

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

THOMAS C. KEEFE, JR.  
P.O. Box 1075  
Sherborn, MA 01770,

Plaintiff,

v.

JOHN DOE,  
1414.COM, an Internet domain name, and  
6144.COM, an Internet domain name.

Defendants.

Civil Action No. \_\_\_\_\_

**VERIFIED COMPLAINT**

Plaintiff Thomas C. Keefe, Jr. (“Mr. Keefe”), by counsel, alleges as follows for its Complaint against Defendants:

**NATURE OF THE SUIT**

1. Theft and unlawful exploitation of American intellectual property has grown to become a threat to U.S. national interests. “The entities engaged in commercial scale piracy, counterfeiting, or trade secret theft harm the economic competitiveness of our businesses, the livelihood of our creative and innovative communities, the health and safety of the public, workers’ rights, the environment, and domestic and international security.”<sup>1</sup>

2. Mr. Keefe’s claims in this case involve intellectual property theft by computer hacking—colloquially referred to as “domain name theft” or “domain name hijacking.” To

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<sup>1</sup> Office of the Intellectual Property Enforcement Coordinator, *U.S. Joint Strategic Plan on Intellectual Property Enforcement* 32 (2017-2019), available at [https://www.whitehouse.gov/sites/default/files/omb/IPEC/spotlight/eop\\_ipec\\_jointstrategicplan\\_hi-res.pdf](https://www.whitehouse.gov/sites/default/files/omb/IPEC/spotlight/eop_ipec_jointstrategicplan_hi-res.pdf).

recover his valuable intellectual property, Mr. Keefe asserts claims for violation of the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d), the Computer Fraud and Abuse Act, 18 U.S.C. § 1030, the Electronic Communications Privacy Act, 18 U.S.C. §§ 2701, 2707, and related claims arising from the unauthorized access to Plaintiff's secured computer account and the unauthorized transfer of the 1414.com and 6144.com domain names (the "Defendant Domain Names").

3. Mr. Keefe seeks injunctive and other equitable relief as a result of the actions of a person of unknown identity who gained unauthorized access to Mr. Keefe's domain name management account on a protected computer, transferred control of the Defendant Domain Names from Mr. Keefe's account, and thereby disabled Mr. Keefe's control of the Defendant Domain Names causing irreparably injury to Mr. Keefe.

### **PARTIES**

4. Thomas E. Keefe is an individual with an address of P.O. Box 1075, Sherborn, MA 01770. Mr. Keefe was the registrant of the Defendant 1414.com and 6144.com domain names until on or about December 6, 2015. Mr. Keefe was, and is, the rightful owner of the Defendant Domain Names.

5. Defendant 1414.com is an Internet domain name which, according to records in the WHOIS database of domain name registrations, is now improperly registered in the name of "sd ds/sd" with a mailing address of sd, ds sd 360000 EE. A copy of the current domain name registration record for 1414.com is attached as Exhibit A.

6. Defendant 6144.com is an Internet domain name which, according to records in the WHOIS database of domain name registrations, is now improperly registered in the name of "WentAO Li/LI" with a mailing address of jiufengkoulangjianfensanfenji, zhokoushi Henan

466000 CN.” A copy of the current domain name registration record for 6144.com is attached as Exhibit B.

7. Defendant John Doe is a person of unknown identity who gained unauthorized access to Mr. Keefe’s protected domain name management account and, without consent or authority, transferred control of Defendant Domain Names away from Mr. Keefe.

### **JURISDICTION, VENUE AND JOINDER**

8. This action arises out of John Doe’s violation of the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d), the Computer Fraud and Abuse Act, 18 U.S.C. § 1030, the Electronic Communications Privacy Act, 18 U.S.C. §§ 2701, 2707, and related claims under the common law of Virginia.

