

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

NELMA JEAN BRYSON,

Plaintiff,

v.

NELMAJEANBRYSON.COM, an Internet
domain name,

Defendant.

Civil Action No. _____

VERIFIED COMPLAINT

Plaintiff Nelma Jean Bryson (“Ms. Bryson” or “Plaintiff”), by counsel, alleges as follows for her *in rem* Complaint against Defendant NELMAJEANBRYSON.COM (hereinafter the “Defendant Domain Name”):

NATURE OF THE SUIT

1. This is an *in rem* action for cybersquatting under the Federal Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d).

2. By this action, Ms. Bryson seeks to remedy unlawful use of her trademark on the website accessible at the Defendant Domain Name, which has been used to display material of a pornographic nature, to improperly divert consumers away from the former, legitimate use of the site to sell Ms. Bryson’s books, and to create confusion as to the source, sponsorship, affiliation, or endorsement of the site displayed through an unknown registrant’s use of the Defendant Domain Name.

PARTIES

3. An established novelist and photoetry¹ pioneer with a uniquely Southern Appalachian perspective, Ms. Bryson’s writing career spans nearly two decades. Ms. Bryson published seven books across a variety of genres. They include: an autobiography about the transformative power of chronic illness, *Nothing Short of a Miracle: One Woman’s Journey Through Chronic Fatigue Syndrome Fibromyalgia Chiari Malformation*, a thrilling murder mystery trilogy set in Southern Appalachia, *Bottomless Uprising*, *Woods’ Woods*, and *Sometimes Balsam* (forthcoming), a whimsical Texas-based fairytale, *Dear Harmony*, a fiction work chronicling the life of an extraordinary female protagonist, *Mama Dal*, and a children’s chapter book that navigates the coming of age theme with a magical twist, *Corrie Anders’ Great Adventure*. See Exs. A—E.

4. In 2005, Ms. Bryson published her first book and began advertising her works on her site, which was formerly available at Defendant Domain Name, since, at the latest, February 7, 2011. See Exs. B, F.

5. Defendant NelmaJeanBryson.com (the “Defendant Domain Name”) is an Internet domain name which, according to records in the WHOIS database of domain name registrations, is registered by the registrar “Alibaba.com Singapore E-Commerce Private Limited”. The identity of the current registrant is being concealed. There is no field on the Whois record that reflects the registrant’s name and available information suggests that the registrant may be located in Yun Nan Sheng, China. A copy of the current domain name registration record for NelmaJeanBryson.com is attached as Exhibit G.

¹ Ms. Bryson describes “photoetry” as the intersection of poetry and photography.

JURISDICTION, VENUE AND JOINDER

6. This is a civil action for federal cybersquatting in violation of the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d).

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

8. This Court has *in rem* jurisdiction over the Defendant Domain Name pursuant to 15 U.S.C. § 1125(d)(2)(A). *In rem* jurisdiction is appropriate under 15 U.S.C. § 1125(d)(2)(A)(ii) because Ms. Bryson 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 Ms. Bryson, despite her 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) because the registrar is concealing the identity of the registrant of the Defendant Domain Name who is believed to be based in China.

9. Pursuant to 15 U.S.C. § 1125(d)(2)(A)(i)(I)(aa), Ms. Bryson will provide notice of the violation of her rights, and her intent to proceed *in rem*, to the address set forth in the registration record for the Defendant Domain Name.

10. Venue is proper in this District pursuant to 15 U.S.C. § 1125(d)(2)(C) in that the .COM domain name registry operator, VeriSign, is situated in this judicial district, and the Defendant Domain Name is a .COM domain name.

MS. BRYSON'S INTELLECTUAL PROPERTY RIGHTS

11. A versatile author, Ms. Bryson's published works span multiple genres, ranging from a medical autobiography to a Texas-based fairytale, and target various age demographics—while Ms. Bryson typically writes for an adult audience, in her repertoire is also a children's

chapter book. Ms. Bryson's numerous publications are all published under, and promoted through, use of her entire legal name—the "NELMA JEAN BRYSON Mark".

12. Ms. Bryson's seventeen-year writing career continues on an upward trajectory. Ms. Bryson published her first work, *Nothing Short of a Miracle: One Woman's Journey Through Chronic Fatigue Syndrome Fibromyalgia Chiari Malformation*, in 2005. See Ex. B. Ms. Bryson's most recent work that she advertised for purchase on her site, formerly available at Defendant Domain Name, is the second installment of the Montgomery Sisters' murder mystery trilogy, *Woods' Woods*, which she published on July 16, 2015. See Exs. C, E. And recently, Ms. Bryson teased the highly-anticipated third installment of the Montgomery Sisters' series, *Sometimes Balsam*, which she noted would soon be available for purchase via Amazon. See Ex. D.

