

EXHIBIT R



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March 22, 2011

William L. Becker, Esq.
General Counsel and Vice President
Harpo, Inc.
110 N. Carpenter St.
Chicago, IL 60607

Cc: Bernard Gugar, Esq.

RE: Own Your Power® Word Mark

Dear Mr. Becker:

Please be advised that Simone Kelly-Brown, CEO of Own Your Power® Communications, Inc., a Florida company ("OYP Inc."), has retained the firm to represent both her and OYP Inc.'s interests pursuant to The Lanham Act of 1946, 15 U.S.C. §1051 et seq. Since 1996, Ms. Kelly-Brown has continuously advocated that people take their life's dreams to the next level in furtherance of her self-awareness and motivational communication services. While providing these services over several years, Ms. Kelly-Brown originated a unique concept that manifests the thought and imagination that anyone can live their best life by believing "anything you want in life is attainable". In furtherance, Ms. Kelly-Brown deliberately selected three special words that would best distinguish her services and would ultimately become the name of her company, "Own", "Your", and "Power". Thereby, Ms. Kelly-Brown created the Own Your Power® mark, and the words "Own Your Power" have continuously served to identify the source for self-awareness and motivational communication services (alternatively referred to as "Own Your Power® Services"), provided both individually and through OYP Inc. Accordingly, she petitioned the United States Patent & Trademark Office ("USPTO") to grant her exclusive ownership of the federally registered word mark, "Own Your Power®" (Registration No. 3434419) ("Mark", "Own Your Power® Mark", or "Own Your Power® Word Mark").

To date, Ms. Kelly-Brown and OYP Inc. (collectively, "Company") have spent considerable time, money and effort cultivating the good-will of the Own Your Power® Mark while facilitating the Own Your Power® Services through the use of broadcast media, print media, the internet and speaking engagements nationwide. Over time, Company's services have expanded and diversified such that the Own Your Power® Mark is publicly recognized as an indicia of source in connection with the Own Your Power® Radio Show, the annual Own Your Power® Biz Conference, the Own Your Power® Lifestyle

Center, Own Your Power® retreats and the upcoming Own Your Power® E-Magazine, among other successes.

It has been brought to the firm's attention that Harpo, Inc., its agents, associates, groups, affiliates, partners and subsidiaries including but not limited to Harpo Productions, Oprah Winfrey, and Hearst Corporation (collectively "Harpo"), in partnership with institutions such as Wells Fargo & Company, Chico's FAS, Inc., and Clinique Laboratories, LLC (collectively, the "Own Your Power Partners" "OYP Partners" or "Partners"), without authority, has selected the same letters and the same words, and used them in the same combination, "Own Your Power®," as the source identifier for the same personal awareness and motivational communications services. In furtherance of its collective efforts to exploit the Own Your Power® Mark to establish itself as the source of said services, Harpo, along with the OYP Partners, has waged a nation-wide campaign of deliberate unauthorized use through the nationally distributed *O, The Oprah Magazine* ("Magazine"), affiliated websites including but not limited to www.oprah.com and <http://www.omagazine.info/> ("Websites"), its Twitter account, the internationally broadcast *Oprah Winfrey Show* ("Show") and a celebrity panel event held on September 16, 2010 ("Event") (hereinafter collectively referred to as the "Infringing Activities"), and as such violated Company's exclusive rights as recognized by the USPTO.

Accordingly, Harpo's unauthorized exploitation of the Own Your Power® Mark violates The Lanham Act of 1946, 15 U.S.C. §1051 et seq. and Company hereby reserves the right to bring any and all federal and state based claims or any other claims, actions or disputes arising in connection with Harpo's conduct as specified herein or otherwise.

Unauthorized Exploitation Of The Own Your Power® Word Mark

As you are aware, the Own Your Power® Mark's registration on the Principal Register of the USPTO constitutes *prima facie* evidence of the validity of the Mark, and proof of Company's ownership and exclusive right to use the Mark in connection with its services. Such registration also serves to provide Harpo and the Own Your Power Partners with notice of Company's exclusive rights.

