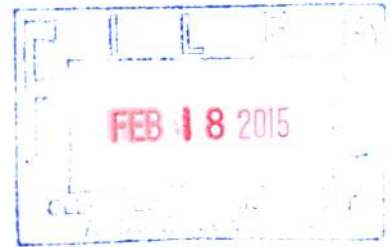


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division



JOSEPH L. CARPTENTER, an individual;

Plaintiff,

v.

<myschool.com>, a domain name;

Defendant.

Case No.:

1:15cv212 AJT/JFA

COMPLAINT FOR IN REM RELIEF

Plaintiff Joseph Carpenter brings this complaint against the registrant of the *res* domain name <myschool.com> and alleges as follows:

NATURE OF THE ACTION

1. This an *in rem* action under the Anticybersquatting Consumer Protection Act (ACPA), 15 U.S.C. § 1125(d), for injunctive relief and other relief in relation to the bad faith registration and use of the domain name <myschool.com> (the “Disputed Domain”), which infringes upon Plaintiff’s distinctive MYSCHOOL trademark, registered with the United States Patent and Trademark Office (USPTO).

THE PARTIES

2. Plaintiff is an individual residing in the state of Nevada, city of Las Vegas.
3. Defendant <myschool.com> is an Internet domain name which, according to records in the WHOIS database of domain name registrations, is registered by

PRIVACYDOTLINK CUSTOMER 228930 ("Registrant"), in the Cayman Islands, as evidenced by Exhibit A attached hereto.

4. On information and belief, the registrar for the Disputed Domain is Uniregistrar Corp, with its principal place of business in the Cayman Islands.

JURISDICTION AND VENUE

5. This action arises, *inter alia*, under Section 2201 of the Judicial Code, 28 U.S.C. § 2201, and Sections 32 and 43 of the Lanham Act, 15 U.S.C. §§ 1114 and 1125.
6. This Court has subject matter jurisdiction over this action pursuant to Section 39(a) of the Lanham Act, 15 U.S.C. § 1121(a), and Sections 1131 (federal question jurisdiction) and 1338(a) (trademark infringement) of the Judicial Code, 28 U.S.C. § 1331 and 1338(a).
7. Venue is proper in this District pursuant to 28 U.S.C. § 1139(b)(2) and 15 U.S.C. § 1125(d)(2)(C) because the cause of action arises in this District and the *res* (i.e. the Disputed Domain) that is subject to this action, is maintained by a registry, Public Interest Registry, within the boundaries of this District, and which has its *situs* within this District.
8. This Court has *in rem* jurisdiction over the Disputed Domain pursuant to 15 U.S.C. § 1125(d)(2), 28 U.S.C. § 1655, and interpretive case law. Plaintiff is informed and believes, and therefore alleges, that this Court lacks *in personam* jurisdiction over the Registrant of the Disputed Domain, who would have been the defendant in a civil action pursuant to 15 U.S.C. § 1125(d)(1). On information and belief, Registrant is an individual who resides in the country of the Cayman Islands and does not have the requisite contacts for this Court to establish *in personam* jurisdiction over Registrant.

9. The Disputed Domain, registered to Registrant, violates Plaintiff's rights in its MYSCHOOL trademark, which is protected under 15 U.S.C. §§ 1125(a).

FACTUAL BACKGROUND

10. Plaintiff is an individual providing information via global communication network using the mark MY SCHOOL. Plaintiff's MYSCHOOL trademark is registered on the Principal Trademark Register of the USPTO under registration numbers 3,358,160 (filed in 2007, published for opposition in 2008, and registered in 2009). (See USPTO registration certificate for MYSCHOOL mark, attached as Exhibit D.)
11. The registrant of the Disputed Domain has changed hands many times over the years as manifest by the WHOIS records collectively attached hereto as Exhibit B. The legally effective registration of date of the Disputed Domain is the date which it last sold or changed hands; which, in this case, in 2014.
12. Throughout the life of the Disputed Domain, its registrant has resolved the Disputed Domain only a generic landing page which, at various times, has offered the Disputed Domain for sale, and at other times has displayed cost-per-click ads of Plaintiff's competitors and other parties, as manifest by the screenshots of the website at the Disputed Domain collectively attached hereto as Exhibit C.
13. Through Plaintiff's continued use and promotion, the MYSCHOOL mark has become distinctive throughout the United States and the world in connection with Plaintiff's services. Internet users have come to distinguish and recognize the legitimacy of Plaintiff's services as a result of this use and promotion; and, as so, Plaintiff's mark is entitled to common law trademark rights as well.

14. Plaintiff's registration for the MYSCHOOL mark is *prima facie* evidence of the validity of the mark, of Plaintiff's ownership of the mark, and of Plaintiff's exclusive right to use the mark in U.S. commerce.