13. Ms. Bryson's works under the NELMA JEAN BRYSON Mark attract national attention. The New Jersey Chronic Fatigue Syndrome Association promotes Ms. Bryson's medical memoir as a resource, *Nothing Short of a Miracle: One Woman's Journey Through Chronic Fatigue Syndrome, Fibromyalgia, Chiari Malformation*. See Ex. H. A North Carolina outlet discussed Ms. Bryson's published material, and Ms. Bryson has presented her books to her community through local events. See Exs. I, J, and K. Her books under the NELMA JEAN BRYSON Mark are also available for purchase at the website of the largest bookseller in America, Barnes & Noble, as well as one of the most international and far-reaching e-commerce platforms, Amazon.

14. In short, Ms. Bryson is an established and multi-genre author with a distinct perspective and broad-based audience.

15. In addition to advertising her books at brick-and-mortar locations under the NELMA JEAN BRYSON Mark, Ms. Bryson has also marketed them to the broader consuming public through the site formerly located at Defendant Domain Name. *See* Ex. D. The Defendant Domain Name contains the exact NELMA JEAN BRYSON Mark in which she has developed common law trademark rights.

16. Ms. Bryson has owned the Defendant Domain Name since May 12, 2008. *See* Ex. L. Attached hereto as Exhibit L is a historical Whois record showing Ms. Bryson as the registrant of the Defendant Domain Name on oldest available archive date of November 25, 2010. Ms. Bryson actively used the website to which the Defendant Domain Name resolved to advertise her books in United States commerce since, at least as early as, February 7, 2011. *See* Ex. F.

17. An archived image of the site located at Defendant Domain Name reflected that as of April 15, 2021, Ms. Bryson advertised a selection of her works for sale—*Bottomless Uprising*, *Woods' Woods*, *Dear Harmony*, and *Corrie Anders' Great Adventure*. *See* Ex. E. Also displayed there were links redirecting users to online locations where they could purchase Ms. Bryson's books. *See id.*

18. Ms. Bryson maintained the NelmaJeanBryson.com domain name with the domain name registrar Melbourne IT, LTD. D/B/A Internet Names Worldwide until the Defendant Domain Name was reregistered with a different registrar, Alibaba.com Singapore E-Commerce Private Limited. *Compare* Exhibit G to Exhibit L (a historical Whois inquiry showing Ms. Bryson as the registrant of the NelmaJeanBryson.com domain name on November 25, 2010).

UNLAWFUL REGISTRATION AND USE OF THE DEFENDANT DOMAIN NAME

19. The Defendant Domain Name consists only of the protected NELMA JEAN BRYSON Mark, with the addition of the .COM top-level domain.

20. The Defendant Domain Name, NELMAJEANBRYSON.COM, is Ms. Bryson's full legal name in addition to the generic .COM top-level domain.

21. The current use of the NELMA JEAN BRYSON mark within the Defendant Domain Name and/or associated website is without authorization from Ms. Bryson.

22. Upon information and belief, the registrant of the Defendant Domain Name does not have any trademark or other intellectual property rights in the Defendant Domain Name.

23. Upon information and belief, the registrant never made bona fide noncommercial or fair use of the NELMA JEAN BRYSON Mark.

24. Upon information and belief, the registrant of the Defendant Domain Name possesses an intention to divert consumers from Ms. Bryson's site to a site accessible under the Defendant Domain Name that could harm the goodwill represented by the NELMA JEAN BRYSON Mark, either for commercial gain or with the intent to tarnish or disparage the mark, by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the site(s) accessible under the Defendant Domain Name.

25. Upon information and belief, the registrant of the Defendant Domain Name has not engaged in a bona fide offering of any goods or services in connection with the NELMA JEAN BRYSON Mark in the website accessible under the Defendant Domain Name.

26. Due to Ms. Bryson's use of the NELMA JEAN BRYSON Mark, and her prior registration and use of the Defendant Domain Name, the website now displayed by the registrant of the Defendant Domain Name is likely to cause confusion, or to cause mistake, or to deceive

the relevant public as to the source or sponsorship of that website, and to mislead the public into believing that such website emanates from, is approved or sponsored by, or is in some way associated or connected with, Ms. Bryson.

