

1 Michael L. Rodenbaugh
California Bar No. 179059
2 Marie E. Richmond
California Bar No. 292962
3 RODENBAUGH LAW
4 25435 Hutchinson Road
Los Gatos, CA 95033

5 Attorneys for Mike Rodenbaugh
6

7 **UNITED STATES DISTRICT COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA**

<p>10 MICHAEL RODENBAUGH, a California individual,</p> <p>11</p> <p>12 Plaintiff,</p> <p>13 vs.</p> <p>14 DAVID LAHOTI, aka Davendra Kumar Lahoti, an individual; RAVI LAHOTI, aka Ravindra Kumar Lahoti, an individual; and VIRTUAL POINT, INC., formerly a California corporation,</p> <p>17 Defendants.</p>	<p>Case No. 20-cv-4069</p> <p>COMPLAINT & DEMAND FOR JURY TRIAL</p>
--	--

19
20 Plaintiff Michael Rodenbaugh (“Plaintiff”) hereby brings this complaint against
21 Defendants David Lahoti, Ravi Lahoti and Virtual Point, Inc. (collectively “Defendants”), and
22 alleges as follows:

23 **NATURE OF THE ACTION**

- 24 1. This action arises out of the tortious and unlawful acts of Defendants.

25 **THE PARTIES**

- 26 2. Plaintiff Michael Rodenbaugh is an individual residing in Santa Cruz County,
27 California.

1 3. Defendant Dave Lahoti is an individual residing, on information and belief, in
2 Irvine, California.

3 4. Defendant Ravi Lahoti is an individual residing, on information and belief, in
4 Irvine, California. On information and belief, Ravi and Dave Lahoti are brothers, and have acted
5 in conjunction and conspiracy with one another to cause the damages alleged herein.

6 5. On information and belief, Defendant Virtual Point, Inc. formerly was a California
7 corporation wholly owned by Dave and/or Ravi Lahoti. Currently, those individual Defendants
8 collectively do business as Virtual Point Inc., though such entity no longer appears registered
9 with the California Secretary of State, and it is unclear if or where such an entity is registered.
10 This purported entity remains a registrant of record for many domain names, including all of the
11 domain names at issue in this Complaint. Those domain name registration records indicate the
12 individual registrant as “Tech Admin”, and on information and belief that person is Defendant
13 Dave Lahoti.

14 **JURISDICTION AND VENUE**

15 6. The court has subject matter jurisdiction because the action arises under the United
16 States Code, specifically 15 U.S.C. § 8131 “Cyberpiracy protections for individuals”, and the
17 Anti-Cybersquatting Consumer Protection Act (“ACPA”), 15 U.S.C. § 1125(d). The court has
18 pendant subject matter jurisdiction over Plaintiff’s state law claims.

19 7. The court has general personal jurisdiction over the Defendants, who are California
20 residents conducting their business primarily in California and generally in this District.

21 8. The court has specific personal jurisdiction over the Defendants because they have
22 targeted and continue to target their tortious behavior at Plaintiff in California and in this District,
23 knowing that Plaintiff resides and does business primarily in this District. Moreover, Defendants
24 have registered all of the domain names at issue in this litigation with Dynadot, Inc., an
25 ICANN-accredited domain name registrar located and primarily doing business in this District,
26 with its headquarters in San Mateo.

27 9. Venue is appropriate in this District because Defendants have targeted and continue
28 to target their tortious behavior at Plaintiff in this District, knowing that Plaintiff resides and does

1 business primarily in this District. Defendants also generally conduct business in this District.
2 For example, Defendants have registered all of the domain names at issue in this litigation with
3 Dynadot, Inc., an ICANN-accredited domain name registrar located and primarily doing business
4 in this District, with its headquarters in San Mateo.

5 **GENERAL ALLEGATIONS**

6 10. Plaintiff Michael Rodenbaugh is a longstanding active member of the California
7 State Bar, since 1995.

8 11. Plaintiff has extensive experience, in particular, with legal issues involving domain
9 names and/or trademarks.

10 12. Plaintiff represents and advises many companies and individuals in the domain
11 name industry, including domain name owners, domain name registrars and domain name
12 registries. Plaintiff also represents and advises trademark owners with respect to domain name
13 infringement and acquisition matters.

14 13. Plaintiff is an active and well-known community participant with the International
15 Corporation of Assigned Names and Numbers (“ICANN”), which is a California public benefit
16 corporation that develops policy and generally regulates the Domain Name System (“DNS”), and
17 thus the domain name industry -- consisting of ICANN-accredited domain name registries and
18 registrars, and their customers including resellers, investors and end users of domain names.

19 14. Plaintiff represents domain name registries and registrars in their dealings with
20 ICANN, including arbitration pursuant to ICANN’s Independent Review Policy. Plaintiff also
21 participates in many various ICANN policy working groups and implementation teams.

