

MTV NETWORKS
A VIACOM COMPANY

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VIA OVERNIGHT DELIVERY

Brian Perreault, Esq.
Boyd Richards Parker Colonnelli

Miami FL
Fax:

Re: **“GUIDOS A Reality Series”**

Dear Mr. Perreault:

I write on behalf of MTV Networks (“MTVN”) in response to your letter to George Cheeks, dated November 10, 2010. For the reasons set forth below, MTVN believes that your client’s claim is utterly without merit. Should your client opt to pursue this matter, please be advised that MTVN will vigorously defend the action and when dismissed will pursue all available sanctions, including attorney fees.

As an initial matter, *GUIDOS A Reality Series* – the work your client claims to have registered with the Writers Guild of America – consists of text that was simply cut and pasted off UrbanDictionary.com. (<http://www.urbandictionary.com/define.php?term=quido&defid=585341>) A copy of the text, which is word for word identical (including typographical errors) with the material posted by various different users at different times on the urbandictionary.com website, is enclosed. We assume your client falsely represented to the Writers Guild that he authored the work that he registered. In any event, he clearly has no rights to this plagiarized work.

Even assuming, *arguendo*, that your client did not plagiarize the work, his claim will fail for several independent reasons. First, *Jersey Shore* was independently created. MTVN simply did not in any way rely on, copy or appropriate any ideas or material from your client’s work. Second, even if MTVN had copied *GUIDOS A Reality Series*, it is clear that your client’s work is not original and has little in common with *Jersey Shore*.

As your client is well aware,¹ *Jersey Shore* was not the first work to focus on young Italian Americans. By way of example only, this theme has been explored in works such as

¹ Kevin McEleney at ICM talent advised Mr. Gambale in a Dec. 15, 2006 e-mail that there was a “highly rated” program on MTV featuring “a complete Guido from Staten Island.”

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Saturday Night Fever, *My Cousin Vinny*, *Kiss Me, Guido*, and *Growing Up Gotti*. Indeed, MTVN has aired numerous programs exploring this theme, including a 2004 program titled *True Life, I'm a Jersey Girl* which focused on cast members' tanning habits, romances, drinking and dancing while vacationing in Seaside Heights, New Jersey. This program also prominently featured tanned young men with spiked hair and tight shirts. MTVN also aired two different programs titled *True Life, I'm in a Summer Share* exploring similar topics. This fact alone precludes any claim that your client could assert.

Putting the lack of novelty aside, *Jersey Shore* and your client's work are completely dissimilar. By way of example only, the first and second seasons of *Jersey Shore* followed the lives of eight young adults sharing a house together. Nothing in your client's work addresses the format of his proposed program, let alone the idea that cast members should live together. Likewise, *Jersey Shore* focuses on the cast members' interpersonal relationships. Issues such as jealousy, infidelity, housekeeping, cooking, family and friendship are routinely addressed. There is nothing in your client's work addressing how the show's participants will interact with each other. Finally, the *Jersey Shore* cast members worked in a tee-shirt store and a gelato shop. During the course of their work, the cast members struggle with job performance issues. Your client's work describes "Guidos" working in "food delivery, telemarketing, or construction job[s]" but does not mention the jobs that the cast members actually held nor does the work detail the role of their work in his proposed program.

Against that background, it is not surprising that the only similarity you cite in your letter is the "depict[ion of] a cast of stereotypical Guidos and Guidettes as they, for example, GTL before hitting the clubs." Your client, however, does not have a copyright on "stereotypical Guidos and Guidettes." It is black letter law that a person may not obtain a copyright on a particular type of character, particularly if this character represents a recognizable stereotype. See, e.g., *Franklin v. Cirolis*, 865 F. Supp. 947, 949 (D. Mass. 1994); see also *Quaglia v. Bravo Networks*, No. 04-10460-RWZ, 2006 WL 721545, at *3 (D. Mass. March 21, 2006) (generic character types such as "bright," "ditzzy," "girl-next-door" are not copyrightable.); *Sinicola v. Warner Bros.*, 948 F. Supp. 1176, 1185 (E.D.N.Y. 1996) ("No character infringement claim can succeed unless plaintiff's original conception sufficiently developed the character, and defendants have copied this development and not merely the broader outlines); *Nichols v. Universal Pictures Corp.*, 45 F.2d 119, 121 (2d Cir. 1930) ("he less developed the characters, the less they can be copyrighted; that is the penalty an author must bear for marking them too indistinctly". Likewise, the fact that *Jersey Shore* was "filmed in Seaside Heights, New Jersey" is far from dispositive, particularly given that MTV has shot programs there before such as *True Life, I'm a Jersey Girl*. Finally, your assertion that your client's work includes "GTL" is perplexing given your client does not use the term in the treatment, and nothing in your client's work includes cast members routinely doing their laundry so they have a clean shirt to hit the town in.

In sum, the general idea of a show "exploring the lifestyle of the Brooklyn/New Jersey Guido" is not copyrightable. Neither are the types of scenes that inevitably arise out of that idea – including clubbing, tanning, drinking, and dancing.

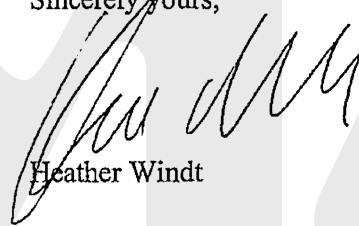
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Even if protectable elements were similar – which is not the case – any claim would still fail if *Jersey Shore* was independently created, which it was. *See, e.g., Procter & Gamble Co. v. Colgate-Palmolive Co.*, 199 F.3d 74 (2d Cir. 1999) (plaintiff’s claims dismissed on grounds of defendant’s independent creation). A VH1 employee first conceived of the idea for a show featuring *Jersey Shore* “Guidos” in a “Real World” environment. VH1 executives can and will verify that this idea was widely discussed at VH1. Ultimately, VH1 decided not to go forward with the project, which is how it ended up at MTV.

Finally, I note that the Copyright Act grants the Court the discretion to award the prevailing party its attorney’s fees and other costs. 17 U.S.C. § 505. All of the factors traditionally considered in making such a determination – *e.g.*, frivolousness, objective unreasonableness, motivation, and the “the need in particular circumstances to advance considerations of compensation and deterrence” (*Fogerty v. Fantasy Inc.*, 510 U.S. 517, 535 n.19 (1994)) – favor an award in this case. This is particularly true when a defendant, like here, has set forth at great length the reasons why plaintiff’s claims are meritless, and the plaintiff nonetheless proceeds with his claim.

Nothing herein shall limit or be construed to limit any position, right or claim that MTVN may have, all of which are expressly reserved.

Sincerely yours,



Heather Windt

Enclosures