

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
THIRD DOOR MEDIA, INC.	:	
Plaintiff,	:	CIVIL ACTION NO.
	:	
v.	:	
	:	
CLICKZ GROUP LLC,	:	COMPLAINT
Defendant.	:	
-----X	:	

Plaintiff Third Door Media, Inc. (“Third Door”), by its undersigned counsel and as and for its Complaint against defendant ClickZ Group LLC (“ClickZ”), alleges as follows:

1. Third Door is a corporation organized and existing under the laws of the State of Delaware that has its principal place of business at 279 Newtown Turnpike, Redding, Connecticut 06896.

2. ClickZ is, upon information and belief, a limited liability company organized and existing under the laws of the State of Delaware that has its principal place of business 55 Broad Street, 22<sup>nd</sup> Floor, New York, New York 10004.

**JURISDICTION AND VENUE**

3. The Court has original subject matter jurisdiction over Third Door’s Lanham Act claims pursuant to 15 U.S.C. §1125 and 28 U.S.C. §1331 and 1338. The Court has supplemental jurisdiction over the New York state law claims

pursuant to 28 U.S.C. §1367(a) because those claims are so closely related to the federal claims as to form part of the case or controversy.

4. The Court has personal jurisdiction over ClickZ because ClickZ maintains its principal place of business, and has engaged in the unlawful activities alleged herein, in this District.

5. Venue is proper in this District pursuant to 28 U.S.C. §§1391(b)(1) and (2).

### **FACTS COMMON TO ALL CLAIMS**

6. Third Door is engaged in the business of providing in-person and online information and marketing services and information to its clients.

7. For several years, Third Door has used the mark MARTECH in commerce in connection with its business of conducting trade shows for business professionals in the fields of marketing technology management, marketing technology operations, marketing technology strategy, marketing technology development and Internet marketing and business.

8. Third Door is the lawful owner of U.S. Registration No. 4,668,739, issued by the United States Patent and Trademark Office on January 6, 2015 for the MARTECH mark in International Class 35 (U.S. Classes Nos. 100, 101 and 102) for:

Conducting trade shows for business professionals in the fields of marketing technology management, marketing

technology operations, marketing technology strategy, marketing technology development and Internet marketing and business.

and in International Class 41 (U.S. Class Nos. 100, 101 and 107) for:

Conducting educational conferences for business professionals in the fields of marketing technology management, marketing technology operations, marketing technology strategy, marketing technology development and Internet marketing and business.

A copy of Registration No. 4,668,739 is attached hereto as Exhibit A.

9. Third Door has made considerable investments to promote services associated with the MARTECH service mark throughout the United States.

10. Third Door has used the MARTECH service mark in connection with an international trade show series that it has operated since 2014 that has seen tremendous growth in the number of participants and sponsors.

11. The MARTECH mark and the goodwill associated with it have become valuable assets of Third Door that are well known within the industry and associated with Third Door.

12. In addition to the service mark registration, Third Door owns a number of domain names that use "Martech."

13. When Third Door has become aware of third parties using the MARTECH service mark to promote their business activities, it has issued cease and desist demand and such third parties have complied with the demand that the

offending use cease. Other industry professionals, including Crain Communications, publisher of AdAge, the Chicago Chapter of the American Marketing Association, Appboy, and LiveRamp, have recognized the rights belonging to Third Door associated with the MARTECH service mark.

14. In March 2019, ClickZ produced an event in New York City using the brand name Mar Tech. ClickZ promoted its marketing technology awards as the “Marketing Technology Awards” and, with its website, solicited participation from Third Door customers, exhibitors and sponsors to participate in the event. Onsite, the branding was changed to “Mar Tech.” ClickZ hired the program chairman of Third Door’s MarTech conference to emcee the event. A copy of a picture from the ClickZ website showing the onsite branding is attached hereto as Exhibit B.

15. ClickZ used the MARTECH service mark without authorization from Third Door.

16. The manner in which ClickZ has used the MARTECH service mark creates a likelihood of confusion with Third Door.

17. ClickZ has infringed the MARTECH service mark owned by Third Door.

18. ClickZ has refused to abide by Third Door’s demand that ClickZ cease and desist from its infringing activities.

19. There is a high likelihood that the continued use of the MARTECH service mark by ClickZ will cause confusion in the marketplace as to the source of the services provided by the parties.

