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December 3, 2002

**VIA EMAIL** (abuse@verio.com; support@verio.com; dlthompson@verio.com;  
copyright@verio.com) **and**  
**FACSIMILE (303) 708-2445**

Verio, Inc.  
8005 South Chester Street, Suite 200  
Englewood, CO 80112

**Re: DOW-CHEMICAL.COM**

Dear Verio:

This law firm represents The Dow Chemical Company (“Dow”) on intellectual property enforcement matters. I am an agent of Dow authorized to act on its behalf.

Dow has recently discovered that the operator(s) of *dow-chemical.com* (the “Website”) is blatantly violating Dow’s intellectual property rights. Dow provides this notification of infringement pursuant to the Digital Millennium Copyright Act (the “DMCA”). The Website violates Dow’s rights in several different ways:

**1. Violation of the Digital Millennium Copyright Act.**

The Website displays numerous trademarks, images, texts and designs taken directly from Dow’s website located at *dow.com*. This material is protected by copyright law and may not be reproduced, in whole or in part, without the express written authorization of Dow. A representative list of the addresses within the web site where Dow’s trademarks, copyrighted images, texts and designs appear is attached hereto as Exhibit A.

I declare in good faith that the use of the material referenced in Exhibit B is not authorized by the copyright owner, its agent or the law.

Accordingly, Dow requests that pursuant to 17 U.S.C. § 512 of the Digital Millennium Copyright Act that Verio immediately cease to provide hosting services for this domain.

**2. Violation of the Anticybersquatting Consumer Protection Act.**

The domain name, *dow-chemical.com*, violates Dow’s trademark rights by incorporating the world-famous and distinctive trademark Dow®. The term Dow® together with its

corresponding design trademarks or logos, are duly registered trademarks in numerous countries, including the United States. Use of these trademarks, or any confusingly similar variations thereof, without the express, written consent of Dow, violates state and federal law, is misleading to the public, and constitutes a misappropriation of the goodwill and reputation developed by Dow.

The United States Congress has enacted the Anticybersquatting Consumer Protection Act, which makes it unlawful for a person to register a domain name that incorporates the famous trademarks of another and provides for statutory damages in the amount of \$100,000.00 per domain name against those who do so. *See* 15 U.S.C. §1117(d).

### **3. Violation of the Lanham Act.**

The Website also violates Dow's trademark rights by displaying Dow's design trademarks and logos on the web site.

The Website's content is defamatory to Dow. The operator(s) of the Website has issued a press release directing the media and the public to this site in an attempt to damage the reputation and tarnish the goodwill associated with Dow, its products and services. A copy of the press release is attached hereto as Exhibit B. The registrant of this domain has provided fraudulent and fictitious WHOIS information to conceal his/her identity. A complaint with ICANN has been filed to require that the registrant provide complete contact information.

In addition to violating United States Federal Law, the Website is in violation of Verio's Acceptable Usage Policy ("AUP"), which describes, in pertinent part, intellectual property violations as:

"Engaging in any activity that infringes or misappropriates the intellectual property rights of others, including copyrights, trademarks, service marks, trade secrets, software piracy, and patents held by individuals, corporations, or other entities. Also, engaging in activity that violates privacy, publicity, or other personal rights of others. Verio is required by law to remove or block access to customer content upon receipt of a proper notice of copyright infringement."

Verio's AUP further provides that in cases of intellectual property infringement, defamation and other illegal activities that Verio will remove such content, as described below:

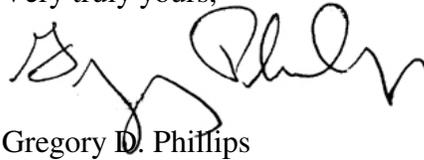
"When Verio becomes aware of harmful activities, however, it may take any action to stop the harmful activity, including but not limited to, removing information, shutting down a web site, implementing screening software designed to block offending transmissions, denying access to the Internet, or take any other action it deems appropriate."

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The violation of Dow's invaluable copyrights is causing and will continue to cause Dow to suffer irreparable damage as long as the website remains operational. Therefore, Dow requests that Verio take the actions prescribed by the DMCA and its AUP by removing and disabling access to the Website.

I declare under penalty of perjury that the foregoing information is accurate. Should you have any questions concerning Dow's position in this matter, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Gregory D. Phillips". The signature is fluid and cursive, with a large initial "G" and "P".