27. Ms. Bryson suffers great embarrassment and is concerned about the damage any connection to pornography will do to her reputation within and beyond her community. Local news outlets have already reported on the bad faith use of the Defendant Domain Name and chronicled the inappropriate content currently reflected at the website to which the Defendant Domain Name resolves. *See Ex. M.*

28. Upon information and belief, the current owner of the Defendant Domain Name registered the domain name to benefit from Internet visitors who are looking for Ms. Bryson's site that was formerly available through the Defendant Domain Name and to benefit from links to the Defendant Domain Name from across the Internet that are intended to link to Ms. Bryson's site—and not to a pornographic website. *See Ex. N.*

29. Upon information and belief, the registrant of the Defendant Domain Name registered the Defendant Domain Name with intent to divert consumers away from Ms. Bryson's legitimate online site, for commercial gain, by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the Defendant Domain Name and the site displayed through use of the Defendant Domain Name. Ms. Bryson's seventh book, *Sometimes Balsam*, will be completed this year, but the current registration of the Defendant Domain Name prevents Ms. Bryson from continuing to advertise it online through the domain name she originally registered. Therefore, the commercial success of *Sometimes Balsam* and Ms. Bryson's ability to earn income are in jeopardy.

30. Upon information and belief, the registrant of the Defendant Domain Name provided material and misleading false contact information when applying for and maintaining the registration of the Defendant Domain Name in that the person or entity identified as the registrant of the Defendant Domain Name is not the true owner of the Defendant Domain Name.

31. The owner of NELMAJEANBRYSON.COM is unknown because the registrar, Alibaba.com Singapore E-Commerce Private Limited, is concealing such information.

32. Upon information and belief, the use of the NELMA JEAN BRYSON mark and in the Defendant Domain Name does not constitute the current owner's name, or the individual name of anyone in privity with the owner, or a term or device which is descriptive of and used fairly and in good faith only to describe the goods or services of domain owner, or their geographic origin.

COUNT ONE:
(Violation of the Federal Anticybersquatting Consumer Protection Act)

33. Ms. Bryson repeats and realleges each and every allegation set forth in the foregoing paragraphs, as though fully set forth herein.

34. Ms. Bryson's NELMA JEAN BRYSON Mark is distinctive and was distinctive prior to the time of registration of the Defendant Domain Name.

35. Ms. Bryson has established common law trademark rights in the NELMA JEAN BRYSON Mark.

36. The aforesaid acts by the owner of the Defendant Domain Name constitute registration, trafficking, and/or use of a domain name that is identical to Ms. Bryson's NELMA JEAN BRYSON Mark, with bad faith intent to profit therefrom.

37. In light of the concealment of the identity of the owner of the Defendant Domain Name, Ms. Bryson is not able to obtain *in personam* jurisdiction over the owner of the Defendant

Domain Name or any other person who would have been a defendant in a civil action under 15 U.S.C. § 1125(d)(1)(A).

38. Ms. Bryson, despite her 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).

39. The aforesaid acts constitute unlawful cybersquatting in violation of the Anti-Cybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d)(1).

40. The aforesaid acts have caused, and are causing, great and irreparable harm to Ms. Bryson 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) and 28 U.S.C. § 1655, Ms. Bryson is entitled to an order returning the Defendant Domain Name registration to Ms. Bryson.

PRAYER FOR RELIEF

WHEREFORE, Ms. Bryson respectfully requests of this Court:

1. That judgment be entered in favor of Ms. Bryson on her claim of cybersquatting.
2. That the Court order the Defendant Domain Name be transferred to Ms. Bryson through VeriSign, Inc.'s change of the current domain name registrar to Ms. Bryson's registrar of choice, and by the registrar's change of the registrant back to Ms. Bryson.
3. That the Court order an award to Ms. Bryson of such other and further relief as the Court may deem just and proper.

Dated: May 13, 2022

By: /s/ Attison L. Barnes, III /s/
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Alexandria Division**

NELMA JEAN BRYSON,

Plaintiff,

v.

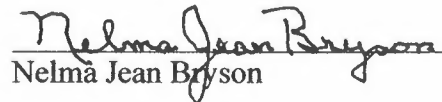
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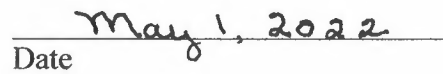
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VERIFICATION

I, Nelma Jean Bryson, 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.


Nelma Jean Bryson


Date