

1 Brenda A. Prackup
 2 Law Office of Brenda A. Prackup
 3 4000 MacArthur Blvd.
 4 East Tower, 6th Floor
 5 Newport Beach, CA 92660
 6 Tel: 949.783.4249
 7 Email: brenda@baplawoffice.com
 8 Attorney for Defendant Usman Anis and Silicon Valley Graphic, LLC d/b/a
 9 Silicon Valley Graphics

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

12 GO DADDY OPERATING
 13 COMPANY, LLC,

15 Plaintiff,

16 vs.

17 USMAN GHAZNAVI a/k/a USMAN
 18 ANIS, SALMAN GHAZNAVI a/k/a
 19 SALMAN ANIS, SILICON VALLEY
 20 GRAPHIC, LLC
 21 d/b/a SILICON VALLEY GRAPHICS,
 22 and DOES 1 through 50,

22 Defendants.

CASE NO. 4:17-cv-06545-PJH

Hon. Phyllis J. Hamilton

DEFENDANTS USMAN ANIS' AND
 SILICON VALLEY GRAPHIC, LLC'S
 ANSWER TO PLAINTIFF'S
 COMPLAINT

DEMAND FOR JURY TRIAL

1 Defendants Usman Anis (“Anis”) and Silicon Valley Graphic, LLC
2 (“SVG”), collectively the “Defendants”, hereby respectfully submit their
3 Answer and Affirmative Defenses to the Complaint. All allegations not
4 specifically admitted by the Answer is generally denied.
5

6 1. This paragraph sets forth a legal conclusion to which no response
7 is required. To the extent a response is required, the statements and allegations
8 of paragraph 1 are denied.
9

10 2. Defendants lack knowledge or information sufficient to form a
11 belief about the truth of the allegations in paragraph 2 and on that basis denies
12 them.
13

14 3. Denied.

15 4. Denied.

16 5. Admit.

17 6. Denied.

18 7. Admit that there was an article published by a blog called the
19 Android Police, but deny the allegation contained in the article. Deny that any
20 Better Business Bureau (“BBB”) complaint was filed against Defendant SVG.
21 Admit that BBB complaints were filed against other companies for breach of
22 contract matters. Deny that complaints were filed against SVG on the website
23 “ripoffreport.com.” Admit that complaints were filed against other companies
24
25
26
27

1 for breach of contract.

2 8. This paragraph sets forth a legal conclusion to which no response
3 is required. To the extent a response is required, the statements and allegations
4 of paragraph 8 are denied.
5

6 **PARTIES**

7
8 9. Defendants lack knowledge or information sufficient to form a
9 belief about the truth of the allegations in paragraph 9 and on that basis denies
10 them.
11

12 10. Admit that Anis is a California resident. Admit that Anis is the
13 sole member of Defendant Silicon Valley Graphics, LLC, located at 45333
14 Fremont Blvd, Suite 5, Fremont, California 94538. Admit that Anis is an
15 officer of the following companies with addresses of 45333 Fremont Blvd,
16 Suite 5, Fremont, California 94538: iTech Devices, Inc., Blitz Design, Inc.
17 and VideoJeeves, Inc. Deny that Anis currently operates any business at 440
18 North Wolfe Road, MS 142, Sunnyvale, California 94084. Deny that Anis
19 represents these addresses as his own in corporate filings as these are business
20 addresses.
21
22
23

24 11. Deny that defendant Salman Ghaznavi is a California resident.
25 Admit that Ghaznavi is an officer in iTech Devices. Defendants lack
26 knowledge or information sufficient to form a belief about the remainder of the
27

1 the allegations in paragraph 11 and on that basis denies them.