**COUNT ONE**

20. Third Door repeats and re-alleges each of its allegations contained in Paragraphs 1-19 of the Complaint as if fully set forth at length herein.

21. By engaging in the complained-of-conduct, ClickZ used in commerce, without Third Door's consent, a reproduction, counterfeit, copy or colorable imitation of the registered MARTECH service mark and/or reproduced, counterfeited, copies or colorably imitated the registered service mark or applied a reproduction, counterfeit, copy or colorable imitation of the service mark to its website and other tangible items intended to be used in commerce or to reach consumers in violation of Section 32 of the Lanham Act, 15 U.S.C. §1114.

22. Unless enjoined by the Court, ClickZ's infringing activities will cause irreparable injury and other damages to Third Door, its business, its reputation, and its goodwill.

23. Third Door has no adequate remedy by law.

**COUNT TWO**

24. Third Door repeats and re-alleges each of its allegations contained in Paragraphs 1-23 of the Complaint as if fully set forth at length herein.

25. ClickZ's adoption and use of the MARTECH mark constitutes a false designation of origin that is likely to cause confusion, cause mistake and/or to deceive as to ClickZ's affiliation, connection or association with Third Door or as to the origin, sponsorship or approval by Third Door in violation of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

26. Unless enjoined by the Court, ClickZ's activities will cause irreparable injury and other damages to Third Door, its business, its reputation, and its goodwill.

27. Third Door has no adequate remedy at law.

### **COUNT THREE**

28. Third Door repeats and re-alleges each of its allegations contained in Paragraphs 1-27 of the Complaint as if fully set forth at length herein.

29. Through its use of the MARTECH service mark in commerce in the United States, Third Door has established a valid and protectable interest in the MARTECH mark and has built, created and fostered valuable goodwill in the mark.

30. ClickZ has, without any authorization from Third Door, used the same and/or similar trademarks in connection with its business.

31. ClickZ's unauthorized use of the MARTECH mark permits ClickZ to pass off its services and offerings to the public to the detriment of Third Door and the unjust enrichment of ClickZ.

32. ClickZ has traded and continues to trade on the goodwill associated with the MARTECH mark and to cause confusion or mistake or to deceive consumers and therefore infringe Third Door's rights in the MARTECH mark in violation of the common law.

33. ClickZ's conduct constitutes trademark infringement and unfair competition under New York state common law as ClickZ's actions are likely to cause mistake, or to deceive consumers as to the affiliation, connection or association of ClickZ with Third Door, or as to the origin, sponsorship or approval of ClickZ's services by Third Door.

34. Unless enjoined by the Court, ClickZ's actions will cause great and irreparable harm and other damages Third Door, its business, its reputation, and its goodwill.

35. Third Door has no adequate remedy at law.

WHEREFORE, Third Door prays for the entry of a Judgment against ClickZ providing for:

a. Preliminarily and permanently enjoining ClickZ and each of its members, officers, employees and agents and all those in active concert or participation with it from:

(i) using the MARTECH mark or any other reproduction, counterfeit, copy or colorable imitation of it in connection with the sale, promotion or offering of any goods or services;

- (ii) engaging in any course of conduct likely to cause confusion, deception or mistake, or to injure Third Door's business reputation or dilute the distinctive quality of its MARTECH mark;
- (iii) using any simulation, reproduction, counterfeit, copy, or colorable imitation of the MARTECH mark in connection with the promotion, advertisement, display, sale or offer for sale of any goods or services; and
- (iv) making any statement or representation whatsoever, or using any false designation of origin which can or is likely to lead to the trade or public, or individual members thereof, to believe that any goods or services of ClickZ are in any manner associated or connected to Third Door;

(b) Compensatory damages;

(c) Costs and attorney's fees to the full extent provided for by the

Lanham Act; and

(d) Such other and further relief that the Court deems just and appropriate.



Dated: June 5, 2019  
Stamford, Connecticut

Respectfully,

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