

U.S. DISTRICT COURT
EASTERN DISTRICT-WI
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

'09 JUN 30 A11 :35

WILLIAM GEORGEVICH
P.O. BOX 952
AJO, AZ 85321,

JON W. SANFILIPPO
CLERK

Plaintiff,

v.

eNom, Inc.
15801 NE 24th St.
Bellevue, WA 98008,

Case No.

~~09-C-0638~~

Defendant.

COMPLAINT

Plaintiff, Mr. William Georgevich ("Mr. Georgevich" or "Plaintiff"), by its attorneys, Reinhart Boerner Van Deuren s.c., for its Complaint against eNom, Inc. ("Bulk Register", "eNom" or "Defendant"), alleges as follows:

NATURE OF THE ACTION

1. This is an action for negligence seeking equitable and monetary relief.

THE PARTIES, JURISDICTION AND VENUE

2. Mr. Georgevich is an individual resident of the State of Arizona with a principal place of business at P.O. Box 952, Ajo, AZ 85321.
3. Upon information and belief, Defendant eNom is a Washington corporation located at 15801 NE 24th St., Bellevue, WA 98008. eNom owns Bulk Register.
4. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332. The parties are completely diverse and the amount in controversy exceeds \$75,000.

5. Venue properly lies in this judicial district pursuant to 28 U.S.C. § 1391 because the Defendant conducts business in this district and offers its goods and/or services for sale in this district.

FACTUAL ALLEGATIONS

6. Mr. Georgevich acquired title to the domain name www.detox.org (the "Domain Name") on October 1, 2007 from Janet M. Bridgers ("Bridgers") (*See* copy of Transfer of Domain Ownership and Associated Intellectual Property Agreement, attached and incorporated herein as Exhibit A.)

7. From August of 2007 until Mr. Georgevich acquired ownership of the Domain Name from Bridgers on October 1, 2007, Mr. Georgevich was the webmaster of the Domain Name. He was also the webmaster of several other domain names owned by Bridgers.

8. Since October 1, 2007, Mr. Georgevich has been the lawful owner of the Domain Name and has owned and operated a website (the "Website") associated with the Domain Name.

9. Mr. Georgevich has invested substantial resources into the development, marketing and use of the Domain Name and the Website.

10. Through exclusive and continuous use of the Website and the Domain Name, consumers and potential customers have come to recognize and identify the Domain Name and the Website with Mr. Georgevich, and he has acquired valuable trademark rights to the Domain Name, the Website, and the Website's content.

11. Mr. Georgevich also utilized Google AdSense advertisements in connection with the Website and the Domain Name. Google AdSense is a program that enables website

publishers to earn revenue by displaying Google ads on their website. Mr. Georgevich generated revenue through his use of Google AdSense.

12. On information and belief, on February 26, 2009, Godfrey sent a series of unsolicited emails to several real and speculative email addresses in an effort to contact someone with access to the Domain's registrar account at Bulk Register.

13. One of Godfrey's emails reached Mr. Georgevich at detox@detox.org, the email address listed on the website associated with Domain Name. On information and belief, another email reached Terry West ("West") at terry@trwest.org. West was the technical contact for the Domain Name.

14. On information and belief, West forwarded Godfrey's email to Bridgers, the former owner of the Domain Name, because he was unaware that Bridgers transferred the Domain Name to Mr. Georgevich in October of 2007.

15. On information and belief, Bridgers called Godfrey after West forwarded Godfrey's email to her.

16. On information and belief, Godfrey offered to acquire the Domain Name from Bridgers for \$1,500 and placed \$1,500 in Bridgers' PayPal account, but refused to actually release the funds unless Bridgers immediately transferred the Domain Name to him.

17. On information and belief, Bridgers requested that Godfrey give her 24 hours to consider his offer, but Godfrey rejected this request and instead used hard sales tactics to induce Bridgers to transfer the Domain Name immediately - or forfeit the \$1,500.

18. On information and belief, with no time to consult anyone and under pressure to either follow Godfrey's instructions or lose the money, Bridgers followed Godfrey's instructions to "push" the Domain Name to a Bulk Register account that Godfrey established.

19. On information and belief, Godfrey did not provide Bridgers with transfer agreement or even ask for any written documentation to verify that Bridgers had the right to transfer the Domain Name to him.

20. Immediately after the transfer, Bridgers spoke with Mr. Georgevich and first realized that she had mistakenly transferred the Domain Name.

21. Mr. Georgevich and Bridgers attempted to contact Godfrey to inform him that Bridgers did not own the Domain Name and lacked authority to transfer it to Godfrey.

22. On information and belief, within fifteen minutes after the transfer of the Domain Name to Godfrey's account, Bridgers left a message with Godfrey's assistant stating that she was not the owner of the Domain Name. Godfrey refused to speak with Bridgers, and his secretary told Bridgers that they would not void the transfer.

23. Mr. Georgevich attempted to contact Godfrey several times on February 26, 2009 and February 27, 2009 to inform him that Mr. Georgevich was the rightful owner of the Domain Name. Godfrey refused to speak with Mr. Georgevich.

24. On February 27, 2009, Mr. Georgevich asked his secretary to call Godfrey about a domain she was interested in. Mr. Georgevich managed to get Godfrey on the phone and provided notice that Bridgers was not authorized to transfer a domain she did not own or operate. Godfrey informed Mr. Georgevich that he would not negotiate, would speak with his attorney,

and call Mr. Georgevich by 5:00 PM CST. Mr. Georgevich did not hear from Godfrey on February 27.

