

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

VULCAN GOLF, LLC, JOHN B. :  
SANFILIPPO & SON, INC., :  
BLITZ REALTY GROUP, INC., :  
and VINCENT E. "BO" JACKSON, :  
Individually and on Behalf of All :  
Others Similarly Situated, :

Case No. 07CV3371

Plaintiffs,

: Judge Manning

v.

:

: Magistrate Judge Brown

GOOGLE INC., OVERSEE.NET, :  
SEDO LLC, DOTSTER, INC., AKA :  
REVENUEDIRECT.COM, :  
INTERNET REIT, INC. d/b/a IREIT, INC., :  
and JOHN DOES I-X, :

Defendants. :

**DEFENDANTS' CONSOLIDATED MOTION TO DISMISS  
THE THIRD AMENDED CLASS ACTION COMPLAINT**

Defendants Google, Inc. ("Google"), Oversee.net ("Oversee"), Sedo LLC ("Sedo"), Dotster, Inc., aka RevenueDirect.com ("Dotster"), and Internet Reit, Inc. d/b/a Ireit, Inc. ("Ireit") (collectively "Defendants"), jointly move pursuant to this Court's Order of April 14, 2008 to dismiss with prejudice Plaintiffs' RICO (Counts I-III); unjust enrichment (Count XII); and conspiracy (Count XIII) claims in the Third Amended Class Action Complaint ("TAC"); as well as Plaintiffs' claim under Section 32 of the Lanham Act as to Bo Jackson (Count V); Plaintiffs' dilution claim as to Blitz Realty (Count VII); and portions of Plaintiffs' claim for interference with prospective economic advantage (Count XI); for the reasons set forth in the Consolidated Memorandum of Law filed contemporaneously with this Motion and incorporated herein by reference. In support of this Motion, Defendants state as follows:

1. This is a purported class action brought by four plaintiffs who allege that they own various distinctive or valuable trademarks. As they have done since filing their initial complaint on June 15, 2007, Plaintiffs allege that the Defendants infringe Plaintiffs' trademarks

by alleged “cybersquatting” and seek various kinds of relief under a laundry list of theories. Defendants have moved to dismiss each of the iterations of Plaintiffs’ claims.

2. On March 20, 2008, this Court granted Defendants’ Motion to Dismiss the following claims, but granted leave to replead: (1) RICO; (2) trademark infringement as to Plaintiff Jackson; (3) dilution of trademark as to Plaintiff Blitz; (4) Illinois Consumer Fraud and Deceptive Trade Practices Act (“ICFDTPA”); (5) declaratory judgment; (6) intentional interference with current economic advantage; (7) unjust enrichment; and (8) civil conspiracy. *Vulcan Golf, LLC v. Google Inc.*, 2008 U.S. Dist. LEXIS 22155, at \*85 (N.D. Ill. Mar. 20, 2008).

3. On April 18, 2008, Plaintiffs filed their Third Amended Complaint (“TAC”) which re-alleges the same counts as the (First) Amended Complaint, minus the counts for violation of the ICFDTPA and declaratory judgment, and with an additional RICO count under 18 U.S.C. § 1962(a).

4. Plaintiffs’ TAC fails to remedy the problems which led this Court to dismiss its predecessor. As set forth more fully in the Memorandum of Law in Support of the Consolidated Motion to Dismiss filed contemporaneously with this Motion, Plaintiffs’ RICO (Counts I-III); unjust enrichment (Count XII); and conspiracy (Count XIII) counts should be dismissed with prejudice as suggested by the Court’s March 20 opinion and order. Plaintiffs’ claim under Section 32 of the Lanham Act as to Bo Jackson (Count V); Plaintiffs’ dilution claim as to Blitz Realty (Count VII); and portions of Plaintiffs’ claim for interference with prospective economic advantage (Count XI) also should be dismissed with prejudice by reason of Plaintiffs’ failure on their third try to cure the legal defects in those claims.

WHEREFORE, Defendants respectfully request that this Court grant their Consolidated Motion to Dismiss and dismiss with prejudice the RICO (Counts I-III); unjust enrichment (Count XII); conspiracy (Count XIII); Lanham Act as to Bo Jackson (Count V); dilution as to Blitz Realty (Count VII); and portions of the interference with prospective economic advantage (Count XI) claims and award Defendants such other and further relief as the Court deems just.

Dated: May 2, 2008

Respectfully submitted,

/s/ Mariah E. Moran

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on May 2, 2008, a true and correct copy of the foregoing **DEFENDANTS' CONSOLIDATED MOTION TO DISMISS THE THIRD AMENDED CLASS ACTION COMPLAINT** was electronically filed with the Clerk of the Court for the Northern District of Illinois using the CM/ECF system. Notice of this filing will be sent to all counsel of record by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF system.

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