Gregory D. Phillips

Enclosures

jlc:GDP

cc: The Dow Chemical Company

Exhibit A

<http://www.dow-chemical.com/r/about/aboutdow/lead/parker.htm.do.php>  
<http://www.dow-chemical.com/r/about/corp/corp.htm>  
[http://www.dow-chemical.com/r/assistance/assist\\_about.html.do.php?](http://www.dow-chemical.com/r/assistance/assist_about.html.do.php?)  
[http://www.dow-chemical.com/r/assistance/assist\\_about.html.do.php?folderName=r](http://www.dow-chemical.com/r/assistance/assist_about.html.do.php?folderName=r)  
<http://www.dow-chemical.com/r/assistance/index.htm.do.php>  
<http://www.dow-chemical.com/r/careers/index.htm.do.php>  
[http://www.dow-chemical.com/r/dow\\_news/feature/2002/10\\_24\\_02/index.htm](http://www.dow-chemical.com/r/dow_news/feature/2002/10_24_02/index.htm)  
[http://www.dow-chemical.com/r/dow\\_news/index.html.do.php](http://www.dow-chemical.com/r/dow_news/index.html.do.php)  
[http://www.dow-chemical.com/r/dow\\_news/speeches/20021028a.htm](http://www.dow-chemical.com/r/dow_news/speeches/20021028a.htm)  
<http://www.dow-chemical.com/r/ebusiness/index.htm.do.php>  
[http://www.dow-chemical.com/r/environment/care\\_info.html](http://www.dow-chemical.com/r/environment/care_info.html)  
<http://www.dow-chemical.com/r/environment/ehs.html>  
<http://www.dow-chemical.com/r/Homepage/index.html>  
<http://www.dow-chemical.com/r/homepage/index.html.do.php>  
[http://www.dow-chemical.com/r/products\\_services/index.html.do.php](http://www.dow-chemical.com/r/products_services/index.html.do.php)  
<http://www.dow-chemical.com/r/webapps/search/basicSearch.asp.do.php?>

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## Exhibit B

-----Original Message-----

**From:** Dow Chemical Corporation [SMTP:press@dow-chemical.com]  
**Sent:** Tuesday, December 03, 2002 9:49 AM  
**To:** Breakfast R5L  
**Subject:** DOW ADDRESSES BHOPAL OUTRAGE, EXPLAINS POSITION

December 3, 2002  
FOR IMMEDIATE RELEASE  
Contact: <mailto:press@dow-chemical.com>

DOW ADDRESSES BHOPAL OUTRAGE, EXPLAINS POSITION  
Company responds to activist concerns with concrete action points

In response to growing public outrage over its handling of the Bhopal disaster's legacy, Dow Chemical (<http://www.dow-chemical.com>) has issued a statement explaining why it is unable to more actively address the problem.

"We are being portrayed as a heartless giant which doesn't care about the 20,000 lives lost due to Bhopal over the years," said Dow President and CEO Michael D. Parker. "But this just isn't true. Many individuals within Dow feel tremendous sorrow about the Bhopal disaster, and many individuals within Dow would like the corporation to admit its responsibility, so that the public can then decide on the best course of action, as is appropriate in any democracy.

"Unfortunately, we have responsibilities to our shareholders and our industry colleagues that make action on Bhopal impossible. And being clear about this has been a very big step."

On December 3, 1984, Union Carbide--now part of Dow--accidentally killed 5,000 residents of Bhopal, India, when its pesticide plant sprung a leak. It abandoned the plant without cleaning it up, and since then, an estimated 15,000 more people have died from complications, most resulting from chemicals released into the groundwater.

Although legal investigations have consistently pinpointed Union Carbide as culprit, both Union Carbide and Dow have had to publicly deny these findings. After the accident, Union Carbide compensated victims' families between US\$300 and US\$500 per victim.

"We understand the anger and hurt," said Dow Spokesperson Bob Questra. "But Dow does not and cannot acknowledge responsibility. If we did, not only would we be required to expend many billions of dollars on cleanup and compensation--much worse, the public could then point to Dow as a precedent in other big cases. 'They took responsibility; why can't you?' Amoco, BP, Shell, and Exxon all have ongoing problems that would just get much worse. We are unable to set this precedent for ourselves and the industry, much as we would like to see the issue resolved in a humane and satisfying way."

Shareholders reacted to the Dow statement with enthusiasm. "I'm happy that Dow is being clear about its aims," said Panaline Boneril, who owns 10,000 shares, "because Bhopal is a recurrent problem that's

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clogging our value chain and ultimately keeping the share price from expressing its full potential. Although a real solution is not immediately possible because of Dow's commitments to the larger industry issues, there is new hope in management's exceptional new clarity on the matter."

"It's a slow process," said Questra. "We must learn bit by bit to meet this challenge head-on. For now, this means acknowledging that much as it pains us, our prime responsibilities are to the people who own Dow shares, and to the industry as a whole. We simply cannot do anything at this moment for the people of Bhopal."

Dow Chemical is a chemical products and services company devoted to bringing its customers a wide range of chemicals. It furnishes solutions for the agriculture, electronics, manufacturing, and oil and gas industries, including well-known products like Styrofoam, DDT, and Agent Orange, as well as lesser-known brands like Inspire, Retain, Eliminator, Quash, and Woodstalk. For more on the Bhopal catastrophe, please visit Dow at <http://www.dow-chemical.com/>.

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To no longer receive mail from Dow, please write  
<mailto:offlist@dow-chemical.com?subject=breakfast@bbc.co.uk>.