9. This Court has original jurisdiction under 15 U.S.C. § 1121(a) and 28 U.S.C. §§ 1331 and 1338(a).

10. This Court has *in rem* jurisdiction over the Defendant Domain Names pursuant to 15 U.S.C. § 1125(d)(2)(A). *In rem* jurisdiction is appropriate under 15 U.S.C. § 1125(d)(2)(A)(i)(I) because the registrants of the Defendant Domain Names are, on information and belief, either a privacy service or a fictitious person/entity, and therefore Mr. Keefe cannot obtain in personam jurisdiction over a person who would have been a defendant in a civil action under 15 U.S.C. § 1125(d)(1)(A) and/or Mr. Keefe, despite his due diligence, has been unable to find a person who would have been a defendant in a civil action under 15 U.S.C. § 1125(d)(1)(A). Mr. Keefe is providing notice, concurrently with the filing of this complaint, to the Defendants of its intent to proceed *in rem* against the Defendant Domain Names pursuant to 15 U.S.C. § 1125(d)(2)(A)(i)(I)(aa).

11. The Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d)(3) and

(4), states that the *in rem* action, jurisdiction, and remedies created by the statute are “in addition to any other civil action or remedy otherwise applicable” and “in addition to any other jurisdiction that otherwise exists, whether in rem or in personam.”

12. Mr. Keefe’s claims for violation of the Computer Fraud and Abuse Act, 18 U.S.C. § 1030, the Electronic Communications Privacy Act, 18 U.S.C. §§ 2701, 2707, and related claims for quiet title and conversion, are based on John Doe’s unauthorized access to and alteration of computer records maintained on protected computers for the domain registry located within the district so as to effectuate the theft of the Defendant Domain Names.

13. John Doe directed the acts complained of herein toward the district and utilized instrumentalities in the district in that John Doe gained unauthorized access to Mr. Keefe’s domain name management account and associated computer records and thereafter, without authorization, caused the domain name registration records maintained in the district by VeriSign, Inc. to be altered so as to transfer control of Defendant Domain Names away from Mr. Keefe.

14. Venue is proper in this District pursuant to 15 U.S.C. § 1125(d)(2)(C) and 28 U.S.C. § 1391(b)(2) in that the Defendant Domain Names are property situated in this district and pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to the claims occurred in this district.

15. Joinder of Defendant John Doe and the Defendant Domain Names is proper under Fed. R. Civ. P. 20(a)(2) in that the claims set forth herein arise out of the same series of transactions and the same questions of law are common to all of the Defendants.

**MR. KEEFE'S RIGHTS**

16. Mr. Keefe registered the domain name 1414.com on or about December 3, 2002, and was the registrant of the 1414.com domain name until on or about December 6, 2015, when the domain name was hijacked improperly.

17. Mr. Keefe caused the 1414.com domain name to be registered using the name "Domain Administrator" and Mr. Keefe's mailing address and email address. A copy of an archived domain name registration record showing "Domain Administrator" as the named registrant and Mr. Keefe's mailing address and email address associated with the 1414.com domain name prior to the theft is attached hereto as Exhibit C.

18. Mr. Keefe registered the domain name 6144.com on or about October 11, 2002, and was the registrant of the 6144.com domain name until on or about December 6, 2015, when the domain name was hijacked improperly.

19. Mr. Keefe caused the 6144.com domain name to be registered using the name "Domain Administrator" and Mr. Keefe's mailing address and email address. A copy of an archived domain name registration record showing "Domain Administrator" as the named registrant and Mr. Keefe's mailing address and email address associated with the 6144.com domain name prior to the theft is attached hereto as Exhibit D.

20. Mr. Keefe used the 1414.com domain name and the 6144.com domain name in U.S. commerce for over thirteen years in association with the paid provision of information and advertisements for goods and services until Defendant John Doe changed the settings for the Defendant Domain Names and thereby disabled Mr. Keefe's websites.

21. Mr. Keefe is entitled to common law trademark protection in the 1414.com and 6144.com marks by virtue of his longstanding use of the marks in U.S. commerce in association with paid advertising and information services.

22. John Doe's unauthorized transfer and subsequent misuse of the Defendant Domain Names further demonstrates that the 1414.com and 6144.com marks are entitled to trademark protection.

### **UNLAWFUL TRANSFER AND REGISTRATION OF THE DOMAIN NAME**

23. Computer hacking and theft of intellectual property by persons based outside of the U.S. has become such a significant problem for American businesses that the director of the FBI stated in an October 5, 2014 interview with CBS that "Chinese hackers target[] the intellectual property of U.S. companies on a daily basis, costing the U.S. economy billions of dollars each year."