2 12. Admit that Silicon Valley Graphic, LLC is a California limited
3 liability company, with its address at 45333 Fremont Blvd #5, Fremont, CA
4 94538. Admit that Anis is the sole member of SVG. Admit that Waqar
5 Ahmed is SVG's agent for service of process at 45333 Fremont Blvd #5,
6 Fremont, CA 94538.
7
8

9 13. Defendants lack knowledge or information sufficient to form a
10 belief about the truth of the allegations in paragraph 13 and on that basis denies
11 them.
12

13 14. Defendants lack knowledge or information sufficient to form a
14 belief about the truth of the allegations in paragraph 14 and on that basis denies
15 them.
16

17 **JURISDICTION**

18 15. Defendants admit that this action purportedly arises under the
19 Lanham Act, and that the Court has subject matter jurisdiction over the claims
20 alleged in the complaint. Defendants lack knowledge or information sufficient
21 to form a belief about the remaining allegations set forth in paragraph 15 of the
22 complaint and on that basis denies them.
23
24

25 16. Defendants admit that they reside in this judicial district.
26 Defendants lack knowledge or information sufficient to form a belief about the
27

1 truth of the allegation that a substantial part of the events giving rise to
2 plaintiff's claims occurred in the district and on that basis denies them.

3
4 17. Defendants lack knowledge or information sufficient to form a
5 belief about the truth allegations in the first sentence of paragraph 17 and on
6 that basis denies them. Defendants admit the second sentence of the allegation
7 in paragraph 17.
8

9 **FACTUAL ALLEGATIONS**

10 **A. GoDaddy's Business and Intellectual Property**

11
12 18. Defendants lack knowledge or information sufficient to form a
13 belief about the truth of the allegations in paragraph 18 and on that basis denies
14 them.
15

16 19. Defendants lack knowledge or information sufficient to form a
17 belief about the truth of the allegations in paragraph 19 and on that basis denies
18 them.
19

20 20. Defendants lack knowledge or information sufficient to form a
21 belief about the truth of the allegations in paragraph 20 and on that basis denies
22 them.
23

24 a. Defendants lack knowledge or information sufficient to form a
25 belief about the truth of the allegations in paragraph 20a and on
26 that basis denies them.
27

1 b. Defendants lack knowledge or information sufficient to form a
2 belief about the truth of the allegations in paragraph 20b and
3 on that basis denies them.
4

5 c. Defendants lack knowledge or information sufficient to form a
6 belief about the truth of the allegations in paragraph 20c and on
7 that basis denies them.
8

9 21. Defendants lack knowledge or information sufficient to form a
10 belief about the truth of the allegations in paragraph 21 and on that basis denies
11 them.
12

13 22. Defendants lack knowledge or information sufficient to form a
14 belief about the truth of the allegations in paragraph 22 and on that basis denies
15 them.
16

17 **B. Misappropriation and Unlawful use of the GoDaddy Marks by**
18 **Defendants.**
19

20 23. Defendants lack knowledge or information sufficient to form a
21 belief about the truth of the allegations in paragraph 23 and on that basis denies
22 them.
23

24 24. Defendants lack knowledge or information sufficient to form a
25 belief about the truth of the allegations in paragraph 24 and on that basis denies
26 them.
27

1 25. Defendants lack knowledge or information sufficient to form a
2 belief about the truth of the allegations in paragraph 25 and on that basis denies
3 them.
4

5 26. Defendants lack knowledge or information sufficient to form a
6 belief about the truth of the allegations in paragraph 26 and on that basis denies
7 them.
8

9 27. Defendants lack knowledge or information sufficient to form a
10 belief about the truth of the allegations in paragraph 27 and on that basis denies
11 them.
12

13 **C. Logo and Website Design Businesses Operated by Defendants**

14 28. Defendants deny that the infringing domains resolve to SVG.
15 SVG denies that it is involved with any other business. Anis admits and denies
16 involvement in businesses as set forth below.
17

18 a. **AppDesignAgency, LLC, d/b/a Avenue Social, LLC**
19 **(“Avenue Social”)**
20

21 Deny that AppDesignAgency, LLC is existing, as its status has been
22 suspended by the California Secretary of State. Admit the remaining
23 allegations in the paragraph 28a.
24