22 15. Plaintiff is a panelist deciding domain name disputes for the Czech Arbitration
23 Court, and has issued more than a dozen decisions under ICANN’s Uniform Dispute Resolution
24 Policy (“UDRP”).

25 16. Plaintiff has directed the prosecution of more than a dozen ACPA cases and 200
26 UDRP cases, and has successfully defended UDRP and ACPA cases on behalf of domain name
27 owners.

28 17. Since at least 1974 in general, and since 1995 as an active member of the legal

1 profession, Plaintiff has been commonly known as Mike Rodenbaugh.

2 18. Since September 2007, Plaintiff has done business as Rodenbaugh Law, a reputable
3 law firm specializing in trademark and domain name matters, among other things, with Plaintiff's
4 primary email address mike@rodenbaugh.com and website at rodenbaugh.com and/or
5 rodenbaugh.law.

6 19. Since at least 2010, Defendants have owned and operated the domain name
7 <UDRPsearch.com>, and have operated a website at that domain name which allows searching of
8 UDRP decisions and commentary on UDRP decisions. Plaintiff regularly has utilized that
9 website in the course of his legal practice; and, on information and belief, many if not most
10 attorneys and other professionals in the domain name industry are familiar with the UDRPsearch
11 website and have visited it frequently in the course of their business.

12 20. Beginning in 2010, Rodenbaugh Law advised and represented Defendants Dave
13 Lahoti and Virtual Point Inc. in a number of ACPA and UDRP disputes.

14 21. In or about February 2015, Rodenbaugh Law withdrew as counsel in the only
15 remaining, pending matter for any of the Defendants, and terminated the attorney-client
16 relationship with Defendants.

17 22. Since 2015, Plaintiff does not recall having had any communication to or from any
18 of the Defendants.

19 23. In November, 2015, Plaintiff obtained federal registration of the RODENBAUGH
20 LAW trademark, No. 4849962, for the following services:

21 Legal consulting services in the field of intellectual property, trademarks, domain
22 names, rights of publicity, copyright, Internet marketing, brand protection and
23 enforcement, and e-commerce; Legal services, namely, intellectual property
24 consulting services in the field of identification, strategy, analytics, and invention;
25 Legal services, namely, preparation of applications for trademark registration;
26 Legal services, namely, providing customized documentation, information,
27 counseling, advice and consultation services in all areas of intellectual property,
28 trademarks, domain names, rights of publicity, copyright, Internet marketing, brand
protection and enforcement, and e-commerce; Legal services, namely, trademark
maintenance services; Providing customized legal information, counseling, and
advice, and litigation services in the field of intellectual property, trademarks,
domain names, rights of publicity, copyright, Internet marketing, brand protection
and enforcement, and e-commerce; Providing information in the field of

1 intellectual property legal services ; Providing legal research in the field of
2 intellectual property, trademarks, domain names, rights of publicity, copyright,
3 Internet marketing, brand protection and enforcement, and e-commerce; Providing
4 legal services in the field of intellectual property, trademarks, domain names, rights
5 of publicity, copyright, Internet marketing, brand protection and enforcement, and
6 e-commerce; Registration of domain names for identification of users on a global
7 computer network.

8 24. On May 22, 2020, Defendants registered the domain name <mikerodenbaugh.com>
9 and caused all traffic from UDRPsearch.com to be immediately redirected to a website at
10 mikerodenbaugh.com. Prominently displayed at the resulting website was, and still is, Plaintiff's
11 facial image, as used on LinkedIn and elsewhere online, and a large and boldface accusation -- to
12 wit ("Defendants' Statement"):



13
14 **Mike Rodenbaugh**

15 **is a Trust Fund *FRAUDSTER*...**

16 25. Defendants also immediately offered the <mikerodenbaugh.com> domain name for
17 sale via Defendants' NAMEX domain name sales website.

18 26. Consistently since May 23, 2020, Plaintiff has been notified by a growing number
19 of colleagues in the domain name legal specialty, and a number of other domain name industry
20 professionals, that they had tried to access UDRPsearch.com, and instead were directed to the
21 aforementioned, defamatory Defendants' Statement. A number of those professionals expressed
22 confusion as to the source of the domain name <mikerodenbaugh.com>, and all of them
23 expressed concern for the harm to Plaintiff's reputation that has been caused and continues to
24 accrue from Defendants' tortious behavior.

25 27. Defendants maliciously have sought to direct domain name industry professionals,
26 who are Plaintiff's colleagues, clients and potential clients, to Defendants' Statement by use of
27 UDRPsearch.com and by posting a link to mikerodenbaugh.com in perhaps the most popular
28 domain name industry newsletter, Domain Name Wire. The use of UDRPsearch.com to redirect

1 to Defendants' Statement (and disparagement of Plaintiff's colleague, David Weslow) was also
2 the subject of a story in popular domain name industry blog, DomainGang.

