

EXHIBIT “A”

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

VULCAN GOLF, LLC, JOHN B.	§	
SANFILIPPO & SONS, INC.,	§	
BLITZ REALTY GROUP, INC.,	§	
and VINCENT E. "BO" JACKSON,	§	
Individually and on Behalf of All	§	
Others Similarly Situated,	§	Civil Action No. 07 CV 3371
	§	
Lead Plaintiffs,	§	
	§	Honorable Blanche M. Manning
v.	§	
	§	Magistrate Judge Geraldine Soat 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.	§	

MOTION FOR PRELIMINARY INJUNCTION

Class Plaintiffs, individually and on behalf of the putative class, file this Motion for Preliminary Injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure.

I. INTRODUCTION

1. Defendants’ ongoing and intentional use and monetization of Deceptive Domains, and associated misconduct (as set forth more fully in the First Amended Complaint (hereinafter “FAC”)), has necessitated this Motion for Preliminary Injunctive Relief. Further, Defendant Google’s and Defendant Domain Sponsor’s use and monetization of Deceptive Domains that are obscene and pornographic (incorporating Class Plaintiff “Bo Jackson” in the domain name) and, that contain shockingly elicit, offensive, obscene and pornographic words, images, and advertisements require immediate injunctive relief to prevent further irreparable harm to the

good reputation of Class Plaintiff Bo Jackson. Likewise, pornographic and obscene Domain Names that contain putative class members' Distinctive and Valuable Marks are equally injurious to their goodwill, reputations, business and personal property. Such conduct must be stopped.

2. Since the filing of the FAC, Class Plaintiffs have both verbally (at the Rule 26 Conference and over the telephone) and in writing, demanded that Defendants cease monetization and use of Deceptive Domains that infringe upon the Class Plaintiffs' and putative class members' Distinctive and Valuable Marks. After repeated and continued ongoing violations, on October 4, 2007 Class Plaintiffs made a final warning to Defendants to once again cease use and monetization of Deceptive Domains or Class Plaintiffs would be forced to seek Court intervention. *See Attached Correspondence Between The Parties, Exhibit "A"*.

3. In response to Class Plaintiffs' October 4, 2007 correspondence, Defendants once again made insincere agreements to cease use and monetization of Deceptive Domains that infringe upon the Distinctive and Valuable Marks belonging to Class Plaintiffs¹, apparently doing so in a calculated attempt to prevent Class Representatives from seeking this Court's intervention.

4. However, despite repeated verbal and written assurances, Defendants have not stopped use and monetization of Deceptive Domains, but rather, they continue to brazenly taste, register, use, engage in cybersquatting, cyberpiracy, typosquatting, hijacking of traffic, monetization of Deceptive Domains and other clearly injurious and illegal conduct that damages Class Plaintiffs' and the putative class members' property and reputations. Defendants continue

1. Defendants even made false representations to this Court that they had ceased use and monetization of Deceptive Domains infringing upon Class Plaintiffs' Distinctive and Valuable Marks. *See Google Motion to Dismiss, 2, 5.*

said conduct on an outrageous scale, with millions of violations occurring just since the filing of the FAC.

5. Defendant Google and Defendant Domain Sponsor have placed obscene and pornographic advertisements on pornographic/obscene Deceptive Domains containing Class Plaintiff Bo Jackson's good name, including: BoJacksonNude.com; BoJacksonSex.com; BoJacksonPorn.com; xxxbojackson.com; bojacksonxxx.com; and bojacksonsporn.com. *See attached Exhibit "B"*.

6. Following are just a few examples of Deceptive Domains used and monetized since November 13, 2007 by the Defendants:

BlitzRealtyGrup.com
BoJacksonNude.com
BoJacksonSex.com
BoJacksonPorn.com
buyfishernuts.com
vulgangolf.com
vulcingolf.com
vulcengolf.com
blitzrealtygrop.com
bojacksonsporn.com
vulkangolf.com
bojacksonxxx.com
xxxbojackson.com
bojacksonpics.com

The screenshots associated with these Deceptive Domains are attached hereto as *Exhibit "B"*.

7. To demonstrate the sheer egregiousness and deception of Defendants, Class Plaintiffs have chosen to identify Deceptive Domains registered and monetized by Defendants in the very short period since the filing of their Reply Memorandums on November 13, 2007. There are many additional examples that Class Plaintiffs can provide the Court, if desired. Since

November 13, 2007, one or more of the Defendants have registered and monetized the Deceptive Domains shown in *Exhibit "C"*.