25 b. **BrandedLogoDesigns, Inc. (“Branded Logo”)**
26

27 Deny that Branded logo design is existing, as its status has been revoked.
28

1 Admit the remaining allegations in paragraph 28b.

2
3 c. **SocialJitney, Inc. (“Social Jitney”)**

4 Admit.

5
6 d. **Appbury, Inc. (“Appbury”)**

7 Deny that Appbury, Inc. is existing. It was dissolved August 28, 2014.

8 Admit the remaining allegations in paragraph 20d.

9
10 e. **VideoJeeves, Inc. (“Video Jeeves”)**

11 Admit the first two sentences in paragraph 28e. Defendants lack
12 knowledge or information sufficient to form a belief about the truth of the
13 allegations in the remaining sentences of paragraph 28e and on that basis
14 denies them.
15

16 f. **iTech Devices, Inc. (“iTech”)**

17 Admit.
18

19 g. **Blitz Design, Inc. (“Blitz”)**

20 Admit the allegations in the first three sentences. Defendants lack
21 knowledge or information sufficient to form a belief about the truth of the
22 allegations in the remaining sentences of paragraph 28g and on that basis
23 denies them.
24

25
26 h. **Silicon Graphics**

1 Defendants lack knowledge or information sufficient to form a belief
2 about the truth of the allegations in paragraph 28h and on that basis denies
3 them.
4

5 i. **Logo Jeeves, Ltd. (“Logo Jeeves”)**

6 Defendants lack knowledge or information sufficient to form a belief
7 about the truth of the allegations in paragraph 28i and on that basis denies
8 them.
9

10 j. **Logo Bench, Inc. (“Logo Bench”)**

11 Deny that Logo Bench was incorporated. Admit that Logo Bench was a
12 sole proprietorship formed by Anis in Santa Clara county, which stopped
13 conducting business a year and a half ago. Admit that Anis was the Director-
14 Program Management, and that Logo Bench focused on graphics development,
15 social media marketing design and development.
16
17

18 k. **Salsoft Technologies (Pvt) Ltd. (“Salsoft”)**

19 Admit that Salsoft is a company located in Pakistan. Admit Salsoft
20 provides backup-office support to iTech Devices. Defendants lack knowledge
21 or information sufficient to form a belief about the truth of the remaining
22 allegations in paragraph 28k and on that basis denies them.
23
24

25 29. Defendants lack knowledge or information sufficient to form a
26 belief about the truth of the allegations in paragraph 29 and on that basis denies
27

1 them.

2 **D. GoDaddy Discovers Defendants' Use of the Infringing Domains**

3
4 30. Defendants lack knowledge or information sufficient to form a
5 belief about the truth of the allegations in paragraph 30 and on that basis denies
6 them.

7
8 31. Defendants lack knowledge or information sufficient to form a
9 belief about the truth of the allegations in paragraph 31 and on that basis denies
10 them.

11
12 32. Defendants lack knowledge or information sufficient to form a
13 belief about the truth of the allegations in paragraph 32 and on that basis denies
14 them.

15
16 33. Defendants lack knowledge or information sufficient to form a
17 belief about the truth of the allegations in paragraph 33 and on that basis denies
18 them.

19
20 34. Defendants lack knowledge or information sufficient to form a
21 belief about the truth of the allegations in paragraph 34 and on that basis denies
22 them.

23
24 35. Defendants lack knowledge or information sufficient to form a
25 belief about the truth of the allegations in paragraph 35 and on that basis denies
26 them.

1 36. Defendants lack knowledge or information sufficient to form a
2 belief about the truth of the allegations in paragraph 36 and on that basis denies
3 them.
4

5 **E. COMMON FEATURES DEMONSTRATE A COMMON**
6 **ENTERPRISE**
7

8 37. Defendants lack knowledge or information sufficient to form a
9 belief about the truth of the allegations in paragraph 37 and on that basis denies
10 them.
11

12 38. Defendants lack knowledge or information sufficient to form a
13 belief about the truth of the allegations in paragraph 38 and on that basis denies
14 them.
15

16 a. Defendants lack knowledge or information sufficient to form a
17 belief about the truth of the allegations in paragraph 38a and on
18 that basis denies them.
19

20 b. Defendants lack knowledge or information sufficient to form a
21 belief about the truth of the allegations in paragraph 38b and
22 on that basis denies them.
23

24 c. Admit that SVG's telephone number is 510.657.5853 as shown
25 on its website at svgprint.com. Defendants lack knowledge or
26 information sufficient to form a belief about the truth of the
27

1 rest of the allegations in paragraph 38c and on that basis denies
2 them.

