

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

Daniel Kametani,)
)
Plaintiff,)
)
v.)
)
John Doe,)
and)
jye.com,)
and)
fsq.com,)
and)
qgg.com,)
and)
qju.com,)
and)
vzv.com,)
and)
qqp.com,)
)
Defendants.)

Case No. _____

Verified Complaint

Comes Now the Plaintiff, Daniel Kametani (hereinafter Kametani), by and through his counsel, and files this complaint against John Doe (Defendant Doe) and <jye.com>, <fsq.com>, <qgg.com>, <qju.com>, <vzv.com>, and <qqp.com> (Defendant Domain Names).

I. Nature of The Suit

1. This is an action for violation of the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d) and the Computer Fraud and Abuse Act, 18 U.S.C. § 1030.

2. The Plaintiff is seeking injunctive and other equitable relief as a result of the actions of the Defendant John Doe who gained unauthorized access to the Plaintiff's email account on a protected computer, and used this access to transfer control of the Defendant Domain Names from the Plaintiff's account and therefore disabled the Plaintiff's ability to use and control his domain names causing irreparable injury to the Plaintiff.

II. The Parties

3. The Plaintiff, Daniel Kametani, is a U.S. Citizen with a primary residence of 15217 Haas Avenue, Gardena, California 90249-4236.

4. Upon information and belief John Doe is an individual, although his true identify is unknown as the defendant is using a privacy service to conceal his identity.

5. The Defendant Domain Names are all <.com> domain names for which the Registry, Verisign, Inc., is located at 21355 Ridgetop Circle, Lakeside III, Dulles, Virginia 20166 within this Court's judicial district.

6. The Plaintiff acquired <jye.com> on March 2, 2000, has registered it through March 7, 2018 and, has, since acquisition, used the domain in commerce.

7. On February 2, 2017 Defendant Doe, with an address of Whoisguard Privacy Protection, P.O. Box 0823-03411, Panama, Panama, telephone number 507-8365503 and an email address of 05717DA5D1C94957B23D788E50151EF8.PROTECT@WHOISGUARD.COM hijacked the Plaintiff's email address, locked the Plaintiff out of the email account and used this unauthorized access to the Plaintiff's email account to transfer <jye.com> to Defendant Doe's control without the Plaintiff's authorization. (See Exhibit A-1, WHOIS report.)

8. The Plaintiff acquired <fsq.com> on March 7, 2000, has registered it through March 7, 2018 and, has, since acquisition, used the domain in commerce.

9. On February 2, 2017 Defendant Doe, with an address of Whoisguard Privacy Protection, P.O. Box 0823-03411, Panama, Panama, telephone number 507-8365503 and an email address of 64E9297A9D8748829EE574C91CFFEE28.PROTECT@WHOISGUARD.COM hijacked the Plaintiff's email address, locked the Plaintiff out of the email account and used this unauthorized access to the Plaintiff's email account to transfer <fsq.com> to Defendant Doe's control without the Plaintiff's authorization. (See Exhibit A-2, WHOIS report.)

10. The Plaintiff acquired <qgg.com> on February 8, 2000, has registered it through February 8, 2019 and, has, since acquisition, used the domain in commerce.

11. On February 2, 2017 Defendant Doe, with an address of Whoisguard Privacy Protection, P.O. Box 0823-03411, Panama, Panama, telephone number 507-8365503 and an email address of 45DFA429DA4F45029D95F6B318D620D8.PROTECT@WHOISGUARD.COM hijacked the Plaintiff's email address, locked the Plaintiff out of the email account and used this unauthorized access to the Plaintiff's email account to transfer <qgg.com> to Defendant Doe's control without the Plaintiff's authorization. (See Exhibit A-3, WHOIS report.)

12. Plaintiff acquired <qju.com> on February 6, 2000, has registered it through February 6, 2019 and, has, since acquisition, used the domain in commerce.

13. On February 2, 2017 Defendant Doe, with an address of Whoisguard Privacy Protection, P.O. Box 0823-03411, Panama, Panama, telephone number 507-8365503 and an email address of DC02849B526640CE98A33FFC00199D62.PROTECT@WHOISGUARD.COM hijacked the Plaintiff's email address, locked the Plaintiff out of the email account and used this unauthorized access to the Plaintiff's email account to transfer <qju.com> to Defendant Doe's control without the Plaintiff's authorization. (See Exhibit A-4, WHOIS report.)