Yet, Harpo, along with the OYP Partners, has prominently made unauthorized, verbatim source-identifying use of the exact wording of Company's Own Your Power® Mark as the central theme of the October 2010 Magazine, as documented in Exhibit A. Like Company, the focus of Harpo's Magazine is to provide services advocating on behalf of self-awareness and motivation, encouraging its readership to "Live Your Best Life." The majority of Company's services are targeted toward women, and likewise Harpo's Magazine holds itself out as a "women's lifestyle magazine covering 360 degrees of a woman's life, guided by the values of Oprah Winfrey." Thus, when Harpo and its Partners identify these related services with the words "Own Your Power", it is encroaching on territory that Company has already secured through federal trademark registration.

Additionally, Oprah Winfrey ("Winfrey"), who is recognized as the creative source behind the Magazine, appears alone on the cover of every Magazine issue, with few exceptions, accompanied primarily by bold, eye catching signature words which, along with her image, serve the purpose of branding Harpo's Magazine against the competition. Not only does Winfrey contribute to the branding

of Harpo and its holdings, but in fact, Winfrey is the brand herself, as stated by Winfrey in an October, 2010 article in *Fortune Magazine*. The fact that the words “Own Your Power,” italicized for emphasis, are emblazoned across the chest of Winfrey, who is herself Harpo’s foremost brand, using the same font type as the Magazine’s “O” and a font size which nearly eclipses that of the Magazine’s name, demonstrates an attempt to link the Own Your Power® Mark with Harpo’s own brand and indicate that Harpo and its Partners are the source of the Own Your Power® Services rather than Company. Additionally, Harpo and the OYP Partners have continued to exploit the Own Your Power® Mark, without authorization, throughout multiple editions of the Magazine. Not only did Harpo and its Partners exploit the Own Your Power® Mark in its October 2010 edition, but the unauthorized campaign was continued into the December Magazine, where more advertisements featuring Harpo and the OYP Partners as the source of the Own Your Power® Services appear. The fact that the aforementioned infringement merely constitutes the beginning of a pattern of deliberate and systematic unauthorized use is further evidence of Harpo and its Partners’ intent to identify themselves as the source of the Own Your Power® Services.



Exhibit A –The Own Your Power® Mark Was Used As An Indicia Of Source, Emblazoned Over Oprah Winfrey On The Cover Of The October 2010 Magazine And The Magazine’s Website

This unauthorized exploitation continued as Harpo and its Partners once again utilized Company’s word Mark without permission, displaying it word-for-word in the Websites’ banners, features, and advertisements (Exhibit B) and thus identified Harpo and its Partners as the source for self-awareness and motivational communications services. Company owns and operates its own website which, under the brand of “Own Your Power®,” informs and sells services in the areas of self-awareness and motivational communications. Through its website, Company provides access to Own Your Power® media such as the Own Your Power® radio show, video from Own Your Power® conferences, and Own Your Power® blog articles, all of which provide advocacy in the areas of self-awareness and motivational communication. Likewise, Harpo’s Websites have informed and sold services, under the brand of “Own Your Power,” in the areas of self-awareness and motivational communications. Through its Websites,

Harpo provides access to media deliberately referred to under the designation of Own Your Power®, including but not limited to videos from Harpo's Own Your Power Event, articles advocating how one can "Own Your Power", and excerpts from its October 2010 "Own Your Power" Magazine, all of which identify Harpo and the Own Your Power Partners as the source of services in the areas of self-awareness and motivational communication.

As of September 30, 2010 Harpo has branded at least seventy five (75) pages on its Websites with both a banner featuring the identical words of the Own Your Power® Mark, without authorization, and a connected advertisement for Harpo's Magazine likewise exploiting the Mark. Countless other pages on Harpo's Websites include a separate advertisement for Harpo's Magazine featuring the words of Company's Mark, and links and captions doing the same, all without authorization. As a result of this comprehensive internet-based exploitation of Company's Mark, a Google search for "Own Your Power®" now recognizes Harpo as a prominent source, and in some cases, the primary source for the Own Your Power® Services, where previously such a search only recognized Company as the source of the aforementioned self-awareness and motivational communications services under that Mark. (Exhibits F and G). As if this were not alarming enough, Harpo and its Partners' methodical and unauthorized exploitation of Company's Mark has expanded into other media.