3
4 d. Defendants lack knowledge or information sufficient to form a
5 belief about the truth of the allegations in paragraph 38d and
6 on that basis denies them.

7
8 e. Defendants lack knowledge or information sufficient to form a
9 belief about the truth of the allegations in paragraph 38e and on
10 that basis denies them.

11
12 **F. Defendants' Ongoing Conduct and Spam Advertisements to**
13 **Consumers**

14 39. Defendants lack knowledge or information sufficient to form a
15 belief about the truth of the allegations in paragraph 39 and on that basis denies
16 them.

17
18 40. Defendants lack knowledge or information sufficient to form a
19 belief about the truth of the allegations in paragraph 40 and on that basis denies
20 them.

21
22 41. Defendants lack knowledge or information sufficient to form a
23 belief about the truth of the allegations in paragraph 40 and on that basis denies
24 them.

25
26 **G. Defendants' Ongoing Conduct and Spam Advertisements to**

Consumers

42. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 42 and on that basis denies them.

43. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 43 and on that basis denies them.

44. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 44 and on that basis denies them.

45. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 45 and on that basis denies them.

46. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 46 and on that basis denies them.

47. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 47 and on that basis denies them.

48. Defendants lack knowledge or information sufficient to form a

1 belief about the truth of the allegations in paragraph 48 and on that basis denies
2 them.

3
4 49. Defendants lack knowledge or information sufficient to form a
5 belief about the truth of the allegations in paragraph 49 and on that basis denies
6 them.

7
8 50. Defendants lack knowledge or information sufficient to form a
9 belief about the truth of the allegations in paragraph 50 and on that basis denies
10 them.

11
12 51. Defendants lack knowledge or information sufficient to form a
13 belief about the truth of the allegations in paragraph 51 and on that basis denies
14 them.

15
16 **FIRST CLAIM FOR RELIEF**

17 **(Trademark Infringement (Lanham Act, 15 U.S.C. 1114))**

18 **(By GoDaddy Against All Defendants)**

19
20 52. Defendants repeat and incorporates by reference its responses to
21 the statements and allegations of paragraphs 1-51 of the complaint as set forth
22 hereinabove.

23
24 53. Defendants lack knowledge or information sufficient to form a
25 belief about the truth of the allegations in paragraph 53 and on that basis denies
26 them.

1 54. Defendants lack knowledge or information sufficient to form a
2 belief about the truth of the allegations in paragraph 54 and on that basis denies
3 them.
4

5 55. Insofar as the allegations as set forth in paragraph 55 of the
6 complaint relate to the answering Defendants, these answering Defendants
7 denies them.
8

9 56. Insofar as the allegations as set forth in paragraph 56 of the
10 complaint relate to the answering Defendants, these answering Defendants
11 denies them.
12

13 57. Insofar as the allegations as set forth in paragraph 57 of the
14 complaint relate to the answering Defendants, these answering Defendants
15 denies them.
16

17 58. Insofar as the allegations as set forth in paragraph 58 of the
18 complaint relate to the answering Defendants, these answering Defendants
19 denies them.
20

21 59. Insofar as the allegations as set forth in paragraph 59 of the
22 complaint relate to the answering Defendants, these answering Defendants
23 denies them.
24

25 60. Defendants denies the allegations as set forth in paragraph 60 of
26 the Complaint.
27

SECOND CLAIM FOR RELIEF

False Designation of Origin (Lanham Act, 15 U.S.C. 1125 (a))

(By GoDaddy Against All Defendants)

61. Defendants repeat and incorporates by reference its responses to the statements and allegations of paragraphs 1-60 of the complaint as set forth hereinabove.

62. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 62 and on that basis denies them.

63. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 63 and on that basis denies them.

64. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 64 and on that basis denies them.

65. Insofar as the allegations as set forth in paragraph 65 of the complaint relate to the answering Defendants, these answering Defendants denies them.

