

The Washington Post

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WASHINGTON, D.C. 20071
(202) 334-6000

January 16, 2019

BY EMAIL

Mr. Andy Bichlbaum
Ms. Onnesha Roychoudhuri
Ms. L.A. Kauffman
The Yes Men

Re: Demand to cease and desist from unlawful use of The Washington Post's trademarks and copyrights

Dear Mr. Bichlbaum, Ms. Roychoudhuri, and Ms. Kauffman:

I am the general counsel of The Washington Post. We have read the press release (theyesmen.org/democracyawakensinaction) in which you have taken credit for the thousands of counterfeit copies of The Washington Post physically circulated today in Washington D.C. and digitally distributed online, including at the websites democracyawakensinaction.com and my-washingtonpost.com. These counterfeit publications make unauthorized use of The Post's trademarks, including the name THE WASHINGTON POST and the Post's distinctive masthead, both of which are protected by federal trademark registrations and by federal and state law. See, for example, U.S. Registration Nos. 1,665,831 and 1,665,832. We also believe that your counterfeit publications make unauthorized use of directly copied Washington Post website source code protected by federal copyright law.

The Post recognizes that there are important First Amendment protections for parody and satire. However, "[i]f it is a successful parody, then the ordinary observer can perceive that the defendant is not connected in any way to the owner of the target trademark. . . . A non-infringing parody is merely amusing, not confusing." J. Thomas McCarthy, *Parody of a Trademark*, McCarthy on Trademarks § 31.153 (5th ed. 2018). Here, there is a substantial likelihood of confusion between your counterfeit publications and The Post for many reasons, including that (i) neither your counterfeit publication nor the counterfeit websites clearly state that they are fakes, parodies, or satire; and (ii) your counterfeit online publications included working links to legitimate content on the real Post website, which further confuses readers by making them think that they are on the actual, operable Post website.

In short, your publications are meticulous, confusing copies of The Post that fail prominently to disclose the publications' complete lack of any affiliation with or endorsement by The Post. This is an especially damaging line to cross in an era rife with accusations of "fake news" against publications like The Post, and particularly when you have used The Washington

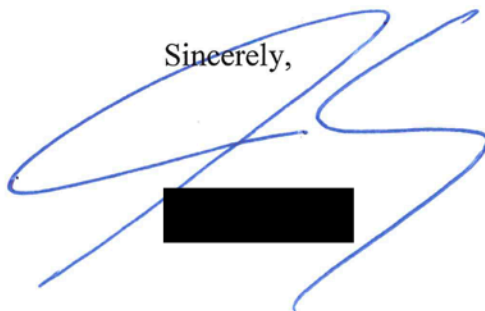
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Post's full name in the URL of one of your websites, my-washingtonpost.com, in a way that gives internet readers no reason to suspect that they are not using the legitimate Washington Post website.

For these reasons, we demand that you immediately cease any further distribution of the physical and digital versions of your counterfeit Washington Post publications, including by immediately taking the publications down from any websites that may be hosting them and ceasing the use of the my-washingtonpost.com URL.

If you have any questions about this request, or would like to discuss this matter, you can contact me at [REDACTED]

Sincerely,



[REDACTED]