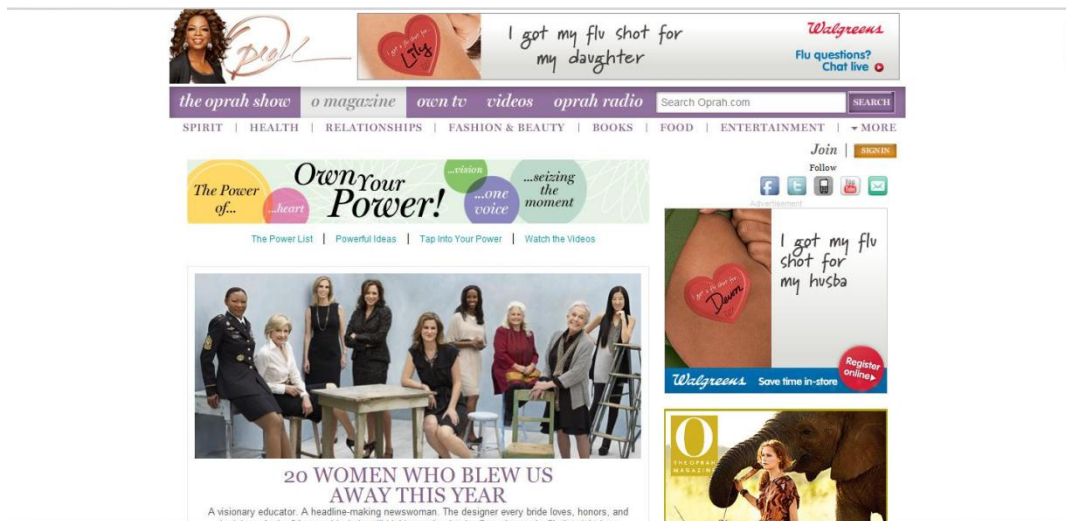


Exhibit B – The Own Your Power® Mark Was Exploited By Harpo's Website Banners, Features And Advertisements As An Indicia Of Source

Harpo and the OYP Partners once again exploited Company's Mark, on the Show at least as recently as the episode televised on September 27, 2010 (Exhibit C). Ms. Kelly-Brown is the host of a radio show, known as the Own Your Power® radio show, and also makes live appearances at Own Your Power® retreats and conferences. Through each medium, Company provides self-awareness and motivational communication services under the umbrella of Own Your Power®. Through its chief personal brand, Oprah Winfrey, Harpo provides extensive self-awareness and motivational communication services on television, and its Show is described by authorities on the subject as "helping the viewers change themselves." (<http://www.tv.com/the-oprah-winfrey->

show/show/2972/summary.html?q=oprah&tag=search_results;title;3). While providing the services, Company expresses to the audience the importance of Own[ing] Your Power®, thus reinforcing its status as the source of the Own Your Power® services. Harpo has mimicked this usage in such a dramatic fashion as to have Oprah Winfrey specifically pointing to each of the three words while advocating the same to her audience, thus indicating herself and Harpo as the source of the Own Your Power® Services.



Exhibit C – Oprah Winfrey Publicly Uses The Own Your Power® Mark Both Verbally And With Physical Gestures To Indicate Her And Harpo As The Source Of Own Your Power® Services

Harpo and its Partners' repeated exploitation of Company's Mark has been further elevated by the fact that the Mark's words have been used, without authorization, to designate Harpo and its Partners as the source of the Own Your Power® Services through the Event, held on September 16, 2010 in New York City (as documented in Exhibit D). The Event, which is affiliated with the Magazine's "O Power List," involved a panel and speakers providing services in the areas of self-awareness and motivational communication. Not only did Harpo and its Partners lack authority to exploit the Company's Own Your Power® Mark, but such exploitation resulted in numerous people notifying the Company about their confusion as to the actual source of the Own Your Power® Services. One such area of confusion concerned Company's Own Your Power® conference held on September 18, 2010 in New York City, which also involved panels and speakers providing services in the areas of self-awareness and motivational communication. In fact, Company has shaped its Own Your Power® conference into a key annual event that brands Company as the source for self-awareness and motivational communications services, and Harpo, in conjunction with its Partners, unjustifiably impeded Company's efforts by holding its Own Your Power Event just two days prior to Company's and in the same city, while using that Event to indicate that Harpo and the Own Your Power Partners are the source of the Own Your Power® Services. Harpo and its Partners have further compounded this issue by making available the previously mentioned video clips of the Event on Harpo's Websites, including captions referring to Harpo's "Own Your Power Event" and links containing statements such as "Find out how to own your own power!"