66. Insofar as the allegations as set forth in paragraph 66 of the complaint relate to the answering Defendants, these answering Defendants

1 denies them.

2 67. Insofar as the allegations as set forth in paragraph 67 of the
3 complaint relate to the answering Defendants, these answering Defendants
4 denies them.

5
6 68. Insofar as the allegations as set forth in paragraph 68 of the
7 complaint relate to the answering Defendants, these answering Defendants
8 denies them.

9
10 69. Insofar as the allegations as set forth in paragraph 69 of the
11 complaint relate to the answering Defendants, these answering Defendants
12 denies them.

13
14 70. Insofar as the allegations as set forth in paragraph 70 of the
15 complaint relate to the answering Defendants, these answering Defendants
16 denies them.

17
18 71. Insofar as the allegations as set forth in paragraph 71 of the
19 complaint relate to the answering Defendants, these answering Defendants
20 denies them.

21
22 72. Defendants denies the allegations as set forth in paragraph 72 of
23 the Complaint.
24

25 **THIRD CLAIM FOR RELIEF**

26 **Trademark Dilution (Anti-Dilution Act, 15 U.S. C. 1125 (c))**

(By GoDaddy Against All Defendants)

1
2 73. Defendants repeat and incorporates by reference its responses to
3 the statements and allegations of paragraphs 1-72 of the complaint as set forth
4 hereinabove.
5

6 74. Defendants lack knowledge or information sufficient to form a
7 belief about the truth of the allegations in paragraph 74 and on this basis deny
8 them.
9

10 75. Insofar as the allegations as set forth in paragraph 75 of the
11 complaint relate to the answering Defendants, these answering Defendants
12 denies them.
13

14 76. Insofar as the allegations as set forth in paragraph 76 of the
15 complaint relate to the answering Defendants, these answering Defendants
16 denies them.
17

18 77. Insofar as the allegations as set forth in paragraph 77 of the
19 complaint relate to the answering Defendants, these answering Defendants
20 denies them.
21

22 78. Insofar as the allegations as set forth in paragraph 78 of the
23 complaint relate to the answering Defendants, these answering Defendants
24 denies them.
25

26 79. Insofar as the allegations as set forth in paragraph 79 of the
27

1 complaint relate to the answering Defendants, these answering Defendants
2 denies them.

3
4 80. Insofar as the allegations as set forth in paragraph 80 of the
5 complaint relate to the answering Defendants, these answering Defendants
6 denies them.

7
8 81. Insofar as the allegations as set forth in paragraph 81 of the
9 complaint relate to the answering Defendants, these answering Defendants
10 denies them.

11
12 82. Insofar as the allegations as set forth in paragraph 82 of the
13 complaint relate to the answering Defendants, these answering Defendants
14 denies them.

15
16 83. Defendants denies the allegations as set forth in paragraph 83 of
17 the Complaint.

18 **FOURTH CLAIM FOR RELIEF**

19 **Cybersquatting (15 U.S.C. 1125(d))**

20 **(By GoDaddy Against All Defendants)**

21
22 84. Defendants repeat and incorporates by reference its responses to
23 the statements and allegations of paragraphs 1-84 of the complaint as set forth
24 hereinabove.

25
26 85. Defendants lack knowledge or information sufficient to form a
27

1 belief about the truth of the allegations in paragraph 85 and on that basis denies
2 them.

3
4 86. Defendants lack knowledge or information sufficient to form a
5 belief about the truth of the allegations in paragraph 86 and on that basis denies
6 them.

7
8 87. Insofar as the allegations as set forth in paragraph 87 of the
9 complaint relate to the answering Defendants, these answering Defendants
10 denies them.

11
12 88. Insofar as the allegations as set forth in paragraph 88 of the
13 complaint relate to the answering Defendants, these answering Defendants
14 denies them.

15
16 89. Insofar as the allegations as set forth in paragraph 89 of the
17 complaint relate to the answering Defendants, these answering Defendants
18 denies them.

19
20 90. Defendants denies the allegations as set forth in paragraph 90 of
21 the Complaint.

22
23 91. This paragraph sets forth a legal conclusion to which no response
24 is required. To the extent a response is required, the statements and allegations
25 of paragraph 91 are denied.

