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CLIENT/MATTER NUMBER
111196-0102

June 13, 2016

Via Email: smart.alec.mcc@gmail.com

Matthew Charles Cardinale, CEO
SMART ALEC
P.O. Box 3873
Portland, OR 97208

Re: Use of SMART ALEC / ALEC®

Dear Mr. Cardinale,

We are writing to you on behalf of our client, American Legislative Exchange Council (“ALEC”) of Washington, DC, concerning your unauthorized use of its trade name and trademark, **ALEC**.

If you are represented by legal counsel, please direct this letter to your attorney and have your attorney notify us of its representation.

As you know, ALEC is America’s largest nonpartisan, voluntary membership organization of state legislators dedicated to the principles of limited government, free markets and federalism. Comprised of nearly one-quarter of the country’s state legislators and stakeholders from across the policy spectrum, ALEC members represent more than 60 million Americans and provide jobs to more than 30 million people in the United States.

For over fifteen years, ALEC has expended considerable effort and expense to develop and maintain the goodwill associated with its name and to control all intellectual property, including trademark rights in **ALEC**, associated with its public policy advocacy, educational services and general business affairs. In fact, ALEC owns several U.S. trademarks consisting of or containing **ALEC**. See attached Exhibit A. These registrations have achieved incontestable status with the U.S. Patent and Trademark Office. Accordingly, only ALEC has the right to commercially use or exploit the **ALEC** name and mark for public policy advocacy and related educational services.

Your recent launch of SMART ALEC is of concern from a trademark standpoint. Our understanding is that SMART ALEC is a non-profit organization dedicated to promoting progressive public policies at the state and local levels, and was founded with our client is mind; that

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Matthew Charles Cardinale, CEO
SMART ALEC

Page 2

is, to function “[a]s a progressive response to ALEC—a controversial right-wing policy firm...” (quoting a May 10, 2016 post on *AtlantaProgressiveNews.com*).¹

ALEC fully supports free expression and an exchange of ideas on public policy, but not misappropriation of its **ALEC** name and trademark by your organization. Adding “SMART” before “ALEC” conjures the well-known expression “SMART ALECK.”² However the proper spelling of the second word in that expression is “ALECK,” ending with the letters “ALECK” and not “ALEC,” the latter of which is unique to, and directly associated with, our client and its protected intellectual property.

Your website contains numerous references to both “SMART ALEC” and “ALEC,” referring to one or the other organization. See <http://smartalec.org>. There is no reason for your organization to use the unique and distinctive spelling of our client’s name and mark other than to generate consumer interest and drive traffic to your own website and organization. Such use of **ALEC** without permission and for your own commercial gain directly harms our client’s exclusive trademark rights and the goodwill associated with its name.

Rather than listing legal claims or damages to which ALEC may be entitled, we write to you in a sincere effort to resolve this issue amicably between the two organizations. Specifically, we ask that you immediately:

- 1) remove all references to **SMART ALEC** or **ALEC** from the website <http://smartalec.org> and from any other website you or your organization or an affiliate organization may possess or control;
- 2) take down and render inaccessible the domain at <http://smartalec.org> and any other domain that includes or contains the wording “ALEC”;
- 3) remove all references to **SMART ALEC** or **ALEC** from all promotional and marketing materials and signage, in all media;
- 4) cease and desist from all further use of the **ALEC** name and trademark in any manner that suggests a connection with our client, ALEC; and

¹ See <http://atlantaprogressivenews.com/2016/05/10/apn-editor-co-launches-smart-alec-a-progressive-policy-think-tank>.

² Defined as “an obnoxiously conceited and self-assertive person with pretensions to smartness or cleverness” (citing Merriam-Webster online at <http://www.merriam-webster.com/dictionary/smart%20aleck>).

Matthew Charles Cardinale, CEO

SMART ALEC

Page 3

- 5) agree not to use **SMART ALEC** or **ALEC** as names or marks in connection with public policy advocacy and related educational services, including use in a domain name, on a website, or in any other fashion.

ALEC's main concern is to prevent further infringement and harm to its rights and the goodwill in its registered marks. Thus, provided you agree to the terms of this letter, remain in compliance with such terms, and no further damage is encountered, we do not plan to take any further action. Failure to agree and fully comply with these terms would leave ALEC with no alternative but to take all action necessary to preserve its rights and to prevent your continued use of the "ALEC" designation.

We hope we can count on your cooperation to resolve this matter quickly. To that end, we ask that you provide us with a written statement of your intentions by no later than ten (10) business days after receipt of this letter, that is by Monday June 27, 2016.

Nothing contained in this letter is intended as a waiver or relinquishment of any of ALEC's rights and remedies, all of which are hereby expressly reserved.

Very truly yours,



Norm J. Rich


cc: C. Mitchell, Esq.

Matthew Charles Cardinale, CEO

SMART ALEC

Page 4

Exhibit A



United States Patent and Trademark Office

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