Exhibit D – Harpo Identified Itself As The Source Of The Own Your Power Event Which Occurred Only Two Days Before Company’s Event And In The Same City

Again and again, Harpo and the OYP Partners have selected the exact letters of Company’s Mark, and exploited it without authorization in conjunction with the same services and the same types of trade channels. Such unauthorized use has caused Company significant harm in the loss of its exclusive rights to use and control the Own Your Power® Mark. Such unauthorized use has also caused Harpo, a junior user of Company’s registered trademark, to overtake Company, the senior user, as the source of the Own Your Power® Services, particularly due to the global reach and considerable powers of Harpo’s media resources. Continued unauthorized exploitation of the Own Your Power® Mark will confuse the public as to the origin and authenticity of Company’s Mark and the Own Your Power® Services, and will result in other irreparable harms to Company. Federal trademark law prohibits such a use of a confusingly similar mark, and therefore affords Company various remedies against Harpo and the Own your Power Partners, including but not limited to an injunction, destruction of infringing articles, monetary damages and profits.

Federal Trademark Infringement

The fundamental basis of federal trademark law is to protect consumers from confusing the source of one service from that of another. Pursuant to The Lanham Act, “any person who, on or in connection with any goods or services, or any container for goods, uses in commerce any word, term, name, symbol, or device, or any combination thereof, or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship or approval of his or her goods, services, or commercial activities by another person, . . . shall be liable in a civil action by any person who believes that he or she is or is likely to be damaged by such act.” 15 U.S.C. § 1125(a)(1)(A).

Likelihood of confusion arises when a consumer is unable to accurately identify the source of a good or service in the marketplace. In determining the likelihood of confusion, courts look to several factors, including (1) the strength of plaintiff’s mark, (2) similarity of the marks in the entirety as to appearance, sound, and meaning, (3) proximity of the goods or services, and (4) evidence of actual confusion. *Polaroid Corp. v. Polarad Elecs. Corp.*, 287 F.2d 492, 495 (2d Cir. 1961). Similarity in any one of these elements may be sufficient to find a likelihood of confusion. *In re White Swan Ltd.*, 8 U.S.P.Q.

2d 1534 (TTAB 1998). In reviewing Harpo's exploitation of Company's Mark, all four of these factors show a likelihood of confusion.

Strength of Plaintiff's Mark

A registered mark is "presumed to be distinctive and should be afforded the utmost protection." Registration of a trademark is "conclusive evidence of the validity of the registered mark and the registration of the mark, of the registrant's ownership of the mark, and of the registrant's exclusive right to use the registered mark in commerce." 15 U.S.C. § 1115(b). Thus, Company's federal registration of the Own Your Power® Mark is conclusive evidence that it should be afforded the utmost protection. Company's Mark has also been used in the provision of self-awareness and motivational communication services through various venues and mediums for years and has gained a substantial following. The notoriety of the Mark is further evidenced by the expansion of Company's service line to include a radio show, lifestyle center, biz conference, personal coaching, retreats, blog and the upcoming e-magazine. The strength of the Mark weighs heavily in favor of Company.

Similarity of the Marks

As demonstrated in Exhibit E, Harpo and its Partners have exploited Company's Mark word-for-word, and such a use is strong evidence in favor of likelihood of confusion. *American Plan Corp. v. State Loan & Finance Corp.*, 365 F.2d 635, 639 (3d Cir. 1966), cert. denied, 385 U.S. 1011, 87 S.Ct. 719, 17 L.Ed.2d 548 (1967) ("Where the names are identical... the names in themselves are evidence of likelihood of confusion.") Not only is Harpo's word-for-word use confusingly similar in sight and sound, but its use of "Own Your Power®" creates suggestions identical to those created by Company's Mark. For example, while exploiting Company's Mark as a source identifier, Harpo advocates on how to "tap into your own strength", "focus your energy, and let your best self shine," "turn your dreams into reality," "Live your best life," and achieve other such goals through its self-awareness and motivational communication services, as evidenced in each of the Infringing Activities. For years, Company has been using the Own Your Power® Mark as the source identifier for services advocating similar goals, such as "lifestyle and wellness content" and "a confident state of mind" that will help one "attain anything (they) want in life." The similarity of the marks, likewise, weighs heavily in favor of Company.

