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VIA EMAIL

Domains By Proxy, Inc.
generalmanager@domainsbypoxy.com

RE: Domain Name Registrant's Violations of Third Party Rights in Federal Trademark
Registration and Defamatory Content

Dear Domains By Proxy Legal Administrator:

We are counsel for LifeVantage Corporation ("LifeVantage") in connection with its intellectual property matters and for purposes of making this complaint against the anonymous registrant ("Registrant") of domain name <www.protandimscams.com> ("Registrant's Website") that is registered with Domains by Proxy ("DBP"). LifeVantage makes this complaint against Registrant for its wrongful use of LifeVantage's registered trademark and the false, misleading, and defamatory content posted at Registrant's Website (see enclosed printouts of website content).

LifeVantage owns U.S. Reg. No. 2,999,080 for the mark PROTANDIM[®]. As detailed below, we demand immediate corrective action to disclose the Registrant's name and personal information, and to terminate service to this domain name and the website to which it points that contains unauthorized and misleading uses of this trademark, false and disparaging statements concerning the PROTANDIM[®] product, and defamatory statements regarding LifeVantage's President and the manufacturer of the PROTANDIM[®] product ("Registrant's Conduct").

Registrant's Conduct violates the Domain Name Proxy Agreement ("Proxy Agreement") entered into by Registrant for the domain name <www.protandimscams.com>. Specifically, Registrant's Conduct violates its representation and warranty obligations contained in section 3 of the Proxy Agreement. Under sections 3 and 4 of the Proxy Agreement, Registrant represented and warranted that it has "no knowledge of [its] domain name infringing upon or conflicting with the legal rights of a third party or a third party's trademark or trade name" and that it "will not be used in connection with any illegal or morally objectionable activity" (as defined below in Section 4). See www.domainsbypoxy.com/policy/ShowDoc.aspx?pageid=domain_nameproxy.

Registrant has violated sections 3 and 4 of the Proxy Agreement by its wrongful use of LifeVantage's U.S. Reg. No. 2,999,080 for the mark PROTANDIM[®] in Registrant's domain name <www.protandimscams.com> in violation of the Lanham Act, 15 U.S.C. § 1114(1) and in violation of the ACPA under 15 U.S.C. § 1125(d). Registrant's Website content constitutes false and misleading statements that disparage LifeVantage's PROTANDIM[®] product in violation of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B).

Tellingly, in addition to the false and misleading material statements about LifeVantage's PROTANDIM[®] product that are intended to influence the target consumers' purchasing decisions, the owner of this domain name posts advertisements for competing products in an effort to lure consumers away from LifeVantage's PROTANDIM[®] product. Such misleading commercial speech is prohibited by the Lanham Act and not protected by the First Amendment. *See e.g. Taubman Co. v. Webfeats*, 319 F.3d 770, 775 (6th Cir. 2003) (stating that "We believe the advertisements on [Defendant's] site, though extremely minimal, constituted his use of [Plaintiff's] mark 'in connection with the advertising' of the goods sold by the advertisers. This is precisely what the Lanham Act prohibits"). (See attached website snapshots showing advertising and links to competing and other products).

Registrant also disparages and defames LifeVantage under the common law by affirmatively stating on Registrant's Website that "LifeVantage President Encourages Distributors to Break FDA and FTC Laws" and that "Chemins (which is the manufacturer of the PROTANDIM[®] product) Used Illegal Manufacturing Practices." Well-settled Supreme Court precedent holds that, although the First Amendment protects ideas, beliefs, and some erroneous statements of fact, the same level of protection does not extend to knowingly false statements of fact. *U.S. v. Rick Glen Strandlof*, No. 10-1358 at 21 (10th Cir. Jan. 27, 2012) (quoting *Hustler Magazine, Inc. v. Falwell*, 485 U.S. 46, 52 (1988) "False statements of fact are particularly valueless [because] they interfere with the truth-seeking function of the marketplace of ideas, and they cause damage to an individual's reputation that cannot easily be repaired by counterspeech, however persuasive or effective.") (See attached website snapshots showing the complained of content).

LifeVantage respectfully requests that, as a result of Registrant's conduct in violation of the Proxy Agreement, and pursuant to the terms of the Proxy Agreement, the domain name Registrant's identity be disclosed, the domain name be terminated, and all services relating to the domain name and website at <www.protandimscams.com> be terminated.

Sincerely,

GREENBERG TRAUERIG, LLP

Gayle L. Strong

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Attachments
cc: LifeVantage Corporation