26
27 **FIFTH CLAIM FOR RELIEF**

Unfair Competition (Cal. Bus. & Prof. Code 17200 *et seq.*)

(By GoDaddy Against all Defendants)

1
2
3
4 92. Defendants repeat and incorporates by reference its responses to
5 the statements and allegations of paragraphs 1-91 of the complaint as set forth
6 hereinabove.

7
8 93. Insofar as the allegations as set forth in paragraph 93 of the
9 complaint relate to the answering Defendants, these answering Defendants
10 denies them.

11
12 94. Insofar as the allegations as set forth in paragraph 94 of the
13 complaint relate to the answering Defendants, these answering Defendants
14 denies them.

15
16 95. Insofar as the allegations as set forth in paragraph 95 of the
17 complaint relate to the answering Defendants, these answering Defendants
18 denies them.

19
20 96. Insofar as the allegations as set forth in paragraph 96 of the
21 complaint relate to the answering Defendants, these answering Defendants
22 denies them.

23
24 97. Insofar as the allegations as set forth in paragraph 97 of the
25 complaint relate to the answering Defendants, these answering Defendants
26 denies them.

1 98. Insofar as the allegations as set forth in paragraph 98 of the
2 complaint relate to the answering Defendants, these answering Defendants
3 denies them.
4

5 **SIXTH CLAIM FOR RELIEF**

6 **False Advertising (Cal. Bus. & Prof. Code 17500)**

7 **(By GoDaddy Against All Defendants)**
8

9 99. Defendants repeat and incorporates by reference its responses to
10 the statements and allegations of paragraphs 1-98 of the complaint as set forth
11 hereinabove.
12

13 100. Insofar as the allegations as set forth in paragraph 100 of the
14 complaint relate to the answering Defendants, these answering Defendants
15 denies them.
16

17 101. Insofar as the allegations as set forth in paragraph 101 of the
18 complaint relate to the answering Defendants, these answering Defendants
19 denies them.
20

21 102. Insofar as the allegations as set forth in paragraph 102 of the
22 complaint relate to the answering Defendants, these answering Defendants
23 denies them.
24

25 103. Insofar as the allegations as set forth in paragraph 103 of the
26 complaint relate to the answering Defendants, these answering Defendants
27

1 denies them.

2 104. Insofar as the allegations as set forth in paragraph 104 of the
3 complaint relate to the answering Defendants, these answering Defendants
4 denies them.
5

6 105. Insofar as the allegations as set forth in paragraph 105 of the
7 complaint relate to the answering Defendants, these answering Defendants
8 denies them.
9

10 **SEVENTH CLAIM FOR RELIEF**

11 **California Common Law Trademark Infringement**

12 **(By GoDaddy Against All Defendants)**

13
14 106. Defendants repeat and incorporates by reference its responses to
15 the statements and allegations of paragraphs 1-105 of the complaint as set forth
16 hereinabove.
17

18 107. Defendants lack knowledge or information sufficient to form a
19 belief about the truth of the allegations in paragraph 107 and on that basis
20 denies them.
21

22 108. Defendants lack knowledge or information sufficient to form a
23 belief about the truth of the allegations in paragraph 108 and on that basis
24 denies them.
25

26 109. Defendants lack knowledge or information sufficient to form a
27

1 belief about the truth of the allegations in paragraph 109 and on that basis
2 denies them.

3
4 110. Insofar as the allegations as set forth in paragraph 110 of the
5 complaint relate to the answering Defendants, these answering Defendants
6 denies them.

7
8 111. Insofar as the allegations as set forth in paragraph 111 of the
9 complaint relate to the answering Defendants, these answering Defendants
10 denies them.

11
12 112. Insofar as the allegations as set forth in paragraph 112 of the
13 complaint relate to the answering Defendants, these answering Defendants
14 denies them.

15
16 113. Insofar as the allegations as set forth in paragraph 113 of the
17 complaint relate to the answering Defendants, these answering Defendants
18 denies them.

19
20 114. Insofar as the allegations as set forth in paragraph 114 of the
21 complaint relate to the answering Defendants, these answering Defendants
22 denies them.