Company's Mark



Harpo's Word-For-Word Use

Own Your Power

Exhibit E – Comparison Between Company's Mark And Harpo's Use Of The Same Words Arranged In The Same Order

Proximity of Goods and Services

In evaluating the proximity of the services, courts assess whether the two services at issue compete with each other in the same market. As indicated herein, Company uses the Mark in connection with speaking engagements, advocacy and informational content both off-line and on-line in the areas of self-awareness and motivational communication services. Harpo and its Partners have made unauthorized use of Company's Word Mark in these same service areas, as an indicia of source, through each of their Infringing Activities, including but not limited to articles and advertisements in the Magazine purporting to facilitate advice on how to "own your power" or providing advice in the above mentioned areas while exploiting Company's Mark, articles and advertisements on its Websites featuring advice in the above mentioned areas and branded with Company's Word Mark, and motivational speaking both on its Show and at its Event covering topics in the above mentioned areas while making further utilization of Company's Mark. Such proximity in the market has and will continue to cause confusion and mistake among consumers as to origin of the mark, and continue to cause consumers to assume an erroneous affiliation, connection, or association between Company's services and Harpo's. As such, this factor weighs heavily in favor of Company.

Actual Confusion

Evidence of actual consumer confusion provides strong support for finding a likelihood of confusion. *E. & J. Gallo Winery v. Consorzio del Gallo Nero*, 782 F. Supp. 457, 465 (N.D. Cal. 1991). As a result of Harpo and its Partners' exploitation of Company's Mark, Company has been contacted by consumers inquiring about Harpo and its services via various channels of communications, including but not limited to e-mails, text messages, direct messages and mentions on Twitter, phone calls and other such communications. Company began receiving such communications at least as early as September 15, 2010, when Harpo's Magazine heralded the beginning of its "Own Your Power" campaign upon arrival at subscribers' doorsteps. Furthermore, at every stage of Harpo and its Partners' pattern of unauthorized use, Company has received additional communications inquiring about Harpo's Infringing Activities, thereby demonstrating the mistaken belief amongst consumers that Company has been providing services under the direction of Harpo.

Additionally, actual confusion is evidenced by the fact that the renowned and universally celebrated search engine "Google" has become confused as to the source of the Own Your Power® services as a result of Harpo and its Partners' Infringing Activities. In Exhibits F and G, contrasting a screen capture taken on September 24, 2010 with a screen capture taken on October 26, 2010 demonstrates that not only has Harpo's representation on the front page of a Google search for "Own Your Power®" increased in prominence to the point of confusion with Company's, but Google's auto complete feature now inserts "Oprah" first to complete the search request, in addition to an insertion of "Oprah Magazine." Consequently, Google, the ultimate consumer of information on the planet, is confused as to the source of the Own Your Power® services. Thus, the evidence of actual confusion weighs heavily in favor of Company.