8. Defendants' outrageous conduct, requiring preliminary injunctive relief, includes, but is not limited to:

- A. Generating revenue from obscene, elicit, offensive, and pornographic advertisements on Deceptive Domains containing Class Representative Bo Jackson's name, after the filing of the FAC and after the date Defendants represented to this Court (in their briefings in support of their motions to dismiss) that they had ceased monetizing Deceptive Domains that infringe on Class Plaintiffs' Distinctive and Valuable Marks;
- B. Continued tasting, registration, cybersquatting, typosquatting, kiting, cyberpiracy, monetization and use of Deceptive Domains, and other conduct as alleged in more detail in the FAC, on an ongoing and continuous basis, despite representations to this Court and the Class Plaintiffs that they would and have ceased said conduct; and
- C. Just since November 13, 2007, the date of Defendants' filing of Reply Memorandums in Support of their Motions to Dismiss, Defendants have registered and monetized **43** Deceptive Domains that blatantly infringe on Class Representatives' Distinctive and Valuable Marks and thousands of Deceptive Domains infringing on the class members' Distinctive and Valuable Marks.

9. The nature of the injuries being suffered by Class Plaintiffs and the putative class (loss of goodwill, reputation, customers, confusion, dilution, etc.), in conjunction with the highly obscene/offensive/pornographic advertisements placed on many Deceptive Domains, results in irreparable harm and makes legal remedies inadequate, thus necessitating preliminary injunctive relief.

II. DECEPTIVE DOMAINS USED SINCE FILING OF COMPLAINT

10. Each of the above Deceptive Domains share the following common characteristics:

- i. Parked Domains (as defined in ¶83.v. of First Amended Complaint);

- ii. Advertising Only/Non-Content sites;
- iii. Domain names in which Defendants have no legitimate business, legal, property, or commercial right;
- iv. Domain Names that contain all or a significant portion of Class Plaintiffs' business or personal names; and
- v. Each Deceptive Domain generates revenue that is used, distributed and shared by Defendants, as set forth in the Deceptive Domain Scheme alleged in the FAC.

11. Five of the above Deceptive Domains contain highly offensive, elicit, obscene and pornographic language, images, and advertisements both in the Domain Name itself, and on the associated website: Bojacksonsex.com, Bojacksonporn.com, Bojacksonnude.com, NudeBojackson, and BoJacksonNaked.com.

III. INJURY TO THE CLASS REPRESENTATIVES

12. Each Plaintiff owns Distinctive and Valuable Marks that they are entitled to have protected, as plead in the FAC. (FAC ¶¶22, 27, 31, 36, 66.)

13. Defendants are, and have been, aware that Class Plaintiffs are the rightful owners of the Distinctive and Valuable Marks.

14. Defendants knowingly disregard Class Plaintiffs' rights and interests.

15. Class Plaintiffs are each suffering irreparable harm as a direct and proximate result of Defendants' use and monetization of Deceptive Domains that infringe their Distinctive and Valuable Marks, cyberpiracy, cybersquatting, typosquatting, tasting, kiting, hijacking/redirecting internet traffic away from Class Plaintiffs, and other such illegal conduct as set forth in more detail in the FAC.

16. Class Plaintiff Bo Jackson has and is suffering irreparable harm to his reputation, good name, and the goodwill associated with his name by Defendants' monetization of

offensive/pornographic Deceptive Domains (containing his name) with elicit, offensive, obscene and pornographic advertisements, including but not limited to: Teen Pornography, Gay Pornography, Ethnic Pornography (Asian, Black, etc.), “Big Tits,” “XXX,” “Cheap Porn,” “Eva Longoria Nude.” *See Exhibit “B.”*

17. Class Plaintiff Bo Jackson does not condone, authorize, or support in any way the sexual exploitation of teens, exploitation of famous people such as “Eva Longoria,” exploitation of and promotion of ethnic and racial pornography/obscenities, exploitation of female or male sexuality and degradation of humans through any form of pornography, elicit, and/or obscene material.

18. Class Plaintiff Bo Jackson did not grant any of the Defendants any rights, licenses, permission, or otherwise support, condone or accept the association of his good name with the highly offensive, obscene, pornographic and elicit material and advertisements on the Deceptive Domains containing the “Bo Jackson” name.

19. Class Plaintiff Bo Jackson has not been compensated or received any income from the registration, use, and /or monetization of said Deceptive Domains.

