



January 12, 2012

J. Court Molloy, Esq.
379 Route 6A
East Sandwich, MA 02537

VIA ELECTRONIC MAIL AND PERSONAL SERVICE

Dear Ms. Molloy,

Re: *Astrolabe v. Olson and Eggert*, D. Mass Case No. 11-cv-11725-GAO

I am writing on behalf of my clients, Arthur David Olson and Paul Eggert, regarding the above captioned matter. My clients were shocked and dismayed to learn that Astrolabe had filed a lawsuit against them alleging they had violated Astrolabe's copyrights by using information from the ACS International Atlas in the course of developing the Time Zone Database.

Having reviewed the Complaint and the facts, we share their surprise. Simply put, there is no basis in copyright law or any other law for this litigation. As the Complaint itself concedes, my clients relied on the Atlas for historical *facts*, which are not copyrightable no matter how much time and effort is invested in gathering them. To the extent that Astrolabe contends my clients violated a "compilation" copyright, that claim is equally baseless: While a compilation of facts can be copyrighted, the copyright in such a compilation extends *only* to any creative *selection or arrangement* of those facts, not the facts themselves. As is evident from a review of the database itself, which you and your client could easily access, Mr. Olson and Dr. Eggert did not copy the Atlas's arrangement of facts about time zones.

Thus, we can only conclude that neither you nor your client conducted even a cursory legal or factual investigation prior to filing the Complaint, much less a reasonable one. Moreover, Astrolabe was on notice of the fundamental defects in its legal theory well before the Complaint was filed: counsel for the University of California, Los Angeles sent you a detailed letter on the issue in June 2011.

As a result of the intimidation caused by the lawsuit, Mr. Olson disabled public access to the database, impairing the operations of the numerous entities and devices that rely upon the database. While access has since been restored, Astrolabe's frivolous lawsuit caused tremendous damage to a vital public resource.

We note that your client has not attempted to actually serve its Complaint, but neither has it withdrawn it. Accordingly, please be advised that if Astrolabe does not withdraw its Complaint within 21 days of service of this letter, we are prepared to file the attached motion for sanctions against Astrolabe and you under Fed. R. Civ. P. 11. *See e.g. Cruz v. Savage*, 896 F.2d 626, 633 (1st Cir. 1990) (A party violates Rule 11 when its "attorney

J. Court Molloy, Esq.
January 12, 2012
Page 2

was in a position to know the [party's] claims were unsupported by fact or law prior to bringing the claims and throughout the litigation.”)

To be clear, my clients expressly reserve all other legal rights and remedies. Further, this letter shall not be construed as a waiver of service of process, jurisdiction, or any other threshold defense.

Please feel free to contact me if you have any questions. Otherwise, we will look forward to prompt notice that Astrolabe has voluntarily dismissed its Complaint.

Sincerely,

A handwritten signature in black ink, appearing to be 'Corynne McSherry', with a long horizontal flourish extending to the right.

Corynne McSherry
Intellectual Property Director

Cc: Adam J. Kessel, Esq.
Olivia T. Nguyen, Esq.
Mitch Stoltz, Esq.
Arthur David Olson
Paul Eggert, Ph.D.