23
24 115. Insofar as the allegations as set forth in paragraph 115 of the
25 complaint relate to the answering Defendants, these answering Defendants
26 denies them.

EIGHTH CLAIM FOR RELIEF

Intentional Interference With Prospective Economic Advantage

(GoDaddy Against All Defendants)

117-125. These paragraphs require no response from Defendants as they were dismissed from Plaintiff's complaint following the Court's February 14, 2018 order.

NINTH CLAIM FOR RELIEF

Accounting

(By GoDaddy Against All Defendants)

126. Defendants repeat and incorporates by reference its responses to the statements and allegations of paragraphs 1-125 of the complaint as set forth hereinabove.

127. Insofar as the allegations as set forth in paragraph 127 of the complaint relate to the answering Defendants, these answering Defendants denies them.

128. Insofar as the allegations as set forth in paragraph 128 of the complaint relate to the answering Defendants, these answering Defendants denies them.

1 **AFFIRMATIVE DEFENSES**

2 As for its Affirmative Defenses, Defendants allege as follows:

3 **FIRST AFFIRMATIVE DEFENSE**

4 **(Failure to State Facts Sufficient to Constitute a Cause of Action)**

5 1. The Complaint fails to state facts sufficient to constitute a cause of
6 action against Defendants.
7

8 **SECOND AFFIRMATIVE DEFENSE**

9 **(Mitigation of Damages)**

10 2. Plaintiff is not entitled to any damages based on the allegations in
11 the Complaint because Plaintiff failed to mitigate its damages as required by
12 law and, therefore, Plaintiff cannot recover damages that could have been
13 reasonably avoided if appropriate mitigation efforts had been made.
14
15

16 **THIRD AFFIRMATIVE DEFENSE**

17 **(Fair Use/Collateral Use)**

18 3. Plaintiff's claims are barred by the doctrine of fair use/collateral
19 use.
20

21 **FOURTH AFFIRMATIVE DEFENSE**

22 **(Intervening Acts)**

23 4. Whatever damages were incurred by Plaintiff was the result of
24 intervening and superseding acts or admissions of parties over whom
25
26

1 Defendants have no control.

2 **FIFTH AFFIRMATIVE DEFENSE**

3
4 **(Laches)**

5 5. Plaintiff's claims are barred by the doctrine of laches.

6 **SIXTH AFFIRMATIVE DEFENSE**

7
8 **(Estoppel)**

9 6. Plaintiff's claims are barred by the doctrine of estoppel.

10 **SEVENTH AFFIRMATIVE DEFENSE**

11
12 **(Waiver)**

13 7. Plaintiff's claims are barred by the doctrine of waiver.

14 **EIGHTH AFFIRMATIVE DEFENSE**

15
16 **(Authorized Use)**

17 8. Plaintiff authorized, impliedly or explicitly, Defendants' allegedly
18 infringing use of its works, and Plaintiff's claims are therefore barred by the
19 doctrine of implied license.
20

21 **NINTH AFFIRMATIVE DEFENSE**

22
23 **(License, Consent, Acquiescence)**

24 9. Plaintiff's claims are barred by Plaintiff's license, consent, and
25 acquiescence to Defendants' use.
26

27 **TENTH AFFIRMATIVE DEFENSE**

1 **(Forfeiture or Abandonment)**

2 10. Plaintiff's claims are barred to the extent it has forfeited or
3 abandoned its intellectual property.
4

5 **ELEVENTH AFFIRMATIVE DEFENSE**

6 **(Unclean Hands)**

7
8 11. Plaintiff's claims are barred by the doctrine of unclean hands.

9 **TWELFTH AFFIRMATIVE DEFENSE**

10 **(Innocent Intent)**

11
12 12. Plaintiff's claims are barred, in whole or in part, because
13 Defendants' conduct was in good faith and with non-willful intent, at all times.