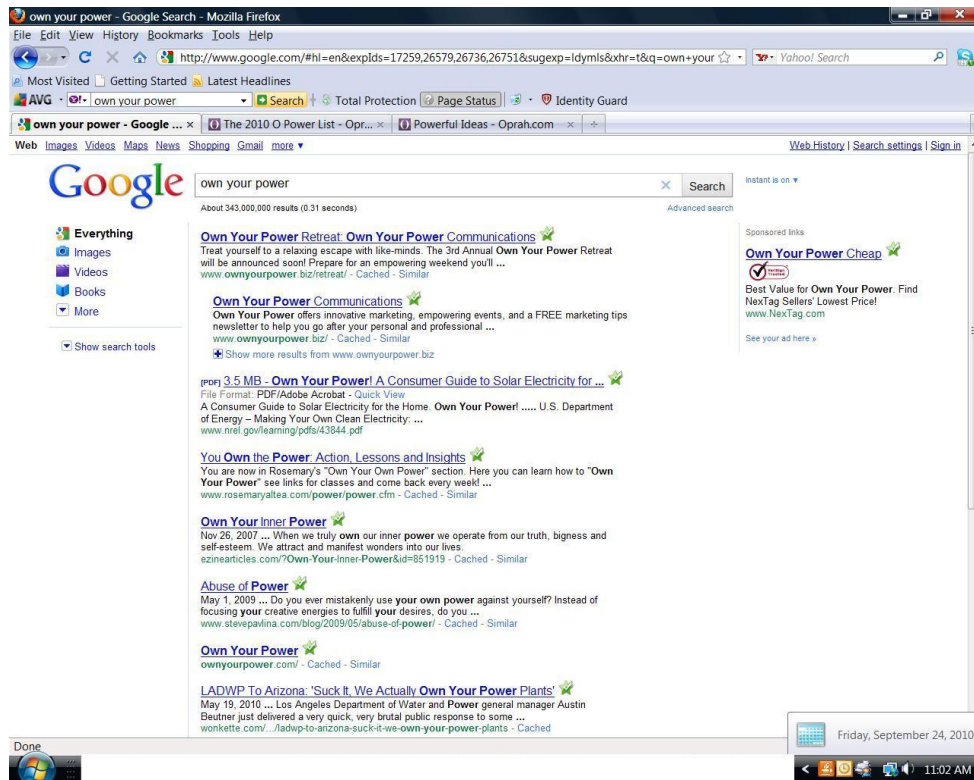


Exhibit F – On 9/24 A Google Search Revealed No Prominent Harpo Related Results

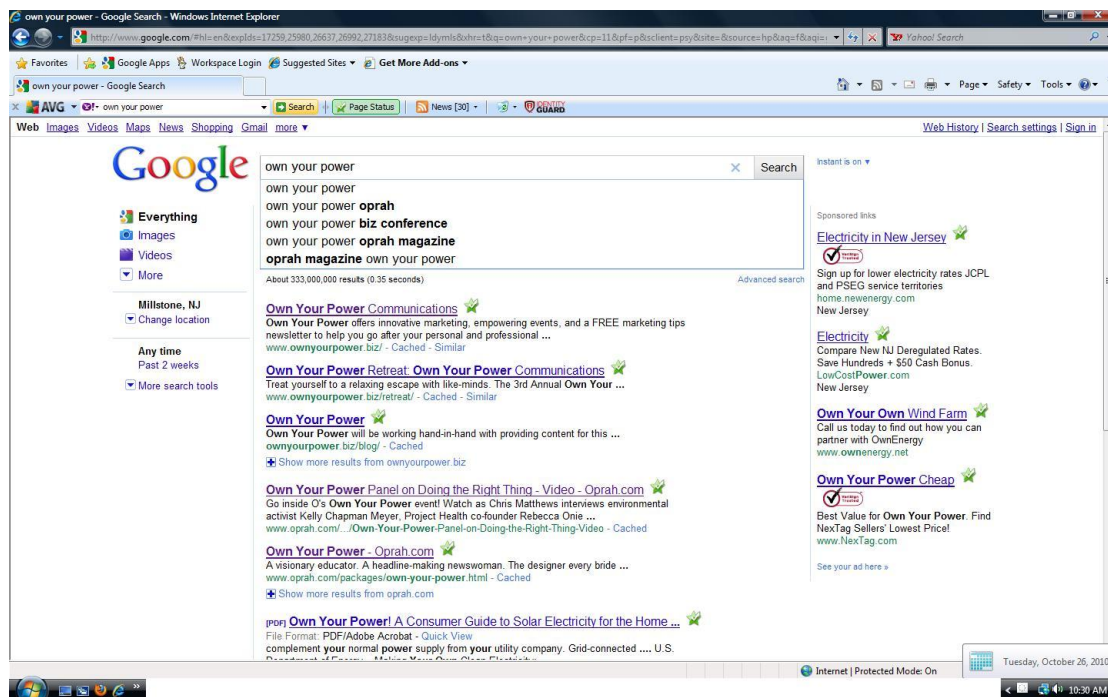


Exhibit G – A Month Later, On 10/26 A Google Search Revealed Harpo's Own Your Power Services Prominently Featured On The First Page. Google Was Confused Enough To Insert "Oprah" and "Oprah Magazine" In Its Auto-Complete Function

Harpo and the Own Your Power Partners' actions constitute irreparable harm by not only violating Company's exclusive rights to the Own Your Power® Mark, but also the public's right to be free of confusion and the right of Company to control the reputation of its services. The courts have determined that in proving a likelihood of confusion, it is sufficient to show only that consumers may have the mistaken belief or impression that they are doing business with Company or Harpo ([*Hyman v. Nationwide Mut. Fire Ins. Co.*, 304 F.3d 1179 \(11th Cir. 2002\)](#)). Harpo and its Partners' unauthorized activities and resulting infringement have already caused actual confusion and create a substantial likelihood of continuing confusion.

