

# Shaming Tradema®k Bullies

Based on Leah Chan Grinvald, *Shaming Trademark Bullies* (Work in Progress).

## What is Trademark Bullying?

- **Unreasonable interpretation of trademark rights (violation of legal norms);**
- **By large corporation, brought against small business or individual (violation of social norm against bullying); and**
- **Using intimidation tactics.**

- **Trademark bullying of small businesses has become a serious problem.**
- **Recognized by Congress earlier this year when Trademark Technical and Conforming Act was passed.**

## Trademark Bullying is a Serious Problem

One Hundred Eleventh Congress  
of the  
United States of America

AT THE SECOND SESSION

Began and held at the City of Washington on Tuesday,  
the fifth day of January, two thousand and ten

## Shaming Trademark Bullies can be Effective

- **All conditions of successful public shaming are met in consumer products market:**

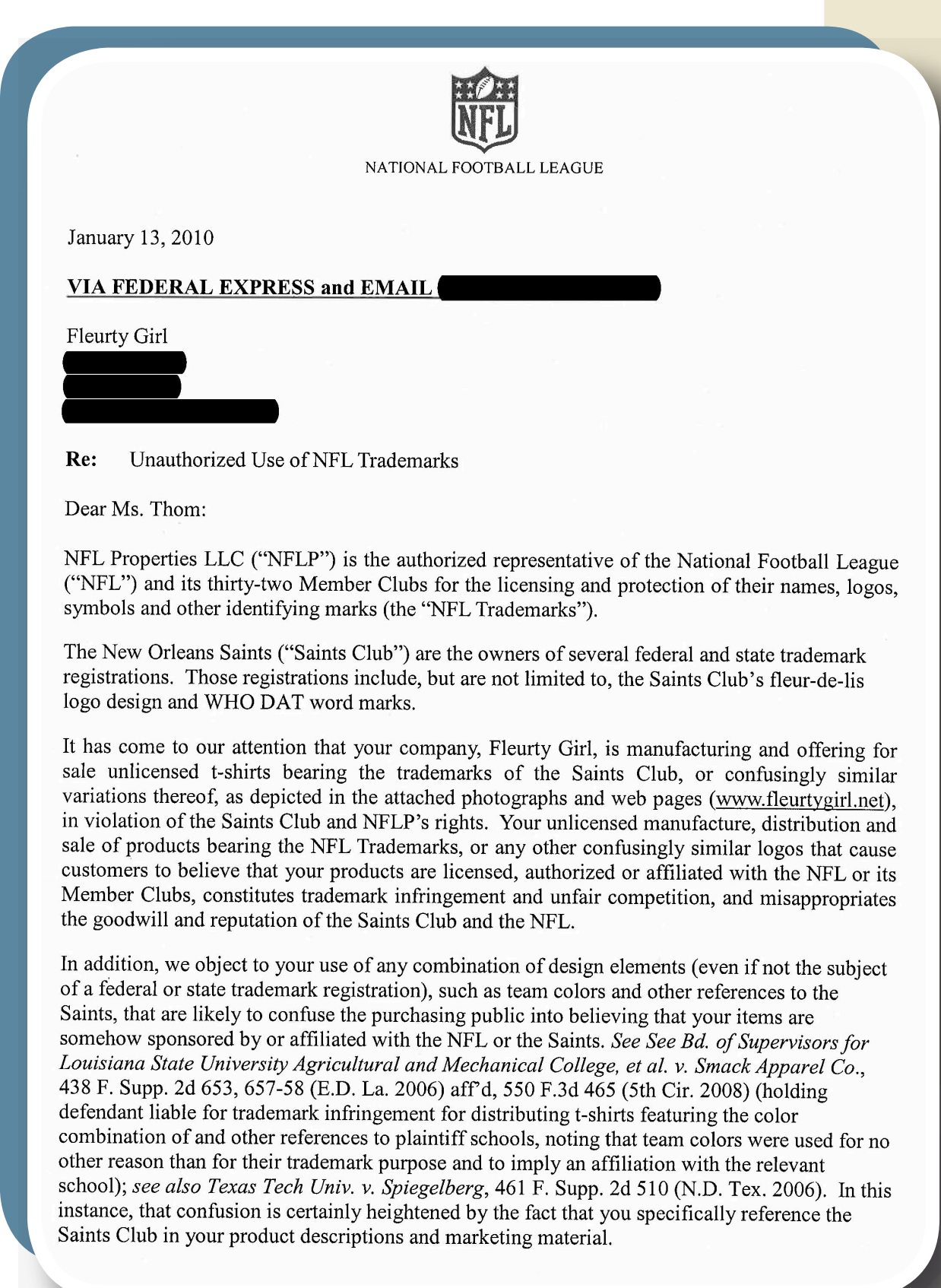
- consumer community;
- shared norms;
- large corporations are vulnerable to shaming; and
- small businesses and individuals are believable.

### SEC. 4. STUDY AND REPORT.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Intellectual Property Enforcement Coordinator, shall study and report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on—  
(1) the extent to which small businesses may be harmed by litigation tactics by corporations attempting to enforce trademark rights beyond a reasonable interpretation of the scope of the rights granted to the trademark owner; and  
(2) the best use of Federal Government services to protect trademarks and prevent counterfeiting.  
(b) RECOMMENDATIONS.—The study and report required under paragraph (1) shall also include any policy recommendations the Secretary of Commerce and the Intellectual Property Enforcement Coordinator deem appropriate.

## Proposals

- **Understand conditions of successful public shaming and provide practical guidelines**
- **Legal Reforms:**
  - Provide protected space for shaming; and
  - Adopt groundless threats of trademark infringement cause of action



Publication of Cease & Desist Letters