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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

DOMAIN.COM, INC., a Colorado corporation; EMMET STEPHENSON, an individual; and TONI STEPHENSON, an individual,

Plaintiffs,

v.

WOLF STEEL GROUP, INC., a Canadian corporation,

Defendant.

Case No. 2:18-cv-00545

**COMPLAINT FOR
DECLARATORY JUDGMENT
RELATED TO
CYBERSQUATTING AND
TRADEMARK INFRINGEMENT**

JURY TRIAL DEMANDED

Plaintiffs Domain.com, Inc., Emmet Stephenson, and Toni Stephenson (collectively, the “Stephensons”) allege for their complaint against Wolf Steel Group, Inc. (“Wolf”) upon personal information as to their own activities, and upon information and belief as to the activities of others, as follows:

NATURE OF THE CASE

1. The Stephensons seek declaratory relief under 28 U.S.C. § 2201 that their registration and use of the domain name *napoleon.com* (the “Domain”) does not violate Wolf’s rights under the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d), or otherwise under the Lanham Act, 15 U.S.C. § 1051 *et seq.*

1 11. Defendant Wolf Steel Group, Inc. is a Canadian corporation with its
2 principal place of business in Barrie, Ontario, Canada.

3 **FACTS**

4 12. Toni and Emmet Stephenson registered the *napoleon.com* domain
5 name on June 4, 1995. Since that date, they have held the Domain's title through
6 various entities including Napoleon.com, Inc. and Plaintiff Domain.com, Inc.

7 13. Toni and Emmet Stephenson were the first, and have been the only,
8 registrants of the Domain for the past 23 years.

9 14. Emmet Stephenson grew up in Louisiana and has long been interested
10 in that state's ties to Napoleon Bonaparte.

11 15. Emmet and Toni Stephenson maintain a collection of Napoleonic
12 artifacts, including: Napoleon Bonaparte's death mask; a plan of the Battle for
13 Austerlitz; one of four unique clocks commissioned by Napoleon Bonaparte for his
14 children; and various documents signed by, written by, and written to Napoleon
15 Bonaparte.

16 16. Emmet and Toni Stephenson wish to share their collection of
17 Napoleonic artifacts online.

18 17. So they chose the Domain, *napoleon.com*, because of their affinity for
19 Napoleon Bonaparte history, its ties to Emmet Stephenson's home state of
20 Louisiana, and with the plan to display their collection of Napoleonic artifacts.

21 18. The Stephensons have developed several domain names into websites,
22 a majority of which are used for purely informational, non-commercial purposes.

23 19. The Stephensons always intended, and still intend, to develop the
24 Domain, *napoleon.com*, into an informative, non-commercial website to display their
25 collection of Napoleonic artifacts after Emmet Stephenson retires.

26 20. Emmet Stephenson is 75 years old and has not retired yet.

27 21. When domain names are registered but not used, they are commonly
28 pointed to a "parking page."

1 22. A parking page is automatically populated with algorithmically
2 generated links from Google to various websites.

3 23. The Domain has, at various times, been pointed to a parking page.

4 24. When the Domain was pointed at a parking page, the Stephensons had
5 no control over the content or links displayed on the parking page.

6 25. At no time did the Stephensons ever become aware that links to
7 Wolf's website or its competitors' websites were ever accessible from the Domain
8 parking page.

9 26. If Wolf's website or its competitors' websites were ever accessible
10 from the Domain parking page, those links were generated algorithmically by
11 Google without the Stephensons' knowledge.

12 27. The Stephensons have never offered to sell the Domain, despite
13 receiving purchase offers greater than \$100,000 from third parties and an offer
14 from Wolf.

15 28. Wolf registered the NAPOLEON mark in the United States on
16 December 17, 1991 and in Canada in 1996.

17 29. Many other companies have registered trademarks identical to or
18 containing "napoleon."

19 30. Wolf submitted a UDRP complaint to National Arbitration Forum,
20 Inc. on March 23, 2018 asking the UDRP panel to require the Stephensons to
21 transfer the Domain to Wolf.