20. There is no adequate remedy at law for the injury to reputation, goodwill, distress and humiliation that Defendant Google and Defendant Domain Sponsor are currently causing Plaintiff Bo Jackson by associating his good name with shocking and offensive obscene material.

21. All Defendants routinely generate money from use of elicit/obscene/pornographic Deceptive Domains and the placement of obscene and pornographic internet advertisements on Deceptive Domains without the consent or permission of the rightful owner.

IV. INJURY TO THE PUTATIVE CLASS

22. Like Class Representatives, each putative class member is and continues to suffer

irreparable harm as a direct and proximate result of Defendants' use and monetization of Deceptive Domains that infringe upon their Distinctive and Valuable Marks, cyberpiracy, cybersquatting, typosquatting, kiting, tasting, hijacking/redirecting internet traffic away from Class Plaintiffs, and other illegal conduct as set forth in more detail in the FAC.

23. Injury and damage to goodwill, reputation, mark value, lost business, diversion of internet traffic and other such injuries can be difficult to measure, and therefore result in irreparable harm.

24. Defendants' ongoing illegal conduct, even since the filing of the FAC, is egregious and implicates the rights and property of hundreds of thousands of putative class members. Just a few examples follow (screenshots of said Deceptive Domains are provided in *Exhibit "D"*):

Deceptive Domain	Defendants	Category of Mark	Class Member
BrittneySpears.info	SEDO/GOOGLE	Famous Person	Brittney Spears
JustinTimberlake.info	SEDO/GOOGLE	Famous Person	Justin Timberlake
expressfashion.com	GOOGLE	Retail Store	Express Fashion
applecomputers.com	GOOGLE	Software/PC Manufacturing	Apple
sonie.com	SEDO/GOOGLE	Electronics	Sony
panasoni.com	GOOGLE	Electronics	Panasonic
Guci.com	GOOGLE	Retail Store	Gucci
tmobilde.de	SEDO/GOOGLE	Wireless Provider	Tmobile
Wii-fitness.co.uk	SEDO/GOOGLE	Video Game Systems	Nintendo
Tompetty.info	SEDO/GOOGLE	Famous Person	Tom Petty
samsclub.com	OVERSEE	Retail Store	Sam's Club
tmwarnercable.com	OVERSEE	Cable Network	Time Warner
myspaced.com	IREIT	Social Network	Myspace
2meninatruck.com	DOTSTER	Moving Company	2 men and a truck
diesny.com	DOMAIN SPONSOR	Entertainment	Disney

25. Even at this early pre-discovery stage in this litigation, there are literally thousands of additional Deceptive Domains that Class Plaintiffs can provide the Court, if the Court so desires, that all share the following common characteristics:

- i. Parked Domains;
- ii. Advertising Only/Non-Content sites;
- iii. Domain names in which Defendants have no legitimate business, legal, property, or commercial right;
- iv. Domain Names that contain all or a significant portion of Class Plaintiffs' business or personal names; and
- v. Each Deceptive Domain generates revenue that is used, distributed and shared by Defendants, as set forth in the Deceptive Domain Scheme alleged in the FAC.

V. LEGAL STANDARD

26. Class Plaintiffs seek a preliminary injunction against all Defendants pursuant to Rule 65 of the Federal Rules of Civil Procedure. Fed.R.Civ.P. 65. A party seeking a preliminary injunction must demonstrate that it has some likelihood of success on the merits, that there is no adequate remedy at law, and that it will suffer irreparable harm if the injunction is not granted. *Am. Gen. Corp. v. DaimlerChrysler Corp.*, 311 F.3d 796, 803 (7th Cir. 2002); *see also Ty, Inc. v. Jones Group, Inc.*, 237 F.3d 891, 895 (7th Cir. 2001). The Seventh Circuit set forth the applicable standard requiring moving parties: "need only demonstrate at the preliminary injunction stage that it has a 'better than negligible' chance of succeeding on the merits so that injunctive relief would be justified." *Id.*

27. Preliminary injunctions are appropriate when serious questions are raised and the balance of hardships tips sharply in the moving party's favor. *Sun Microsystems, Inc. v. Microsoft Corp.*, 188 F.3d 1115, 1119 (9th Cir. 1999); *Southwest Voter Registration Educ. Project v. Shelley*, 344 F.3d 914, 917 (9th Cir. 2003).

