

RE: 转发: Intellectual Property Infringement Complaint - Websoft9

发件人: carlo<carlo@moodle.com>

时 间: 2020年10月14日(星期三) 下午4:42

收件人: Darren Chen (Websoft9)<delin.chen@websoft9.com>

抄 送: 'evelyn.zhu'<evelyn.zhu@websoft9.com>; Jianjun Zhou (Websoft9)<jianjun.zhou@websoft9.com>

Hi Darren,

Thanks for your cooperation.

Please find below my answers in red directly on your email below.

Regards,

Carlo Polizzi

Moodle Legal Counsel

From: Websoft9 <delin.chen@websoft9.com>**Sent:** Friday, October 9, 2020 3:13 PM**To:** carlo <carlo@moodle.com>**Cc:** evelyn.zhu <evelyn.zhu@websoft9.com>; jianjun.zhou <jianjun.zhou@websoft9.com>**Subject:** Re:转发 : Intellectual Property Infringement Complaint - Websoft9

Hi,Carlo

My name is Darren Chen, who is the CEO of Websoft9 Inc. We are very sorry for alleged unlawful use of Moodle trademark.

We are a company that respects intellectual property, when we received your complaint from Azure, we immediately stopped selling this offer.

Now, you can't access it:

<https://azuremarketplace.microsoft.com/en-us/marketplace/apps/websoft9inc.w9moodle>

What needs to be explained to you is that when we want to publish Moodle, our legal department have done some research about your Trademark.

e.g .. The name **PHP runtime with Moodle on CentOS** is for clarify to users that this is not official Moodle and is a PHP runtime integrate Moodle .

and we also describe a complete IP statement about your trademark like below on our offer page

Intellectual Property Statement

The stack of this offer includes a wide range copies of open source and free software, but the Copyrights, Patents and Trademarks are legal protections for original owner.

Take Moodle as an example:

Moodle and the Moodle logo are trademarks of Moodle Pty Ltd..
The use of this Moodle logo is restricted to certified Moodle Partners only.

If you are aware of a breach of the any IP in this offer, please don't hesitate to contact us: legal@websoft9.com, we will correct it ASAP

Please amend as follows:" The word Moodle TM and the Moodle Logo are trademarks of Moodle Pty Ltd. The use of this Moodle logo is restricted to certified Moodle Partners only.

If Moodle can't be used in any non-commerce case, I have two questions to ask you:

1.If we become a Moodle Certified Reseller, can we use Moodle's word trademark for this case (Azure Marketplace offer)? **Yes.**

2.If we can't become a Moodle Certified Reseller, can we user Moodle word trademark in offer's description (not title or product name) like the picture below? **Yes.**

LMS image on CentOS save for later

Websoft9

★★★★★ (0) [Write a review](#)

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Pre-configured, customizable, secure, one-click to deploy LMS on Azure

This LMS iamge integrate **Moodle** in it, Moodle is a learning platform designed to provide educators, administrators and learners with a single robust, secure and integrated system to create personalised learning environments.

Image Components

Moodle 3.9, Apache2.4.43, PHP7.4.10, MySQL5.7.31, Docker19.03.12, Redis5.0.9 on CentOS7.7

VM requirements

CPU no less than 1 core, Memory no less than 1G

Applicable Scene

eLearning

Why use Websoft9 Image?

Websoft9 images are packaged using industry best practices.These images are opensoure,stable,reliable,easy to use,secure,continually updated. Websoft9 images are not free, we think you need a partner who can provide a good product and timely support for your business. We can provide both of them for you.

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Please use always the word "Moodle" as an adjective (i.e This LMS image integrates the Moodle LMS and NOT integrates Moodle).

Please refer to <https://moodle.com/trademarks/> and every time you use the word Moodle put a TM symbol adjacent to the mark itself.

Look forward your feedback, best regards!

Websoft9 Inc.

CEO

Darren Chen

----- Original -----

From: "darren chen"<chendelin1982@hotmail.com>;

Date: Thu, Oct 8, 2020 09:38 PM

发件人：Commercial Marketplace Removal Services <cmo-art@microsoft.com>

日期：2020年10月8日周四 06:48

收件人：chendelin1982@hotmail.com

主题：Intellectual Property Infringement Complaint - Websoft9



Microsoft has received an Intellectual Property Infringement Complaint ("Complaint") regarding your offer **PHP runtime with Moodle on CentOS**. A copy of the Complaint is in the email below for your review.