Reverse Confusion

"Reverse confusion arises when a larger, more powerful entity adopts the trademark of a smaller, less powerful trademark user and thereby causes confusion as to the origin of the senior trademark user's goods or services. Because the junior user is a larger company with greater financial ability and trademark recognition in the marketplace, it can easily overwhelm the senior user by flooding the market with promotion of its similar trademark. The strength of the junior user's promotional campaigns leads consumers to believe that the senior user's products derive from that of the junior user or that the senior user is actually the trademark infringer." *Harlem Wizards Entertainment Basketball, Inc. v. NBA Properties, Inc.*, 952 F. Supp. 1084, 1091-1092 (D.N.J. 1997).

Undoubtedly, Harpo, through its companies, properties, affiliates, groups, associates, partners subsidiaries and agents, is one of the most powerful media entities in existence worldwide. Paid subscription within the United States for Harpo's Magazine averages approximately 2.4 million copies year to year according to Crain's Chicago Business and the New York Times. (<http://www.nytimes.com/2008/05/26/business/media/26oprah.html?pagewanted=2&r=1>). The launch of Harpo's current season of its internationally syndicated Show was viewed in at least 9 million households just in the United States according to the Chicago Sun-Times and will be viewed in countless more households worldwide. (<http://www.suntimes.com/business/lazare/2710532,CST-NWS-lew15oprah.article>). Harpo's Websites, at least one of which has been in operation for over a decade, claim 2 million book club members and www.oprah.com claims 70 million page-views per month. Harpo's recent webinar series focusing on self-awareness and/or motivation was downloaded or streamed more than 35 million times and its O Magazine Twitter account has at least 108,843 followers, who thus receive a direct and instantaneous transmission of any message submitted by Harpo.

In addition, Oprah Winfrey, who represents Harpo's principal spokesperson and foremost personal brand, was recently recognized by Forbes Magazine as the most powerful celebrity in the world. (http://www.forbes.com/2010/06/22/lady-gaga-oprah-winfrey-business-entertainment-celeb-100-10_land.html). In a recent article published in the Chicago Tribune, Oprah Winfrey is described as "the most powerful woman in the history of... everything." (http://articles.chicagotribune.com/2010-09-22/news/ct-oped-0922-freedom-20100922-14_1_oprah-nod-oprah-s-book-club-jonathan-franzen). In a May 2007 article, Time Magazine stated that an appearance on Harpo's television Show is the equivalent of "millions of dollars in marketing, promotion and campaigning". Time also stated that "Oprah's power to persuade extends to a multitude of products and services... Search term data indicates that immediately following the appearance on a show, searches for a book, diet or personality will reach the stratosphere." (<http://www.time.com/time/business/article/0,8599,1618910,00.html>).

Harpo and its Partners' exploitation of Company's Mark has already caused considerable harm to its ability to maintain and utilize its brand as a source identifier. This multi-tiered campaign, utilizing the extensive reach of television, the internet, and print media, has already reached millions of consumers. Due to the documented ability of Harpo's

media presence to persuade, influence and command the opinion of its audience, it is without a doubt that this concerted effort in exploiting Company's Mark through the various Infringing Activities and campaigns has been highly successful in allowing Harpo, a junior user of Company's Mark, to overtake Company, the senior user as the source of the Own Your Power® Services. Thus, it will be exorbitantly expensive for Company to reverse the significant damage that has been done through Harpo's infringement.

Notification And Demand

In light of the foregoing, please hereby be advised that Harpo and its Partners are notified to cease and desist the exploitation of Company's Mark as specified herein. If Harpo or any of its Partners ignores this demand and proceeds with the unauthorized exploitation of Company's Mark through the use of any of the Infringing Activities or by any other means, please be advised that such actions will constitute further infringement under The Lanham Act, in addition to other applicable state and federal laws.

This request is made without prejudice to withdrawal. Furthermore, please be advised that this letter is not a complete recitation of all the claims, issues, evidence or facts related to this matter. This letter should not be construed as a waiver of any rights by Company, including without limitation, the right to seek monetary damages, equitable relief, and attorney's fees, all of which are expressly reserved.

Please contact the firm within Ten (10) business days from the date hereof in hopes of resolving the matter. Otherwise, please be advised that failure to reply to this letter will leave Company no choice but to exercise its rights under Federal and State Law as specified herein and otherwise.

Very truly yours,

A handwritten signature in cursive script that reads "Patricia Lawrence Kolaras". The signature is written in black ink and is positioned above the printed name.

Patricia Lawrence Kolaras, Esq.

Disclaimer: All screenshots represented in this letter have been preserved only for their evidentiary value and such preservation is protected under Fair Use.