3 28. Plaintiff has suffered, and continues to suffer, harm to his valuable professional
4 reputation. Defendants' Statement plainly asserts that Plaintiff has committed "trust fund fraud",
5 which is perhaps the highest form of attorney misconduct, always resulting in sanctions if not
6 disbarment of attorneys -- if not criminal charges. Defendants' Statement has been widely
7 published as a boldface assertion of fact, and is designed to cause clients or prospective clients to
8 question whether Plaintiff stole money from a client. That mere suspicion, however brief or
9 unfounded it may be, is materially harmful to Plaintiff and his professional reputation.

10 29. Prior to Defendants' Statement, Plaintiff has never even been accused of fraud in
11 any respect, by anyone. The mere implication would be materially damaging to any attorney, but
12 Defendants do not opine or imply, instead they explicitly and falsely state as a purported fact that
13 Plaintiff has committed fraud against a client.

14 30. Defendants' Statement is a specific, highly damaging and knowingly untrue
15 statement made by Defendants, widely published to legal colleagues and industry peers via use of
16 a domain name that is identical to Plaintiff's personal and professional name. That domain name
17 clearly has been registered in bad faith, in clear violation of specific federal laws relating to
18 domain names, personal names and/or trademarks.

19 31. Because the harm to Plaintiff and his professional reputation is ongoing and severe,
20 Plaintiff is forced to bring this matter to this Honorable Court for a prompt hearing, and prompt
21 order to effectively stop the Defendants' clearly tortious behavior as soon as possible. This is the
22 last thing Plaintiff wishes to be engaged in during these times, but Plaintiff is left with no other
23 choice.

24 **COUNT I**
25 **(ACPA Cyberpiracy - Personal Name)**

26 32. Plaintiff incorporates by reference paragraphs 1 through 31 above as if re-stated
27 herein.

1 33. Defendants registered the domain name <mikeroedenbaugh.com>, consisting solely
2 of Plaintiff's personal name, without Plaintiff's consent, and with specific intent to profit from
3 such name by selling it for financial gain to Plaintiff or any third party.

4 34. Defendant Dave Lahoti has repeatedly been deemed a "serial cybersquatter" by
5 courts in the Ninth Circuit and elsewhere.

6 35. Therefore, Defendants are liable in a civil action under 15 U.S.C. § 8131(1)(A), and
7 the court may award injunctive relief, including transfer of the domain name to Plaintiff. The
8 court also may award costs and attorneys' fees to Plaintiff as the prevailing party pursuant to Sec.
9 8131(2).

10 **COUNT II**
11 **(ACPA Cybersquatting - Trademark)**

12 36. Plaintiff incorporates by reference paragraphs 1 through 35 above as if re-stated
13 herein.

14 37. Defendants registered the domain name <mikeroedenbaugh.com> with bad faith
15 intent to profit from Plaintiff's corresponding service mark and personal name.

16 38. The domain name corresponds identically to Plaintiff's professional name and
17 distinctive common law trademark. The domain name also is highly confusingly similar to
18 Plaintiff's registered and distinctive RODENBAUGH LAW trademark, insofar as the distinctive
19 portion of that mark is Plaintiff's surname. That surname is wholly incorporated in the domain
20 name, and accompanied only by Plaintiff's common first name, often used by clients and others
21 to refer colloquially and professionally to Plaintiff.

22 39. Defendant Dave Lahoti has repeatedly been deemed a "serial cybersquatter" by
23 courts in the Ninth Circuit and elsewhere.

24 40. Therefore, Defendants are liable in a civil action under 15 U.S.C. § 1125(d)(1)(A),
25 and the court may award injunctive relief, including transfer of the domain name to Plaintiff
26 pursuant to § 1125(d)(1)(C). The court also may award costs and attorneys' fees to Plaintiff as
27 the prevailing party in this exceptional case, pursuant to § 1117 of the Lanham Act.

28 //

COUNT III
(Cyberpiracy - Cal. Bus. & Prof. Code Sec. 17525(a))

41. Plaintiff incorporates by reference paragraphs 1 through 40 above as if re-stated herein.

42. Defendants had a bad faith intent to register, traffic in, or use a domain name that is identical or confusingly similar to the personal name of Plaintiff.

43. Therefore, Defendants are liable in a civil action under Cal. Bus. & Prof. Code § 17525(a).

COUNT IV
(Defamation)

44. Plaintiff incorporates by reference paragraphs 1 through 43 above as if re-stated herein.

45. Defendants' Statement was published to many persons other than Plaintiff, on the Defendants' website resolving at <mikerodenbaugh.com>, with all traffic to the UDRPsearch website directed instead to Defendants' Statement.

