

**MALIN HALEY DiMAGGIO  
BOWEN & LHOTA, P.A.**

PATENT, TRADEMARK & COPYRIGHT ATTORNEYS

*Celebrating 40 Years*

**MARK DAVID BOWEN**  
Registered Patent Attorney  
Florida Bar Certified Expert  
E-Mail: MDB@MHDpatents.com

**MAIN OFFICE:**  
1936 S. Andrews Avenue  
Fort Lauderdale, Florida 33316  
Telephone: (954) 763-3303  
Fax: (954) 522-6507

March 30, 2009

Hallen D. Rosner, Esq.  
10085 Carroll Canyon Rd.  
San Diego, CA 92131

**VIA CERTIFIED MAIL**  
Return Receipt Requested

Re: **INFRINGEMENT - ASKHAL®**  
Our File No.: 14694.6704

Dear Mr. Rosner:

We are in receipt of Mr. Art Neill's letter dated February 18, 2009 (copy attached), in response to my letter to you of January 12, 2009, that was copied to UCAN.

We believe that the February 18, 2009 response misrepresents material facts and overlooks a number of key issues. Accordingly, we reaffirm our position that your use of "ASK HAL" is directly infringing on our client's service mark rights and again demand that you cease such use. Correspondingly we will request that UCAN take such steps as are necessary to avoid supporting your unauthorized use.

Here are some comments regarding Mr. Neill's response:

First of all, it is your activity, Mr. Rosner, that is considered most offensive, as your exploitation of the marks ASK HAL and ASKHAL.COM is clearly designed for commercial purposes for the benefit of you and your law firm. If your services on the UCAN site were *solely* for charitable purposes, as Mr. Neill submits, there should be no need for an advertising link to your law firm.

With respect to the providing of free advice for charitable purposes in connection with auto fraud, we believe that any representation that you are *exclusively* providing pro bono services is unfounded.

The providing of free information in connection with auto fraud via the UCAN website can equally or even more effectively be encouraged and carried out by the use of a clear-cut and more direct heading such as "AUTO FRAUD," as opposed to "ASK HAL." You and UCAN can certainly accomplish the task of providing free information without the unlicensed use of ASK HAL, a valuable mark, and ASKHAL.COM, developed over a decade by Mr. Rosenthal at great effort and expense.

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Furthermore, it is not accurate to state that "Mr. Rosenthal specifically (and exclusively) markets his services...to lawyers and accountants for a fee" as Mr. Rosenthal also markets his services directly to clients. He has also received recognition for his pro bono services provided to the SBDC and to various professional associations.

With regard to the issue of good faith, the obvious intent of the alternate choice is that you also use the UCAN site as a means to obtain leads to market your services. The term 'ask hal' is not being used in a descriptive sense, as much as it is for the marketing of services directly protected by our client's mark ASK HAL.

The mere use of the term "ask hal" by a non-profit entity does not constitute non-commercial usage. Good faith is not based upon pecuniary gain. As stated above, Mr. Rosenthal also provides "free advice", i.e. pro bono services. In the present situation, bad faith is abound, as you are knowingly aware the rights protected by the mark ASK HAL include key elements of services and activities that are the same as those you market on the UCAN site under the same 'ask hal'.

By way of further clarification, in connection with the subject of auto fraud, it follows that those asking questions believe they have suffered related damages. Accordingly, the "field of forensic and investigative accounting" must be a field of particular interest to such persons. The body of such services offered by Rosenthal, directly relate to the services offered by Rosner and UCAN (through the use of ASK HAL) and are therefore not dissimilar.

In addition, Mr. Rosenthal provides "litigation support consulting" under the mark ASK HAL, which is a field in which you, via UCAN and otherwise, provide services and consideration in connection with the giving of "free advice."

And, Mr. Rosenthal's goods and services under ASK HAL also include "expert witness services," which services are provided via your law firm and which services also must be considered in connection with the providing of your "free advice."

Mr. Rosenthal uses the FIREFOX browser. When he typed in the single word "askhal" in the upper center position normally used for URL as opposed to a general search, he found that his website ([www.askhal.com](http://www.askhal.com)) of ten years no longer came up. Instead, the askhal UCAN site came up; a clear and apparent example of diversion.

Further, UCAN's use of 'ask hal' has created consumer confusion. When searching ASK HAL, results from Google, MSN, Yahoo, and Firefox display links to UCAN. UCAN's use of the mark ASK HAL is diverting consumers to the UCAN website and away from our client's site [www.askhal.com](http://www.askhal.com).

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As a result of your continued infringement and obvious intention to continue using the mark 'ask hal' for personal gain, we hereby demand that you *immediately* cease the use of the marks ASK HAL and ASKHAL.COM. Failure to do so will result in my client taking further legal action to defend his rights in the registered marks.

Please govern yourself accordingly.

Very truly yours,

MALIN HALEY DiMAGGIO  
BOWEN & LHOTA, P.A.



Mark D. Bowen  
For the firm

cc: Art Neill, Esq.  
Utility Consumers' Action Network  
3100 Fifth Avenue, Suite B  
San Diego, CA 92103

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