

Full correspondence bewtween Wikileaks and Bank Julius Baer

From Wikileaks

EDITORIAL

2008-02-19

The following documents forms the full record of censorship demands from lawyers acting for the Swiss/Cayman Islands Bank Julius Baer and Wikileaks replies. The material is presented in reverse-chronological order.

After the final (top most) letter, a telephone call was made between between Wikileaks' Californian pre-litigation attorney Julie Turner and BJB's Evan Spiegel, which is detailed here;

Bank Julius Baer vs. Wikileaks

and in today's Wired magazine:

<http://blog.wired.com/27bstroke6/2008/02/cayman-island-b.html>

Lavelly and Singer, BJB's Hollywood lawyers, refused to reveal the name of their client or place their allegations in writing, other than to give a one paragraph reference to unspecified "copyright", "trade secrets" and "tortuous conduct" claims (see the end of this file). L&S also refused to identify the documents they claimed were at issue.

Wikileaks takes its sources seriously. Wikileaks takes their efforts to get material out to the public very seriously. That means we are obligated not only to protect their identity, should they desire, but also to give full voice to the risks they have taken. This is our moral bedrock.

As the following correspondence demonstrates, BJB refused to put their allegations in writing as repeatedly requested. Consequently continued publication was a foregone conclusion.

Wikileaks received no further demands from BJB until the surprise ex-parte hearing.

Full correspondence over the demands follow:

----- Forwarded message from Wikileaks Legal <legal@wikileaks.org> -----

X-Original-To: legal@wikileaks.org
Delivered-To: legal@wikileaks.org
Privacy: yes
Privacy: yes
From: Wikileaks Legal <legal@wikileaks.org>
To: Evan Spiegel <espiegel@lavelysinger.com>
Cc: Wikileaks Legal <legal@wikileaks.org>, Wikileaks <wikileaks@wikileaks.org>, usa@wikileaks.org
Subject: Re: Legal Notice & Demands
Privacy: yes
In-Reply-To: <20080116202710.29B2C393F34@mail.wikileaks.org>
Privacy: yes
Date: Thu, 17 Jan 2008 07:39:08 +0000 (GMT)

Dear Mr. Spiegel,

Your opinions are baseless and entirely rejected. Please confine yourself to the facts in any future correspondence and keep your tone civil.

Wikileaks is an international in scope. You have made vague references to several different national jurisdictions, but extremely oddly, refuse to name your client or any matter relevant to us, including the names of any documents you object to. Under the circumstances we feel you may not be acting in good faith.

Your odd refusal to provide even the most basic information makes it appear that you are trying to set up some obscure provision in DCMA law and have little interest in resolving what you claim to be the issue at hand when given an opportunity to do so.

In fact you have provided us with no information for us to ascertain that we have any involvement whatsoever with your concealed client.

As a organization for justice and the upholding of first amendment rights we are somewhat of a cause celebre amongst lawyers and are able to maintain a pool of high first rate counsel to respond to requests, each of which specializes in some jurisdiction or area of law. Refusal to identify your client and the documents concerned makes this assignment difficult.

Are you now claiming something in relation to the DCMA? In California? Is this your primary claim? Please be clear.

Best wishes,
K. Kim.

On Wed, Jan 16, 2008 at 08:27:09PM +0000, Evan Spiegel wrote:

> Dear Wikileaks:

>
>.

> Your continued failure and refusal to provide designated DMCA agent contact information, despite request from counsel and our statement of location/jurisdiction, is now documented and will be included in our evidence exhibits in our complaint and application with the court for an injunction against wikileaks.

> As a result of your failure and continued refusal to comply with the requirements of the copyright act, you have thus waived the safe-harbor provisions therein and will be held liable for copyright infringement. You have no legal right to demand advance knowledge of the name of our client and the documents at issue -- that is the information that is to be and will be included in a DMCA notice and demand letter. The copyright act DMCA requirements are quite clear.

> Your site promotes, encourages and facilitates the publication and distribution of stolen, illegally and/or tortiously obtained corporate records and private records of third-party consumers, including that of my client and its consumers. In furtherance thereof, you hide your identity and refuse to provide legal contact information. Accordingly, we have been instructed to proceed with an action against you in federal court in California.

> This is your final warning -- if you desire to resolve this matter without the necessity of litigation, your counsel may contact the undersigned within twenty-four hours.

> You act at your own peril.

> Govern yourselves accordingly.

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