

Original Cease and Desist Notification

January 2011

☆ from **Twersky, Michael** <MTwersky@mmwr.com>
to mw@dirkweiss.com
date Fri, Jan 7, 2011 at 11:15 AM
subject BABY LOVES MUSIC

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To Whom It May Concern:

Please be advised that this law firm represents Baby Loves Everything, LLC ("BLE"), a Pennsylvania limited liability company that owns the trademark and service marks BABY LOVES MUSIC and BABY LOVES DISCO. BLE promotes and sponsors disco dance parties throughout the world for children and their parents. BLE has maintained a website, <http://babylovesmusic.com>, for the past five years. In addition, BLE also produces and distributes its well-known "BABY LOVES" musical albums, including BABY LOVES DISCO, BABY LOVES HIP HOP and BABY LOVES SALSA. BLE has been distributing musical albums worldwide beginning in 2004.

It has come to our attention that you have been marketing and/or selling an application called "Baby Loves Music." As you are well aware, BLE has no affiliation whatsoever with your company, Dirk & Weiss, or the application "Baby Loves Music." Your attempt to capitalize on the name, reputation and goodwill associated with BLE and its worldwide following has harmed and will continue to harm our client. Further, your marketing of the "Baby Loves Music" application has caused confusion in the marketplace as to the origin of your product. Given the extensive marketing and advertising conducted by BLE throughout the world, it is apparent that you are purposefully attempting to trade on the name, reputation and goodwill of BLE. Accordingly, we demand that you immediately cease and desist all activities, including the marketing and/or sale of the application "Baby Loves Music," that use any name that is confusingly similar to our client's marks.

Nothing stated herein shall preclude BLE from pursuing all of its claims, both legal and equitable, against Dirk & Weiss or any other individuals and entities that continue to infringe upon our client's rights, including without limitation, seeking a disgorgement of any and all earnings related to your infringement and treble damages for the willful infringement of BLE's trademark and service mark.

Michael K. Twersky
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C&D Response regarding "Baby Loves Music"

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☆ bd@dirkweiss.com to MTwersky, andy, heather, kelly

[show details](#) 2:25 PM (6 minutes ago)

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This letter is to inform all parties relating to Baby Loves Everything LLC.

Dirk+Weiss received a C&D from Montgomery McCracken Walker & Rhoads, LLP representing BLE on the afternoon of January 7th, 2011. We would like to first offer our thanks and appreciation for taking the necessary steps required for accurately claiming your proposed trademark infringement. We forwarded your claim to our attorneys for counsel and it has been determined that DW will now begin the process of changing the name of said mobile application.

Change Details: A name change will be included in the applications next version update. Please understand that the process of coding and uploading mobile application updates requires an understandable amount of development time. Further more, once the version update is uploaded to iTunes, DW is required to await an iTunes review and approval process. This approval process is solely controlled by Apple. Upon Apple's approval, the mobile application will be updated in the iTunes store with a new name. Thereby effectively concluding any trademark confusion. Every effort is being made to give the name change our immediate attention.

Making Lemons into Lemonade: Dirk+Weiss would like to take this opportunity to pose an alternative suggestion to the Baby Loves Music mobile application dispute. We believe there is a potentially successful opportunity in the mobile application market for Baby Loves Everything LLC. DW would happily consider a complete and fully disclosed sale of our mobile application including all source code, artwork, any accompanying files and the agreement to terminate all future development of this application. The development of our application was intended as a creative solution to generating funds for Jameson Durk's college fund. Please let us know if you wish to further discuss a potential sale.

Lastly, we wanted to suggest that in an effort to perhaps avoid any unnecessary future disputes, Baby Loves Everything LLC properly update and display all their trademark info on all projects and products (including websites). We also wanted to inform you that your assumed registered Baby Loves Music trademark is currently dead as of 2006. We have respectfully decided to honor your claim of common law ownership but strongly urge you to please take the necessary steps in renewing registered trademarks.

Many thanks and appreciation.

Dirk+Weiss
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US Patent and Trademark Office

<http://tarr.uspto.gov/tarr?regser=serial&entry=78775835&action=Request+Status>

Baby Loves Music - Website

<http://www.babylovesmusic.com>