24. The United States government and federal law enforcement agencies regularly provide warnings of such attacks to American businesses. For example, the FBI recently issued a "flash" alert to a wide range of U.S. businesses warning of the actions of "a group of Chinese Government affiliated cyber actors who routinely steal high-value information from U.S. commercial and government networks through cyber espionage."

25. The Associated Press reported that a 2013 survey by the National Small Business association found that 44% of small businesses had been the subject of computer hacking.

26. Mr. Keefe's claims in the present case involve one of the most recent iterations of such computer hacking actions—colloquially referred to as "domain name theft."

27. Mr. Keefe maintains a domain name management account with eNom, Inc., a Washington-based ICANN-accredited registrar ("eNom").

28. Mr. Keefe's domain name management account with eNom is maintained on a protected computer and access to the account should be restricted to only those persons that possess Mr. Keefe's user name and password.

29. Mr. Keefe used extensive security precautions to secure and protect his domain name management account containing the Defendant Domain Names including, without limitation, use of randomly generated passwords including alpha and numeric characters and use of additional eNom security features such as two-factor authentication and account validation.

30. On October 18, 2016, Mr. Keefe conducted an audit of his eNom account and noticed that the Defendant Domain Names were missing.

31. Upon discovering that the Defendant Domain Names were missing from his eNom account, Mr. Keefe immediately contacted eNom. Mr. Keefe also generated a "TransferOUTReport," which showed that both of the Defendant Domain Names were transferred on December 13, 2015 at 23:56 to Dynadot, LLC, a common destination registrar for stolen domain names.<sup>2</sup>

32. A search of Mr. Keefe's administrative e-mail account reveals that Mr. Keefe never received a notification that the Defendant Domain Names were being transferred. Such a domain name transfer notification email is required by the Internet Corporation for Assigned Names and Numbers (ICANN).

33. In response to an inquiry from Mr. Keefe, eNom informed Mr. Keefe that the transfer of the domain name from Mr. Keefe's domain name management account was approved

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<sup>2</sup> See Andrew Allman, *Lawsuit Filed to Recover Stolen GMF.com Domain, and Here are Two Warnings*, Domain Name Wire (Jan. 12, 2017), available at <http://domainnamewire.com/2017/01/12/lawsuit-filed-recover-stolen-gmf-com-domain-two-warnings/>; Andrew Denney, *Stolen Internet Domain Name Leads to Connecticut Lawsuit*, The Connecticut Law Tribune (Oct. 26, 2016), available at <http://www.ctlawtribune.com/id=1202770849252/Stolen-Internet-Domain-Name-Leads-to-Connecticut-Lawsuit?slreturn=20170006110149>; Andrew Allemann, *Lawsuit filed to recover stolen domains: 5678.com, 26266.com and Manhua.com*, Domain Name Wire (Mar. 6, 2016), available at <http://domainnamewire.com/2016/03/09/stolen-domains-5678/>.

on December 6, 2015 through the e-mail address liumiao3355678@gmail.com from a computer using the IP address 183.90.184.186.

34. The IP address 183.90.184.186 is associated with AS Data(Hong Kong) Limited in Hong Kong.

35. Mr. Keefe has never used the e-mail address liumiao3355678@gmail.com.

36. Mr. Keefe does not have access to a computer with the IP address 183.90.184.186, does not obtain Internet service from AS Data(Hong Kong) Limited, and was not in Hong Kong on December 6, 2015.

37. On information and belief, John Doe obtained unauthorized access to Mr. Keefe's domain registrar account and manipulated the computer records to obtain the transfer of the Defendant Domain Names through an "account transfer" within eNom or other surreptitious manner intended to avoid detection by Mr. Keefe.

38. On information and belief, John Doe prevented Mr. Keefe from receiving electronic communications seeking approval for the transfer of the Defendant Domain Names and obtained unauthorized access to such electronic communications so as to approve the transfer.

