condition details:

The threading around zipper is loose. Shows some wear. In good condition overall.

How we rate condition

discussion about this product:

Shirine at 5:04 PM on 02.12.2012

"could you by any chance please send me photos of the inside of this bag? would greatly appreciate it."

Vintage Loves at 2:11 PM on 02.14.2012

"Hello, this item is packaged for shipping in our warehouse at this time, so our photo studio cannot take new images. However, I can confirm that the lining is floral and plaid. Hope this helps! "

ask a question:

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DETAILS & SHOPPING REVIEWS & FITTING (0)

Vintage Cherokee Backpack

Style: 23781560

price: $598.00

availability (web & stores)

Overall Rating **Q&A**

WRITE A REVIEW ASK A QUESTION

color: **tan**

Beautiful patterned woven drawstring backpack with distressed leather trimming. Adjustable straps. Fully lined with canvas. Zipper pocket inside. Buckle closure. Woven part is made from one-of-a-kind blankets, so each backpack will vary.

size: **one size** chart

One Size

quantity: 1

*By Totem
*Textile, Leather
*14" deep, 11 ¼" wide, 7 ¼" thick on the side

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