Registrant's Bad Faith Registration and Use of the Disputed Domain

15. The Disputed Domain incorporates the entirety of Plaintiff's MYSCHOOL mark, and differs from Plaintiff's mark only in that it uses the <.com> generic top-level domain ("gTLD").
16. Upon information and belief, the Disputed Domain was registered only for the purpose of obtaining Internet traffic from visitors who intended to visit Plaintiff by searching for Plaintiff in search engines and/or for the purpose of selling Plaintiff the Disputed Domain.
17. The website at the Disputed Domain displays advertisements redirecting visitors to third-party websites. Upon information and belief, the Registrant of the Disputed Domain derives click-through revenue from these advertisements when Internet visitors, who attempt to reach Plaintiff, click on a hyperlink provided by the Disputed Domain to a third-party website.
18. The use of the MYSCHOOL mark is without authorization from Plaintiff.
19. Upon information and belief, the Disputed Domain does not and cannot reflect the legal name of the registrant. Upon information and belief, the Registrant of the Disputed Domain has not engaged in bona fide noncommercial use or fair use of the <myschool.com> domain name.
20. Upon information and belief, the Registrant of the <myschool.com> domain name was aware of Plaintiff's MYSCHOOL mark prior to its acquisition of the Disputed Domain.

21. Upon information and belief, Registrant registered the Disputed Domain with the intent to divert Internet visitors away from Plaintiff, for commercial gain, by creating a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of the Disputed Domain.

Registrant's Knowledge of Plaintiff Is Evidence of Bad Faith

22. The Registrant of the Disputed Domain acquired it in 2014. Upon information and belief, Registrant was aware of the MYSCHOOL mark and its significant reputation prior to the registration of the Disputed Domain, and had previously had contact with Plaintiff in an administrative proceeding. This is, in fact, the very reason Registrant acquired the Disputed Domain.

23. Upon information and belief, Registrant moved the Disputed Domain to the Cayman Islands in the mistaken belief that by doing so Registrant would avoid the jurisdiction of US courts.

24. Registrant also had constructive knowledge of Plaintiffs marks as early as March 22, 2007 when Plaintiff's trademark on the MYSCHOOL mark became pending before the USPTO.

25. Registrant's knowledge of Plaintiff, the MYSCHOOL mark, and its use of the mark by Plaintiff, is evidence of Registrant's bad faith in selecting, acquiring, registering, and using the Disputed Domain.

26. Registrant's actions are likely to cause confusion, mistake, or deception as to the affiliation, connection, or association of Registrant with Plaintiff, or as to the origins, sponsorship, or approval of Registrant's Disputed Domain by Plaintiff, thereby causing

loss, damage, and injury to Plaintiff. The extent of potential confusion among Internet visitors between Registrant's Disputed Domain and Plaintiff's mark is substantial.

27. Registrant's use of the Disputed Domain does, and will likely continue to, falsely suggest a relationship between Registrant's Disputed Domain and Plaintiff's services. Such use is likely to cause a significant increase in the level of Registrant's web traffic due to Internet visitors' mistaken belief that Plaintiff is the source or sponsor of Registrant's Disputed Domain.

28. Registrant's use of the Disputed Domain is therefore likely to result in Registrant's trading off and benefiting from the goodwill associated with Plaintiff, resulting in ill-gotten gains by Registrant.

FIRST CLAIM FOR RELIEF
Anticybersquatting Consumer Protection Act (ACPA)

29. Plaintiff incorporates herein by reference each and every allegation in the preceding paragraphs of this complaint.

30. Plaintiff is the owner of the distinctive, famous, and federally registered MYSCHOOL mark. Plaintiff's mark is distinctive of Plaintiff's services, for which it continuously has been used and registered, and were distinctive since at least as early as when the Domain Name was registered.

31. Registrant has no rights in Plaintiff's marks nor the Disputed Domain.

32. Registrant's Disputed Domain is confusingly similar to Plaintiff's mark.

33. Registrant has registered, trafficked in, used, and is using the Disputed Domain with the bad faith intent to profit from Plaintiff's mark.

34. Registrant's actions constitute a violation of Lanham Act § 43(d), 15 U.S.C. § 1125(d).

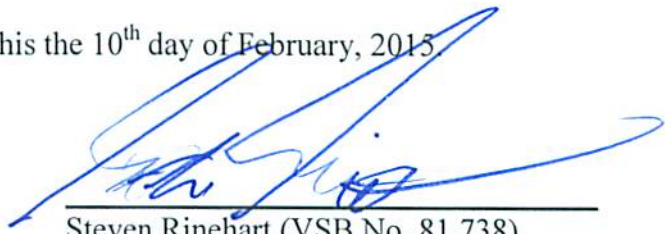
35. Plaintiff has been, is now, and will continue to be, irreparably harmed by Registrant's aforementioned acts, and, unless enjoined by the Court. Registrant's unauthorized use of the Disputed Domain will continue, and there is no adequate remedy at law for the harm caused by Registrant's acts.
36. Upon information and belief, this Court lacks *in personam* jurisdiction over the Registrant, who would otherwise be the defendant in an action under 15 U.S.C. § 1125(d).
37. Because Plaintiff owns the exclusive rights to the MYSCHOOL mark, and Registrant has no rights to it whatsoever, it is appropriate for this Court to declare that Plaintiff is the rightful owner of the Disputed Domain and order the prompt transfer of the Disputed Domain to Plaintiff.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court:

- (a) declare, adjudge, and decree that Plaintiff is the sole legal and equitable owner of the Disputed Domain;
- (b) direct that the Disputed Domain be transferred and registered to Plaintiff; and
- (c) award such other and further relief that this Court may deem just and equitable.

DATED this the 10th day of February, 2013.



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