25. Mr. Georgevich contacted Bulk Register on February 27, 2009, and informed it that the transfer of the Domain Name to Godfrey was unauthorized.

26. Bulk Register informed Mr. Georgevich by email that he could lodge a complaint about the unauthorized transfer; however, it failed to respond to Mr. Georgevich's complaint until February 28, 2009, and then froze the Domain Name for only one hour.

27. On information and belief, Bulk Register lifted the freeze after one hour, before Mr. Georgevich could file a lawsuit against Godfrey.

28. Bulk Register failed to respond to Mr. Georgevich's further requests for assistance or otherwise cooperate with Mr. Georgevich.

29. On information and belief, Bulk Register did not send an email to Mr. Georgevich or Bridgers to confirm the transfer of the Domain Name, as is the industry standard.

30. On information and belief, Bulk Register did not send a confirmation email to Mr. Georgevich or Bridgers confirming that the Domain Name was transferred or in the process of being transferred, as is the industry standard.

31. On information and belief, Godfrey was able to use weaknesses in Defendant's electronic account and registration system to bypass the formal process of transferring domain names from one account to another, which typically take 24-48 hours to process and require additional email confirmations from the owner of the domain before becoming effective.

32. On information and belief, as a result of Defendant's failure to implement safeguards used within the industry to prevent the unauthorized transfer of a domain name, the

Domain Name was transferred instantaneously to Godfrey's Bulk Register account without any chance for Mr. Georgevich to accept or deny the transfer.

33. On information and belief, Defendant has not implemented any service, feature and/or safeguard that would allow a domain name owner to undo an unauthorized transfer of a domain name, as has been implemented by other domain name registrars in the industry. For example, GoDaddy.com has implemented such safeguards.

34. On information and belief, as a result of Defendant's failure to implement adequate safeguards to prevent the unauthorized transfer of a domain name, the Domain Name was transferred instantaneously to Godfrey's Bulk Register account without any chance for Mr. Georgevich to accept or deny the transfer, or reverse the transfer.

35. On information and belief, the Bulk Register system did not afford Mr. Georgevich the opportunity to authorize or approve the transfer of the Domain Name to Defendant after the transfer process was begun.

36. On information and belief, because Bulk Register lifted the freeze on February 27, 2009, only one hour after the freeze was originally placed on the account, Godfrey was able to copy all of Mr. Georgevich's website data and began to operate the Website using Mr. Georgevich's website files.

37. On information and belief, because of Bulk Register's failure to maintain a freeze on the Domain Name, Godfrey was able to update the Domain Name WHOIS information in an attempt to make it more difficult for Mr. Georgevich to obtain the Domain Name back.

38. Mr. Georgevich filed his original complaint against Godfrey on March 2, 2009, and he filed an amended complaint on June 25, 2009.

39. On March 4, 2009 Bulk Register froze the Domain Name for a second time.

40. On information and belief, Defendant's customer service department informed Mr. Georgevich that the freeze would be an "administrative freeze" that would prevent Godfrey from moving the Domain Name from Bulk Register to another domain register, updating WHOIS information, and changing the domain name servers pertaining to the Domain Name.

41. On information and belief, the second "administrative" freeze has failed to prevent Godfrey from moving the Domain Name from Bulk Register to another domain register, updating the WHOIS information, and changing the domain name servers.

42. Bulk Register failed to maintain industry safeguards to prevent the unauthorized transfer of the Domain Name.

43. Bulk Register failed to adequately freeze the Domain Name to prevent Godfrey from using a pirated website and Google AdSense ad units owned by Mr. Georgevich.

44. As of the filing of this complaint, Defendant has refused to return the Domain Name to Mr. Georgevich.

45. Mr. Georgevich has secured a valuation of the Domain Name. The value of the Domain Name is approximately \$250,000.

COUNT I

NEGLIGENCE

46. Mr. Georgevich realleges and incorporates by reference the allegations contained in paragraphs 1 through 45 above as if fully set forth herein.

47. Defendant had a duty to but failed to implement industry-standard domain name transfer procedures and protections that would have prevented Godfrey from obtaining the Domain Name without Mr. Georgevich's consent.

48. On information and belief, Defendant is aware that its transfer procedures enable third parties to acquire domain names without adequate safeguards to prevent wrongful and/or unauthorized transfers.

49. Defendant's failure to implement industry-standard domain name transfer procedures, or otherwise prevent Godfrey from using the Domain Name pending resolution of the lawsuit filed against Godfrey, has caused injury to Mr. Georgevich.

50. Mr. Georgevich has been, and unless Defendant is enjoined will continue to be, substantially and irreparably injured by Defendant's actions set forth herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for a judgment against Defendant as follows:

- A. Ordering that Defendant immediately return the Domain Name to Plaintiff and take such further actions as may be necessary to formalize such transfer;
- B. Ordering that Defendant pay over to Plaintiff the damages in excess of \$75,000 suffered by Plaintiff in consequence of Defendant's actions as set forth herein;
- C. Ordering the Defendant pay over to Plaintiff the costs and attorneys' fees incurred by Plaintiff in pursuing this action;
- D. Awarding Plaintiff prejudgment, moratory and post-judgment interest on any monetary award according to the maximum allowable legal rate; and

E. Awarding to Plaintiff such other and further relief as the Court deems just and proper.

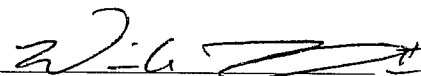
PLAINTIFF DEMANDS A TRIAL BY JURY OF ALL ISSUES SO TRIABLE.

Dated this 30th day of June, 2009.

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