14. The Plaintiff acquired <vzv.com> on February 7, 2000, has registered it through February 7, 2019 and, has, since acquisition, used the domain in commerce.

15. On February 2, 2017 Defendant Doe, with an address of Whoisguard Privacy Protection, P.O. Box 0823-03411, Panama, Panama, telephone number 507-8365503 and an email address of 633949EF89E54906BDC92E95F00C872D.PROTECT@WHOISGUARD.COM hijacked the Plaintiff's email address, locked the Plaintiff out of the email account and used this unauthorized access to the Plaintiff's email account to transfer <vzv.com> to Defendant Doe's control without the Plaintiff's authorization. (See Exhibit A-5, WHOIS report.)

16. The Plaintiff acquired <qqp.com> on March 6, 2000, has registered it through March 6, 2018 and, has, since acquisition, used the domain in commerce.

17. On February 2, 2017 Defendant Doe, with an address of Whoisguard Privacy Protection, P.O. Box 0823-03411, Panama, Panama, telephone number 507-8365503 and an email address of E4C3440AC6BA453990A7ADC13161A92A.PROTECT@WHOISGUARD.COM hijacked the

Plaintiff's email address, locked the Plaintiff out of the email account and used this unauthorized access to the Plaintiff's email account to transfer <qqp.com> to Defendant Doe's control without the Plaintiff's authorization. (See Exhibit A-6, WHOIS report.)

18. The Plaintiff manages his domain name portfolio through the email address javafx@aol.com.

19 Defendant Doe gained unauthorized access to the Plaintiff's email account on a protected computer system and transferred control of the Defendant Domain Names away from the Plaintiff.

20. Defendant Doe has used Whoisguard Privacy Protection to conceal his true identity.

III. Jurisdiction and Venue

21. This actions arises out of Defendant Doe's violation of the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d) and the Computer Fraud and Abuse Act, 18 U.S.C. § 1030.

22. This Court has original jurisdiction pursuant to 15 U.S.C. § 1121(a) and 28 U.S.C. §§ 1331 and 1338(a) and has *in rem* jurisdiction over the Defendant Domain Names pursuant to 15 U.S.C. § 1125(d)(2)(A) insofar as the registry for the <.com> domain names, Verisign, Inc., is located within this judicial district.

23. Venue is proper in this district pursuant to 15 U.S.C. § 1125(d)(2)(C) as the subject registry, Verisign, Inc. has its principal place of business in this judicial district. Venue is further proper pursuant to 28 U.S.C. § 1391(b)(2) as the subjects of the action reside in this judicial district.

24. Defendant John Doe directed the acts complained of towards the district and utilized instrumentalities in the district in that he gained unauthorized access to the Plaintiff's email system and domain management account and associated computer records and thereafter, without authorization, caused the domain name registration records maintained by Verisign, Inc. for the Defendant Domain Names to be altered so as to transfer control of the Defendant Domain Names away from the Plaintiff.

25. The Declaratory Judgment Act, 28 U.S.C. § 2201 provides for a declaration of the rights of the Plaintiff in this matter.

IV. Notice

26. Pursuant to the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d)(2)(A)(ii)(II)(aa), notice of this filing of this complaint is being sent to the Defendant at the postal addresses and email addresses provided on the current WHOIS records as set forth above, along with a request to waive service pursuant to Federal Rule of Civil Procedures 4(d).

27. The Plaintiff is providing such notice contemporaneously with the filing of this Complaint. Pursuant to 15 U.S.C. § 1125(d)(2)(A)(ii)(II)(bb), the Plaintiff will promptly publish notice of this action as the Court may direct after filing of this Complaint.

28. The Plaintiff's claim in the alternative for violation of the Computer Fraud and Abuse Act, and the Court's jurisdiction over the alternative claim, are proper pursuant to 15 U.S.C. § 1125(d)(3) and (4).

29. Joinder of the Defendant Domain Names is proper under Federal Rule of Civil Procedure 20(a)(2) in that the claims set forth herein arise out of the same set of operative facts and the questions of law are common as to all claims and Defendants.

