

Claude Schluiep, Rechtsanwalt und Notar (SO)

Patrick Degen, Fürsprecher

Sibylle Wenger Berger, Fürsprecherin

By email: jamie@frater.com

Frater Holdings

PBL Bag 1148

233 Middleton Road

6037 Wellington

New Zealand

Berne, 22 May 2009

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Your ref.: unknown

Our ref.: 610304/Cs/Sw

Objection to the use of RORSCHACH ink blots under <listverse.com>

Dear Sirs

We represent Hogrefe AG, Länggass-Str. 76, 3000 Bern 9, Switzerland, in IP-matters around the world. Our client is a publisher specialised in psychological tests (**see power of attorney enclosed**).

Our client owned the copyright of the so called RORSCHACH Ink Blot Test, a psychological test where pictures of ink blots have to be interpreted. Besides, our client is also owner of several trademarks worldwide, among them the trademark "RORSCHACH" protected in Switzerland (reg. no. 388 401) in Class 16 as well as in the United States (reg. no. 2 276 256) in Class 9 ("*Computer software for use in the field of psychology to administer psychological testing, to process data from psychological testing, to compare the results of psychological testing for purposes of scoring, diagnosis and research, to store statistics on pschological testing, and to provide educational background on psychological testing, in class 9*").

It has come to our client's attention that you present all of the ten official ink blot cards of the Rorschach Test on your platform at <<http://listverse.com/science/top-10-inkblot-test-cards/>> (**see enclosure**).

We have good faith that the use of the RORSCHACH Ink Blot Test and its ink blot pictures in the manner complained is without authorisation of our client and infringes his rights. The psychological testing of Rorschach only makes sense when the tested person reacts spontaneously and therefore mustn't know the ink blot cards by anticipant. Otherwise, the test becomes worthless. Therefore, the use of the Rorschach ink blot cards exploits the effort of another that is against Swiss unfair competition law. Moreover, it will cause confusion, since consumers may assume that such use is by our client or by party sponsored by or affiliated with our client. In addition, the use of the term "RORSCHACH" in combination with Ink Blot Test dilutes the distinctiveness of our client's trademark in violation of Swiss and international Law.

Our client therefore demands that all of the ink blot pictures that infringe his intellectual property rights is immediately removed from your website. Please confirm the removal within two weeks.

If you do not remove the material, our client will take whatever action is necessary to ensure that his rights remain protected. Such an action could also take place in Switzerland, because – as you know – the page <listverse.com> can be opened at any time on Swiss territory.

This notification is without prejudice and our client's rights are expressly reserved. Please contact us if you need any more information.

Thank you very much for your cooperation.

Very truly yours,


Claude Schluep
Attorney-at-Law

cc. Client