39. When the Defendant Domain Names were transferred by John Doe without authorization, the domain name registrant information was changed and the technical settings for the domain names were changed thereby disabling Mr. Keefe's ability to use and control the domain names and associated websites.

40. The registration and use of the Defendant Domain Names by John Doe is without authorization from Mr. Keefe.

41. The Defendant Domain Names do not reflect the trademark or intellectual

property rights of John Doe.

42. The Defendant Domain Names do not reflect the legal name of the current registrant of the domain names.

43. The current registrant of the Defendant Domain Names has not engaged in bona fide noncommercial or fair use of Mr. Keefe's 1414.com and 6144.com trademarks in a website accessible under the Defendant Domain Names.

44. John Doe provided material and misleading false contact information in the domain name registration when changing the registrant for the Defendant Domain Names from Mr. Keefe to the current registrant(s).

45. John Doe transferred the Defendant Domain Names without authorization from Mr. Keefe and thereby acquired domain names which John Doe knew were identical to, and reflective of, Mr. Keefe's 1414.com and 6144.com marks.

**FIRST CLAIM FOR RELIEF**  
**Violation of the Federal Anticybersquatting Consumer Protection Act**

46. Mr. Keefe repeats and realleges each and every allegation set forth in the foregoing paragraphs, as though fully set forth herein.

47. Mr. Keefe's 1414.com and 6144.com marks are distinctive and were distinctive prior to the time that John Doe transferred the Defendant Domain Names away from Mr. Keefe without authorization and thereby registered the Defendant Domain Names.

48. The aforesaid acts by John Doe constitute registration, trafficking, or use of domain names that are identical to Mr. Keefe's 1414.com and 6144.com marks, with bad faith intent to profit therefrom.

49. Mr. Keefe, despite its due diligence, has been unable to find a person over whom the court could obtain in personam jurisdiction for a civil action under 15 U.S.C. §

1125(d)(2)(A)(i)(I).

50. The aforesaid acts by John Doe constitute unlawful cyberpiracy in violation of the Anti-Cybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d)(1).

51. The aforesaid acts have caused, and are causing, great and irreparable harm to Mr. Keefe and the public. Unless permanently restrained and enjoined by this Court, said irreparable harm will continue. Thus, pursuant to 15 U.S.C. § 1125(d)(2)(D)(i), Mr. Keefe is entitled to an order transferring the Defendant Domain Name registrations to Mr. Keefe.

**SECOND CLAIM FOR RELIEF**  
**Violation of the Computer Fraud & Abuse Act**

52. Mr. Keefe repeats and realleges each and every allegation set forth in the foregoing paragraphs, as though fully set forth herein.

53. John Doe: (a) knowingly and intentionally accessed Mr. Keefe's domain name management account on a protected computer without authorization and thereby obtained information from the protected computer in a transaction involving an interstate or foreign communication (18 U.S.C. § 1030(a)(2)(C)); (b) knowingly and with an intent to defraud accessed Mr. Keefe's domain name management account on a protected computer without authorization and obtained information from the computer, which John Doe used to further a fraud and obtain something of value (18 U.S.C. § 1030(a)(4)); and (c) intentionally accessed Mr. Keefe's domain name management account on a protected computer without authorization, and as a result of such conduct caused damage and loss (18 U.S.C. § 1030(a)(5)(C)).

54. John Doe's unlawful actions have included causing the protected domain name registration records maintained in the district by VeriSign, Inc. to be altered so as to transfer control of Defendant Domain Names away from Mr. Keefe.

55. Mr. Keefe has suffered damages as a result of the conduct complained of herein

and the loss of domain names worth tens of thousands of dollars, if not more.

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

**THIRD CLAIM FOR RELIEF**  
**Violation of the Electronic Communications Privacy Act**

57. Mr. Keefe repeats and realleges each and every allegation set forth in the foregoing paragraphs, as though fully set forth herein.

58. On information and belief, John Doe intentionally accessed without authorization electronic communications sent by the domain name registrar to Mr. Keefe seeking Mr. Keefe's approval for the transfer of the Defendant Domain Names.

59. On information and belief, John Doe obtained such electronic communications and/or prevented Mr. Keefe's authorized access to such electronic communications while the communications were in electronic storage.