V. Factual Background

30. The Plaintiff acquired each of the Defendant Domain Names as set forth on the chart below, has owned the Defendant Domain Names since registration and has used each of the Defendant Domain Names in commerce since that date.

1	jye.com	3/7/2000
2	fsq.com	3/7/2000
3	qgg.com	2/8/2000
4	qju.com	2/6/2000
5	vzv.com	2/7/2000
6	qqp.com	3/6/2000

31. The Plaintiff is in the business of domain monetization and collects domains names for the purpose of turning internet traffic into monetary gain through the use of click traffic and/or resale.

32. The Defendant Domain Names, all three letter <.com> domain names are extremely valuable and their loss has deprived the Plaintiff of both the income generated by the domain names as well as the ability to sell the domain names. The Defendant Domain Names are worth at least \$120,000 and likely far more as three letter <.com> domain names have been sold for as little as \$20,000 and as much as \$1,000,000.

33. The Plaintiff has used each of the Defendant Domain Names in commerce since their acquisition and has common law rights in the names.

34. The Plaintiff controls his domain names through an email account, javafx@aol.com.

35. The Plaintiff's email system is maintained on a protected computer system and access to the account should be restricted to only that person with the Plaintiff's username and password.

36. On February 2, 2017 the Plaintiff's email was hijacked, the Plaintiff was locked out of his email account, and the email account was taken over by Defendant Doe.

37. Defendant Doe used the hijacked control of the Plaintiff's email account to take control of the Defendant Domain Names.

38. Defendant Doe used his unauthorized control of the Plaintiff's email account to change the registration record for the Defendant Domain Names.

39. Defendant Domain Names <jye.com>, <fsq.com>, <qgg.com>, <qju.com>, <vzv.com>, <qqp.com>, were transferred by Defendant Doe to Enom and away from the Plaintiff's control

40. Defendant Doe has taken control of the Defendant Domain Names with the intent to divert the substantial advertising revenue produced by the web sites associated with the Defendant Domain Names to himself.

41. Defendant Doe has, upon information and belief, taken control of the Defendant Domain Name with the intent to resell the Defendant Domain Names.

42. Defendant Doe's registration and use of the Defendant Domain Names is without the Plaintiff's authorization.

43. Defendant Doe has no intellectual property rights in the Defendant Domain Names.

44. Defendant Doe provided misleading or incomplete contact information in the domain name registration when changing the registration for the Defendant Domain Names.

45. Defendant Doe's actions are in violation of these aforementioned rights of Plaintiff.

VI. Causes of Action

Count I Claim for Declaratory Judgment

46. The Plaintiff repeats and realleges the previous paragraphs as if set forth in full. Plaintiff had registered each of the Defendant Domain Names as alleged above and has, since that time, maintained uninterrupted control over the Defendant Domain Names.

47. Defendant Doe's actions have taken control of the Defendant Domain Names from Plaintiff without authorization or permission.

48. The Declaratory Judgment Act, 28 U.S.C. § 2201, provides for a declaration of the rights of the Plaintiff in this matter.

Count II Anticybersquatting Consumer Protection Act (ACPA) 15 U.S.C. § 1114(2)(d)

49. The Plaintiff repeats and realleges the previous paragraphs as if set forth in full. The Plaintiff has owned the Defendant Domain Names for many years, has used them in commerce to generate substantial income and has common law rights in the marks.

50. Defendant Doe's actions¹ constitute registration, trafficking, or use of a domain name that is identical to the Plaintiff's trademark, with bad faith intent to profit therefrom.

51. The Plaintiff, because of Defendant Doe's actions, is being prevented from using and exercising control over the Defendant Domain Names.

52. The Plaintiff is being harmed through the loss of income, loss of business and loss of business opportunities unless enjoined.

53. The Plaintiff's business reputation and standing is at risk from posting of improper, illegal, incorrect or otherwise harmful information on the web pages associated with his domain names.

54. The Plaintiff, despite diligent inquiry, has been unable to obtain the accurate identity of a person subject to this Court's jurisdiction who would have been a defendant in a civil action pursuant to 15 U.S.C. § 1125(d)(2)(A)(i)(I).

55. The above described conduct of Defendant Doe, registrant of the Defendant Domain Names, constitutes unlawful cybersquatting in violation of the Anticybersquatting Consumer Protection Act, 15 U.S. C. § 1125(d)(1).

