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Via email (nhoward@cov.com) and U.S. Post

August 23, 2013

Nigel L. Howard, Esq.
Covington & Burling LLP
The New York Times Building
620 Eighth Avenue
New York, NY 10018-1405

RE: *ABA Routing Numbers*
Greg Thatcher

Dear Attorney Howard:

We hope this correspondence finds you well. Our firm represents Greg Thatcher, the owner of gregthatcher.com, a website that publishes Routing Transit Numbers for public consumption. Now, we understand that Accuity claims a copyright in the *American Bankers Association Key to Routing Numbers*.¹ What confounds us is that you claim copyright in the Routing Transit Numbers themselves.

We have reviewed your form letter of June 5, 2013, that you had your investigator, Gareth Young, send to our client. We're guessing you bill a lot more than us, so we admire your efficiency and dedication to keeping your clients' costs down. We, on the other hand, have no such concerns because we're not even charging Greg for our work. As such, we've gone to the trouble of looking up your name and address and writing directly to you.²

Because Greg is very concerned about potential copyright infringement, and your letter actually scared him,³ we want to set the record straight.

¹ We understand that. That's a book. It's got original expression in it.

² Incidentally, because we're not billing for our time on this, we have to look up your contact info ourselves. Our long-suffering secretary says so, and she's the boss. We're not charging Greg because we used to use his site a lot. And we never paid him anything. But then you wrecked it for everyone. That wasn't nice.

³ That wasn't nice either.

Routing Transit Numbers are—for lack of a better comparison—like telephone numbers for banks. There are two forms. One is the fraction form and one is the magnetic ink character recognition form.⁴ Both generally include nine numbers that provide the requisite information to identify the bank. Both include a group of four digits, which comprise the Federal Reserve Routing Symbol.⁵ Another four digits comprise the ABA Institution Identifier.⁶ The final digit is a check identifier. So, even assuming *arguendo* that the ABA Institution Identifier is a fully copyrightable work, the ABA's and Accuity's allegedly copyrightable portion of any routing number is only 44.4% of the entire number.

Even that we have trouble buying.⁷ There isn't any copyright notice on the download. And you must be aware that information itself isn't copyrightable. It just isn't.⁸ In fact, there was a case this real important Court decided back in the early '90s that was about telephone numbers.⁹ In that case, a company just took a local phone book and copied it *exactly*. The publisher of the phone book knew that the company had copied it because the publisher had popped some phony names in there. No kidding, right? And so the publisher sued the thieving company it caught red-handed. And the thieving company won because it was just information.¹⁰

Then there's the whole bit about the 1909 Copyright Act. Under the 1909 Act, copyright protection only attaches to published works with a notice of copyright attached.¹¹ Since routing numbers have been around since 1911 . . . that would seem problematic for your position. We understand your argument that some new routing numbers are copyright-protected, but again, the only part that Accuity and ABA could conceivably claim a copyright in is the four-digit ABA Institution Identifier.

Greg's site is used to educate the public. It's provided as a public service. We're confident that Greg's use of any copyrighted material would fall within the fair-use doctrine. And as discussed above, many routing numbers are already within the public domain.

⁴ We found this stuff on Wikipedia. See WIKIPEDIA, *Routing Transit Number*, http://en.wikipedia.org/wiki/Routing_transit_number#ABA_number_management (last visited Aug. 8, 2013).

⁵ *Id.* Plus, we hear tell U.S. Government works aren't copyrightable. See 17 U.S.C. § 105.

⁶ WIKIPEDIA, *supra*, note 5.

⁷ And we went to law school, which just illustrates how gullible we are.

⁸ No matter how much one might want it to be. Even if one wants it like the Spice Girls want a "zigzag ha."

⁹ Feist Publications, Inc., v. Rural Telephone Service Co., 499 U.S. 340 (1991).

¹⁰ I know, right? I remember reading this case and being all like, *No way!*

¹¹ Stewart v. Abend, 495 U.S. 207, 233 (1990) ("Under the 1909 Act, it was necessary to publish the work with proper notice to obtain copyright.").

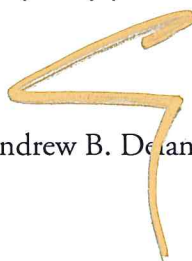
So we would propose that you allow Greg to put his site back up. He's not harming anyone and he actually rearranges the raw data into his own format that's convenient for his website users.¹² Even without your permission, I will likely advise him to put his site back up.

We know that you don't really have much to gain from intimidating our client and you will probably leave him alone, which would be a wise choice. The public will see you and your client as big bullies if you pursue action against Greg.

If you do feel it's necessary to sue our client, we are open Monday through Friday from 8:00 A.M. to 6:00 P.M. and we have lollipops for people who serve process. So if you do file a complaint and send someone over with a summons, please have them wear something with a bit of purple . . . we all like purple.

We eagerly await your reply.

Very truly yours,



Andrew B. Delaney¹³

CC: Greg Thatcher

© 2013 Andrew B. Delaney and Jorge V. Pivar-Federici. All rights reserved. But wait . . . fair use allowed and encouraged. Actually, go 'head and publish the whole thing as is. We don't care.¹⁴

¹² But you know that.

¹³ And Jorge V. Pivar-Federici.

¹⁴ But we do have a copyright notice. Just for fun.