60. John Doe engaged in such actions with a knowing and/or intentional state of mind, and such actions constitute a violation of the Electronic Communications Privacy Act, 18 U.S.C. §§ 2701, 2707.

61. Mr. Keefe has suffered damages including the loss of the Defendant Domain Names as a result of the conduct complained of herein and is entitled to injunctive relief, actual, statutory, and/or punitive damages, and attorney's fees under the Electronic Communications Privacy Act.

**FOURTH CLAIM FOR RELIEF**  
**Quiet Title**

62. Mr. Keefe repeats and realleges each and every allegation set forth in the

foregoing paragraphs, as though fully set forth herein.

63. Mr. Keefe has valid legal and equitable title to the Defendant Domain Names by virtue of his registration and ownership of the domain name since 2002.

64. The Defendant Domain Names were stolen from Mr. Keefe and no subsequent registrant may acquire valid title to the domain names.

65. Through control of the domain names, John Doe and/or the current registrant of the Defendant Domain Names (if someone other than John Doe) has asserted a claim to the Defendant Domain Names that impedes Mr. Keefe's ownership and control of the domain names and constitutes a cloud on Mr. Keefe's title to the domain names.

66. If the current registrant(s) of the Defendant Domain Names are not John Doe, then the current registrant(s) acquired the Defendant Domain Names under circumstances through which it knew or should have known that the Defendant Domain Names were stolen.

67. Mr. Keefe is entitled to a declaration from the Court that it is the lawful owner and registrant of the Defendant Domain Names and that there are no other valid claims against the title to the Defendant Domain Names.

**FIFTH CLAIM FOR RELIEF**  
**Conversion**

68. Mr. Keefe repeats and realleges each and every allegation set forth in the foregoing paragraphs, as though fully set forth herein.

69. Mr. Keefe is the owner of property rights in and to the Defendant Domain Names.

70. John Doe has wrongfully taken control of the Defendant Domain Names.

71. John Doe's wrongful exercise of dominion and control over the Defendant Domain Names deprives Mr. Keefe of use and control of the Defendant Domain Names in violation of Mr. Keefe's rights in and to the domain names.

72. To the extent that John Doe has subsequently transferred the Defendant Domain Names to a person or persons other than John Doe, such other person's wrongful exercise of dominion and control over the Defendant Domain Names deprives Mr. Keefe of use and control of the Defendant Domain Names in violation of Mr. Keefe's rights in and to the domain names.

**PRAYER FOR RELIEF**

WHEREFORE, Mr. Keefe respectfully requests of this Court:

1. That judgment be entered in favor of Mr. Keefe on his claim for violation of the Anticybersquatting Consumer Protection Act and against the res Defendants 1414.com and 6144.com.
2. That judgment be entered in favor of Mr. Keefe on his claims for violation of the Computer Fraud and Abuse Act, violation of the Electronic Communications Privacy Act, Quiet Title, and Conversion and against Defendant John Doe.
3. That the Court order the Defendant Domain Names be returned to Mr. Keefe through VeriSign, Inc.'s transfer of the domain names from their respective current domain name registrars to Mr. Keefe's registrar of choice, NameSilo, LLC, and by NameSilo, LLC's change of the registrant back to Mr. Keefe.
4. That the Court order an award of actual, statutory, and/or punitive damages, costs and reasonable attorney's fees; and
5. That the Court order an award to Mr. Keefe of such other and further relief as the Court may deem just and proper.

Dated: January 13, 2017

By:           /s/ Attison L. Barnes, III /s/          

Attison L. Barnes, III (VA Bar No. 30458)

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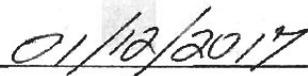
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*Counsel for Plaintiff Thomas C. Keefe, Jr.*

**VERIFICATION**

I, Thomas C. Keefe, Jr., declare under penalty of perjury under the laws of the United States of America, pursuant to 28 U.S.C. § 1746, that the facts contained in the foregoing Verified Complaint are true and correct.

  
\_\_\_\_\_  
Thomas C. Keefe, Jr.

  
\_\_\_\_\_  
Date