56. The above described conduct by Defendant Doe has caused, and is causing, great and irreparable harm to the Plaintiff and the public, specifically the potential posting of improper, illegal, incorrect or otherwise harmful information on the web pages associated with its domain names. Unless permanently enjoined by this Court, said irreparable harm will continue. Accordingly, pursuant to 15 U.S. C. § 1125(d)(2)(D)(I), the Plaintiff is entitled to an order transferring the registration of the Defendant Domain Names to the Plaintiff.

Count III
Tortious Interference with Contractual Relationship

57. The Plaintiff repeats and realleges the previous paragraphs as if set forth in full. The Plaintiff properly entered into contracts with the registrar for the Defendant Domain Names before the Defendant Domain Names were stolen.

58. Defendant Doe has unlawfully taken control of the Defendant Domain Names, interfering with Plaintiff's lawful contract rights to the Defendant Domain Names.

59. As a result of the Defendant's acts, the Plaintiff has been damaged and will continue to be damaged. The Plaintiff requests that this Court declare Defendant liable for its past and any future losses in association with the registration service contracts.

Count IV
Conversion

60. The Plaintiff repeats and realleges the previous paragraphs as if set forth in full. Plaintiff has property rights in the Defendant Domain Names.

61. Defendant Doe has taken control of the Defendant Domain Names and is wrongfully exercising control and authority over the Defendant Domain Names.

62. The control and authority exercised by Defendant Doe deprives the Plaintiff of control and the income and business generated from the Defendant Domain Names.

63. Defendant Doe is wrongfully exerting dominion over the Plaintiff's property in denial of his rights.

Count V
Violation of the Computer Fraud and Abuse Act

64. The Plaintiff repeats and realleges the previous paragraphs as if set forth in full.

65. Defendant Doe knowingly and intentionally accessed the Plaintiff's email systems

on a protected computer without authorization and thereby obtained information from the protected computer in a transaction involving an interstate or foreign communication in violation of 18 U.S.C. § 1030(a)(2)©.

66. Defendant Doe knowingly, and with intent to defraud, accessed the Plaintiff's email system on a protected computer without authorization and obtained information from that computer which Defendant Doe used to further a fraud and obtain something of value in violation of 18 U.S.C. § 1030(a)(4).

67. Defendant Doe intentionally accessed the Plaintiff's email system on a protected computer without authorization and as a result of such conduct caused damage and loss in violation of 18 U.S.C. § 1030(a)(5)©.

68. The Plaintiff has suffered damages as a result of the conduct complained of and such conduct has caused a loss to the Plaintiff during a one-year period aggregating to at least \$5,000.

69. As a direct result of the actions complained of, the Plaintiff has suffered, and continues to suffer, irreparable harm for which the Plaintiff has no adequate remedy at law and which will continue unless enjoined.

WHEREFORE, The Plaintiff respectfully requests of this court:

- I. That judgment be entered in favor of the Plaintiff on his claims for violation of the Anticybersquatting Consumer Protection Act; and
- II. That judgment be entered in favor of the Plaintiff on his claims for violation of the Computer Fraud and Abuse Act; and
- III. Enter an order declaring that Daniel Kametani is the only person with any rights to the

contracts controlling the Defendant Domain Names; and

IV. Enter an order declaring that Defendant Doe does not have any rights to the Defendant Domain Names; and

V. Enter an order directing that the Defendant Domain Names be promptly transferred to the Plaintiff; and

VI. Enter an Order directing Verisign to promptly return control of the Defendant Domain Names to Daniel Kametani and the registrar as directed by counsel for the Plaintiff; and

VII. Award the Plaintiff his fees and costs, including reasonable attorney fees, in connection with this action pursuant to 15 U.S.C. § 1117(a); and

VIII. That the Court grant such other relief to the Plaintiff as the Court deems just and proper.

Dated: March 31, 2017

Respectfully submitted,

Daniel Kametani
By Counsel

/s

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Counsel to the Plaintiff

Verification

I, Daniel Kametani declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that I am the original owner of each of the Defendant Domain Names listed above and the facts contained in the foregoing verified complaint are true and correct to the best of my knowledge, information and belief.

3-31-17
Date


Daniel Kametani