22 31. Plaintiffs were not aware of Wolf, its products and services, or the
23 NAPOLEON mark before receiving the UDRP complaint.

24 32. The UDRP complaint alleges: confusing similarity between the mark
25 and the Domain; that Toni Stephenson and Domain.com, Inc. lack rights or
26 legitimate interests in the Domain; and that they registered and used the Domain in
27 bad faith.

28 33. Wolf initiated the UDRP in bad faith.

1 34. Since the Domain is not for sale, and Wolf wants it, Wolf is attempting
2 to use the legal system to steal the Domain from the Stephensons.

3 35. The Stephensons have every right and legitimate interest in the
4 Domain because they were the first, and have been the only, registrants of the
5 Domain and registered it with the good-faith intent of sharing their Napoleonic
6 artifacts on the internet through the Domain.

7 36. Toni Stephenson and Domain.com, Inc. must respond to the UDRP
8 complaint by April 16, 2018.

9 **FIRST CAUSE OF ACTION**

10 **(Declaratory Relief – 28 U.S.C. § 2201 of no**
11 **Cybersquatting – 15 U.S.C. § 1125(d))**

12 37. An actual controversy exists about whether Wolf should be entitled to
13 the Domain under the Anticybersquatting Consumer Protection Act,
14 15 U.S.C. § 1125(d).

15 38. The Stephensons' and Wolf's legal interests are adverse and create a
16 present threat of litigation.

17 39. Wolf should be barred from enforcing any rights in the mark under
18 equitable principles because Wolf's unreasonable delay in enforcing its rights in the
19 mark prejudices the Stephensons.

20 40. Wolf has no valid claim against the Stephensons for a violation of the
21 Anticybersquatting Consumer Protection Act because that claim would be barred
22 by the doctrine of laches.

23 41. The mark is not distinctive.

24 42. Wolf has not been diligent in enforcing the mark, because it waited
25 almost twenty-three years to assert its rights in the mark.

26 43. The Stephensons acted in good-faith ignorance of Wolf's rights.

27 44. There is no competition between the Stephensons and Wolf.
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1 45. Losing the Domain would penalize the Stephensons for their foresight
2 in acquiring the Domain twenty-three years ago by significantly impairing their
3 ability to display Emmet and Toni Stephensons' artifacts under the very domain
4 name most likely to attract other individuals passionate about Napoleonic artifacts.

5 46. The Stephensons lacked any bad faith intent to profit from the
6 NAPOLEON mark, as required under 15 U.S.C. § 1125(d)(1)(A)(i), because they
7 intended and still intend to use the Domain to display Emmet and Toni
8 Stephenson's collection of Napoleonic artifacts.

9 47. The Stephensons did not use the Domain to identify the source or
10 quality of any goods or services.

11 48. The Stephensons have never offered to transfer or sell the Domain,
12 despite offers from third parties and Wolf.

13 49. The Stephensons registration or use of the Domain is not confusingly
14 similar to the mark because the word "napoleon" is based on a popular historical
15 figure and has been used to describe a variety of different goods and services.

16 50. Plaintiffs did not provide material and misleading false contact
17 information when applying for registration.

18 51. Plaintiffs did not knowingly acquire this Domain or others which are
19 identical or confusingly similar to third parties' marks or dilutive of famous marks.

20 52. The Stephensons had reasonable grounds to believe that their use of
21 the Domain fair use or otherwise lawful as provided in 15 U.S.C.
22 § 1125(d)(1)(B)(ii).

23 53. The Stephensons' registration and use of the Domain never violated
24 the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d).

25 54. Wolf is not entitled to the Domain.
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1 exceptional case under the Lanham Act;

2 6. An award of costs of suit; and

3 7. Such other and further relief as the Court deems just and proper.

4 **JURY DEMAND**

5 Plaintiffs demand a jury for all claims so triable.

6
7 Respectfully submitted April 11, 2018.

8
9 **NEWMAN DU WORS LLP**

10
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