



CHRISTENSEN | O'CONNOR
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June 20, 2014

VIA E-MAIL -- ORIGINAL MAILED

E-Mail Address: info@openjournalssystems.com

Mr. Ben Amini
Paxter, LLC
13835 N. Tatum Blvd. #9-280
Phoenix, AZ 85032

Re: Title: Paxter: Open Journal Systems
Our Reference: SFRU-5-52433
Action Requested: Please respond by July 7, 2014.

Dear Mr. Amini:

We represent Simon Fraser University and Public Knowledge Project with respect to intellectual property matters.

As you may know, Public Knowledge Project (PKP) is a not-for-profit organization that develops open source software and conducts research to improve the quality and reach of scholarly publishing. PKP is the developer and owner of open source software including Open Journal Systems™, Open Monograph Press™, Open Conference Systems™, and Open Harvester Systems™. PKP's open source software is made freely available to the general public under the terms of the GNU General Public License.

Open Journal Systems™, or OJS™, is a journal management and publishing system used by journals worldwide. Open Journal Systems™ software assists with every stage of the refereed publishing process, from submissions through to online publication and indexing. Through its management systems, its finely grained indexing of research, and the context it provides for research, Open Journal Systems™ software seeks to improve both the scholarly and public quality of refereed research. Open Journal Systems™ software has been developed over a long time and at great expense by PKP and its affiliates.

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[Your Innovation Partners]

PKP is the owner of the trademark and trade name OPEN JOURNAL SYSTEMS. The trademark and trade name have been used continuously since 2002, a period of over 12 years, and the name "Open Journal Systems" is well known by academic and scholarly researchers, librarians, and users around the world. Indeed, Open Journal Systems™ software has been translated into over two dozen languages and, at last count, PKP knew of at least 24,000 journals using Open Journal Systems™ software for production, testing, research, experimentation, or other purposes, for example, as a learning management system or as a document repository.

PKP has consistently enforced its intellectual property, particularly trademarks, for many years. PKP's enforcement policy has helped create and maintain its strong, well-known marks, including Open Journal Systems™ and OJS™.

We recently became aware of your use of the mark OPEN JOURNAL SYSTEMS in connection with third-party services and support provided to users of PKP's Open Journal Systems™ software. You registered the domain name OPENJOURNALSYSTEMS.COM and the Twitter handle @OpenJournalSys, and you promote your services through your website and other online and social media outlets. In addition, you recently filed U.S. Application No. 86224506 for the trademark OPEN JOURNAL SYSTEMS, for use with computer programming services, computer services, and other services in International Class 42.

U.S. federal trademark law prohibits the use in commerce of any reproduction, counterfeit, copy, or imitation of a registered mark that is likely to cause confusion, to cause mistake, or to deceive. To determine a likelihood of confusion, the U.S. courts consider a variety of factors, including, but not limited to, the strength of the senior mark, the degree of similarity between the senior and junior marks, the proximity of the products or services, the channels of trade through which the products are sold, the junior user's intent when adopting its mark, and the likelihood that the senior user may bridge the gap between products.

Taking these factors into consideration, we believe there is a strong likelihood of confusion between our client's trademark and trade name Open Journal Systems™ and your mark OPEN JOURNAL SYSTEMS. The marks are identical to one another, and your mark is used in connection with third-party services and support that are advertised and sold to users of PKP's Open Journal Systems™ software in overlapping channels of trade.

Your use of the mark OPEN JOURNAL SYSTEMS, the domain name OPENJOURNALSYSTEMS.COM, and the Twitter handle @OpenJournalSys has caused people to mistakenly believe that your company is affiliated with Open Journal Systems™ software or PKP, or that your services are in some way associated with, endorsed by, or sponsored by PKP. For example, your use of the mark OPEN JOURNAL SYSTEMS on your website and in messages posted to PKP's Support Forum has generated numerous confused queries to our client from people unsure of the relationship between PKP's Open Journal Systems™ software and your company.

Your use of the mark OPEN JOURNAL SYSTEMS and the domain name OPENJOURNALSYSTEMS.COM will cause irreparable damage to our client and to the trademark and trade name Open Journal Systems™, diluting the strength and goodwill our client has developed in its mark, and causing consumer confusion. Further, your use of the mark OPEN JOURNAL SYSTEMS is likely to deceive because it suggests a connection between PKP and your company, when in fact there is none.

Although our client certainly does not discourage third-party providers from offering service and support to users of its software, our client cannot allow you to use its trademark and trade name in association with the sale and provision of your services.

Accordingly, we demand that you promptly take the following steps:

1. Discontinue any and all use of the mark OPEN JOURNAL SYSTEMS.
2. Expressly abandon U.S. Trademark Application No. 86224506.
3. Stop all use of the domain name OPENJOURNALSYSTEMS.COM and any other domain names that include "OPENJOURNALSYSTEMS" or a variation thereof.
4. By no later than **August 1, 2015**, relinquish the domain name OPENJOURNALSYSTEMS.COM and any related domain names by releasing the domain registration by filing an authorization for transfer and providing to us the authorization code to obtain ownership of the domain name(s).
5. Immediately discontinue use of the Twitter handle @OpenJournalSys and close the Twitter account.
6. Immediately discontinue use of the Facebook account OpenJournalSystems and close the account.
7. Provide an accounting of any other social media accounts that you own or control that include the name "Open Journal Systems," and close those accounts.
8. Agree to refrain in the future from the use of any trademark or trade name comprised of or including the mark OPEN JOURNAL SYSTEMS.
9. Agree not to oppose or otherwise interfere with any of PKP's U.S. trademark applications for the mark OPEN JOURNAL SYSTEMS or any of PKP's applications for the mark worldwide, whether or not the applications have been filed.

Please rest assured that we are not attempting to stop your business of providing third-party service and support to users of Open Journal Systems™ software, but are simply seeking to terminate your use of the trademark and trade name owned by PKP in a manner that may deceive the public into mistakenly believing that they are conducting business with PKP. Your small disclaimer on your website is not sufficient to accomplish this purpose.

If you are willing to agree to these demands, then PKP is willing to permit you a reasonable amount of time to adopt a new mark to replace OPEN JOURNAL SYSTEMS. We must, however, have your commitment to make the requested changes before discussing any such phase-out period. After we receive your written response, we will memorialize terms of settlement in a more formal written agreement.

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Please let us have your confirmation that you will comply with our request by **July 7, 2014**. We look forward to hearing from you, and we hope to resolve this issue amicably. Nonetheless, if we do not hear from you by July 7, we will advise our client to take appropriate action.

If you have any questions or would like to discuss this matter in further detail, please do not hesitate to call.

Please include our above-referenced file number in all correspondence regarding this matter.

Very truly yours,

CHRISTENSEN O'CONNOR
JOHNSON KINDNESS^{PLLC}



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cc: David Green (email only)
L. Rhys Lawson, Esq.