46. There is no question that any person who visited the website reasonably understood that Defendants' Statement was about Plaintiff, because it not only included Plaintiff's full name, but also a photo of Plaintiff.

47. Any person who read the Defendants' Statement could understand it to mean that Plaintiff has committed fraud with respect to client trust funds.

48. Defendants' Statement constitutes defamation *per se* under California law.

49. Defendants recklessly and willfully published Defendants' Statement with malice, oppression and fraud -- indeed with full knowledge both of its absolute falsity, and of its likely severe impact on Plaintiff's professional reputation. Most certainly, they made no reasonable effort to ascertain the truth of their statement before publishing it.

50. As the result of Defendants' wrongful conduct in publishing and continuing to publish Defendants' Statement, which is a substantial factor in causing damage to Plaintiff, Plaintiff has suffered actual harm, including without limitation: (1) harm to Plaintiff's property,

1 business, trade, profession, and occupation; (2) expenses Plaintiff has paid and will pay as a result
2 of the defamatory statement; and (3) harm to Plaintiff's personal reputation.

3 51. Plaintiff also seeks punitive damages because clear and convincing evidence proves
4 that Defendants' Statement has been made with malice, oppression, and/or fraud.

5 **COUNT V**
6 **(Unfair Competition - Cal. Bus. & Prof. Code § 17200 et seq)**

7 52. Plaintiff incorporates by reference paragraphs 1 through 51 above as if re-stated
8 herein.

9 53. Defendants' wrongful acts are unfair and illegal, and cause damage to Plaintiff and
10 injures his business and personal and professional reputation, in violation of § 17200 *et seq.* of
11 the California Business and Professions Code.

12 54. As a result of Defendants' past and continued wrongful acts, Plaintiff has incurred
13 damages in an amount to be proved at trial, including compensation for Plaintiff's time and effort
14 (i.e. his reasonable attorneys' fees, *pro se*).

15 **PRAYER FOR RELIEF**

16 55. WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in its
17 favor on each and every count set forth above and award him relief, including but not limited to
18 the following:

19 a. A Temporary Restraining Order requiring Defendants to immediately transfer the
20 mikerodenbaugh.com domain name to Plaintiff, and any other confusingly similar domain names,
21 and any other domain names incorporating or referring to Plaintiff's name, owned or controlled
22 by any Defendant;

23 b. A Temporary Restraining Order prohibiting Defendants from registering or using
24 any other domain name containing Plaintiff's name and/or mark, or anything confusingly similar
25 thereto;

26 c. A Temporary Restraining Order requiring Defendants to remove the Defendants'
27 Statement from any and all websites, domain names, social media accounts or other published
28 locations;

1 d. A Temporary Restraining Order requiring Defendants to immediately publish a
2 retraction and apology in all such media, and on the Domain Name Wire and DomainGang blogs,
3 in a form approved by the Court;

4 e. A Temporary Restraining Order prohibiting Defendants from publishing any
5 further defamatory statements about Plaintiff, in any media;

6 f. A Preliminary Injunction providing the aforesaid relief;

7 g. A Permanent Injunction providing the aforesaid relief;

8 h. An Order requiring Verisign Inc. (.com domain name registry) and Dynadot Inc.
9 (mikerodenbaugh.com domain name registrar) requiring them to carry out the aforesaid orders, in
10 absence of immediate compliance by Defendants;

11 i. An Order requiring Defendants to pay Plaintiff statutory damages of \$100,000,
12 pursuant to the ACPA, 15 U.S.C 1117(d);

13 j. An Order requiring Defendants to pay Plaintiff damages for cyberpiracy pursuant
14 to California law;

15 k. An Order requiring Defendants to pay Plaintiff damages for defamation *per se*
16 pursuant to California law;

17 l. An Order requiring Defendants to pay Plaintiff punitive damages for malicious
18 defamation pursuant to California law;

19 m. An Order requiring Defendants to pay Plaintiff's costs and reasonable attorneys'
20 fees (including *pro se* attorneys' fees) in this action, pursuant to the Lanham Act 15 U.S.C
21 1117(a), and pursuant to California Business and Professions Code §§ and 17200 *et seq.*;

22 n. Any other relief as the Court may deem appropriate.

23 **DEMAND FOR JURY TRIAL**

24 56. Plaintiff respectfully requests trial by jury as to all issues so triable.

26 DATED: June 18, 2020

By: /s/ Mike Rodenbaugh

27 Mike Rodenbaugh
28 RODENBAUGH LAW

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

584 Market Street -- Box 55819
San Francisco, CA 94014
Tel/fax: (415) 738-8087