If the issue is not addressed within 3 business days from the date of this email, **Microsoft may remove the offer without further notice**. To address this issue, you have three options:

Option 1: Modify your offer

Modify your offer through the publishing portal where you offer is managed (Partner Center), then republish it to enter the certification queue. Complete the attached Modification Form and submit it by replying to this email.

Please note that passing certification does not guarantee that the original complainant will be satisfied that you have resolved all issues in the Intellectual Property Infringement Notice. If the modifications are insufficient to the complainant, the complainant may submit a second complaint against the same offer.

If you are unsure about what to remove, you may wish to contact the complaining party directly. The complainant's contact information can be found in the Complaint.

Option 2: Remove your offer from the Marketplace

To remove your offer from the Commercial Marketplace, login to Partner Center > Select your offer > Select **Stop-Selling**. If you need assistance, please [file a Support Ticket](#).

Option 3: Submit a Counter Notice

If the complaint involves copyright and/or trademark concerns, you may complete the attached Intellectual Property Infringement Counter Notice Form. Then, submit the completed form to cmo-art@microsoft.com. This form is compliant with the Digital Millennium Copyright Act ("DMCA").

If the complaint involves solely copyright concerns, you may elect instead to submit a legally-compliant Digital Millennium Copyright Act ("DMCA") counter-notice to cmo-art@microsoft.com.

Note:

Microsoft cannot give you legal advice on this issue, and you should consider consulting your own lawyer if you are unsure about how to proceed.

Under certain circumstances, Microsoft may remove your offer immediately without providing you an opportunity to remove it.

To keep your publisher account in good standing, it is recommended that you review all your offers and ensure they comply with Microsoft policies.

This email does not waive or modify the terms of your Publisher Agreement or any of Microsoft's rights or remedies.

Intellectual Property Content Infringement Complaint

Notice of Infringement

First name: Carlo

Last name: Polizzi

Contact email: carlo@moodle.com

Name of the intellectual property (IP) owner (if not you): Moodle Pty Ltd

Country of submitter: Spain

Please describe your intellectual property (IP) in detail:

Dear Representative,

You have been sent this notice because of an alleged unlawful use of the well-known "MOODLE" trademark. This notice seeks to ensure that your use of "MOODLE®" does not infringe our exclusive trademark rights[1] or violate our trademark policies.[2]

It's come to our attention that your offer:

<https://azuremarketplace.microsoft.com/en-us/marketplace/apps/websoft9inc.w9moodle> is using the Moodle trademark without permission.

You may not be aware that the words "MOODLE" and "MOODLE PARTNER CERTIFIED SERVICES PROVIDER" as well as the MOODLE Logo[3] (collectively "our Marks") are legally protected trademarks. Absent a fair use or our prior, written authorization, you may not use our Marks, especially when used to advertise commercial Moodle services. Moodle services include activities such as Moodle hosting, training, consulting, support, development, course creation and other services. Only authorized Moodle Partners are permitted to use the trademark in this way. To learn more about the Moodle Partner program, see <http://moodle.com/partners>

We regularly see third parties use the alternative of "Learning Management System" or "LMS" to resolve any problem. Note that these restrictions apply if you are providing Moodle Services regardless if you are charging fees or not.

We are not trying to stop lawful uses in non-commercial contexts, and of course you can freely use the word MOODLE when referring to our software, but in no case your own. You can see what uses are permitted and what are not permitted here: <https://moodle.com/trademarks/>. Please, within 10 days, correct your unauthorized use of our Marks by taking down all the advertisements that use our Logo and the word "Moodle", including on your web site, as soon as possible, refrain from any infringing or otherwise unlawful use moving forward, and confirm to us, in writing, when complete.

Ultimately our goal is to ensure your use does not cause a likelihood of consumer confusion, not cause mistakes and not deceive consumers as to your affiliation, connection, or association with us or as to the origin, sponsorship, or approval of your goods, services or commercial activities. We are hopeful you will cooperate, but in the meantime please understand that this letter is not

Thank you,
Commercial Marketplace Team

Privacy Statement
Microsoft Corporation, One Microsoft Way, Redmond, WA 98052