14 **THIRTEENTH AFFIRMATIVE DEFENSE**

15 **(Lack of Volitional Act)**

16
17 13. Plaintiff's claims are barred because the alleged infringement was
18 not caused by a volitional act attributable to Defendants.
19

20 **FOURTEENTH AFFIRMATIVE DEFENSE**

21 **(Statute of Limitations)**

22 14. Plaintiff's claims are barred by the applicable statute of
23 limitations.
24

25 **FIFTEENTH AFFIRMATIVE DEFENSE**

26 **(Failure to Allege Fraud with Particularity)**

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15. The Complaint, and each allegation of fraud and misrepresentation therein, fails to aver the circumstances constituting fraud with particularity in accordance with Federal Rule of Civil Procedure 9(b), and all such allegations should accordingly be dismissed.

SIXTEENTH AFFIRMATIVE DEFENSE

(Non-Infringement)

16. Defendants have not infringed any applicable trademarks under federal or state law.

SEVENTEENTH AFFIRMATIVE DEFENSE

(No Causation)

17. Plaintiff’s claims against Defendants are barred because Plaintiff’s damages, if any, were not caused by Defendants.

EIGHTEENTH AFFIRMATIVE DEFENSE

(No Damage)

18. Without admitting that the Complaint states a claim, there has been no damage in any amount, manner or at all by reason of any act alleged against Defendants in the Complaint, and the relief prayed for in the Complaint therefore cannot be granted.

NINETEENTH AFFIRMATIVE DEFENSE

(Lack of Irreparable Harm)

1 19. Plaintiff's claims for injunctive relief are barred because Plaintiff
2 cannot show that it will suffer any irreparable harm from Defendants' actions.
3

4 **TWENTIETH AFFIRMATIVE DEFENSE**

5 **(Adequacy of Remedy at Law)**

6 20. The alleged injury or damage suffered by Plaintiff, if any, would
7 be adequately compensated by damages. Accordingly, Plaintiff has a complete
8 and adequate remedy at law and is not entitled to seek equitable relief.
9

10 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

11 **(Punitive Damages)**

12 21. Plaintiff's claims for punitive damages are barred, in whole or in
13 part, because punitive damages are not recoverable in cases brought under the
14 Lanham Act.
15

16 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

17 **(Lack of Standing)**

18 22. Plaintiff lacks standing to sue under Cal. Bus & Prof. Code 17200
19 *et. Seq.* because it has not suffered an injury in fact and a loss of money or
20 property.
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23 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

24 **(Undiscovered Defenses)**

25 23. Defendants reserves the right to amend or add such additional
26
27

1 separate affirmative defenses that may become available during discovery or at
2 trial and conform any such additional defenses that it may have to the evidence
3 as permitted by Fed.R.Civ.P. 15(b).
4

5
6 WHEREFORE, Defendants pray for the following relief:

- 7 1. That Plaintiff take nothing by its Complaint;
- 8 2. That the Complaint be dismissed as to Answering Defendants, with
9 prejudice;
- 10 3. Award Answering Defendants their reasonable costs and attorneys'
11 fees; and,
- 12 4. For such other and further relief as the Court deems just and proper.
13

14 Dated: February 28, 2018

LAW OFFICE OF BRENDA A. PRACKUP

15
16 By: /s/ Brenda A. Prackup

Brenda A. Prackup

17 Attorney For Defendants Usman Anis
18 and Silicon Valley Graphic, LLC d/b/a
19 Silicon Valley Graphics
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DEMAND FOR JURY TRIAL

Defendants hereby demand trial by jury of all issues that are so triable in this action.

Dated: February 28, 2018 LAW OFFICE OF BRENDA A. PRACKUP

By: /s/ Brenda A. Prackup
Brenda A. Prackup
Attorney For Defendants Usman Anis
and Silicon Valley Graphic, LLC d/b/a
Silicon Valley Graphics

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CERTIFICATE OF SERVICE

I hereby certify that on the below date, a copy of the foregoing document was filed electronically, with the Court’s CM/ECF, which will provide notice of the same on the parties.

Dated: February 28, 2018

LAW OFFICE OF BRENDA A. PRACKUP

By: /s/ Brenda A. Prackup

Brenda A. Prackup

Attorney For Defendants Usman Anis
and Silicon Valley Graphic, LLC d/b/a
Silicon Valley Graphics