28. Preliminary injunctions are often granted in Lanham Act cases involving trademark violations due to the inadequacy of legal remedy for such hard to quantify damages

(loss of goodwill, diversion of business, reputation, etc.). See *Abbott Labs. v. Mead Johnson & Co.*, 971 F.2d 6, 11 (7th Cir. 1992); *International Kennel Club of Chicago, Inc. v. Mighty Star, Inc.*, 846 F.2d 1079, 1084 (7th Cir. 1988); *Ty, Inc. v. Jones Group, Inc.*, 237 F.3d 891 (7th Cir. 2001) citing *Brookfield Communications, Inc. v. West Coast Entm't Corp.*, 174 F.3d 1036, 1045 (9th Cir. 1999) (where the Court explained “[u]sing another’s trademark in one’s metatags is much like posting a sign with another’s trademark in front of one’s store” (*Brookfield*, 174 F.3d, at 1064)).

29. Further, the necessity of preliminary injunctive relief is well-recognized in cybersquatting cases under the Lanham Act, 15 U.S.C. §1115(d). See *Shields v. Zuccarini*, 89 F. Supp. 2d 634, 54 U.S.P.Q.2d (BNA) 1166, 1172 (E.D. Pa. 2000), subs proceedings 2000 WL 1056400 and 2000 WL 1053884 (E.D. Pa. 2000), both aff’d 254 F.3d 476, 59 U.S.P.Q.2d 1207, 1213 (3rd Cir. 2001); *1-800 Contacts, Inc. v. WhenU.com*, 309 F. Supp. 2d 467, 69 U.S.P.Q.2d (BNA) 1337, 195 A.L.R. Fed. 641 (S.D. N.Y. 2003); *Northern Light Technology v. Northern Lights Club*, 97 F. Supp. 2d 96 (D. Mass. 2000), aff’d, 236 F.3d 57 (1st Cir. 2001), cert. denied, 533 U.S. 911, 121 S.Ct. 2263, 150 L. Ed. 2d 247 (2001); *Porsche Cars North America, Inc. v. Spencer*, 55 U.S.P.Q.2d (BNA) 1026, 1032, 2000 WL 641209 (E.D. Cal. 2000); *Advance Magazine Publishers Inc. v. Vogue Intern.*, 123 F. Supp. 2d 790, 801 (D. N.J. 2000); *Electronics Boutique Holdings Corp. v. Zuccarini*, 56 U.S.P.Q.2d (BNA) 1705, 2000 WL 1622760 (E.D. Pa. 2000) (where the court explained that: “It is impossible to determine the number of potential and existing customers diverted from EB’s website by Mr. Zuccarini’s domain misspellings. A user-friendly website is important to EB’s online success. There must be as few steps, or clicks, as possible between initially accessing EB’s website and the completion of the transaction, as each computer click represents a significant amount of time. Those who get lost in the advertisements

may abandon their intention to purchase from EB. Others simply may never find EB's website. These customers may not only be discouraged from shopping at EB online, but may also be discouraged from shopping at EB's outlets in person as well. Furthermore, it is impossible to calculate the loss of reputation and goodwill caused by Mr. Zuccarini's domain misspellings. ..."); *DaimlerChrysler v. The Net, Inc.*, 388 F.3d 201, 203 (6th Cir. 2004), citing *Sporty's Farm L.L.C. v. Sportsman's Market, Inc.*, 202 F.3d 489, 493 (2nd Cir. 2000).

30. Each Class Plaintiff, as well as the putative class members, will suffer irreparable injury if this Court does not require Defendants to immediately cease registration, tasting, kiting, use and monetization of the Deceptive Domains. See *Larson v. Galliher*, 2007 WL 81930 (D. Nev. 2007).

31. **REASONABLE SUCCESS ON THE MERITS:**

A. Defendants have registered and monetized Deceptive Domains that are identical to, or confusingly similar to, Class Plaintiffs' Distinctive and Valuable Marks, without Class Plaintiffs' consent. See 15 U.S.C. §1114(a). This Court can make a simple comparison of the name of the Deceptive Domain and Class Plaintiffs' trademarks/distinctive/valuable marks rather than an assessment of the context in which each is used or the content of the offending website. *HER, Inc. v. RE/MAX First Choice, LLC* 468 F. Supp. 2d 964 (S.D. Ohio 2007), citing *Northern Light Technology v. Northern Lights Club*, 97 F. Supp. 2d 96, 117 (D. Mass. 2000);

B. Defendants violate 15 U.S.C. §1125(d), by their actions in (1) registering, trafficking in, or using Deceptive Domains that are identical to, or confusingly similar to, distinctive and valuable marks owned by Class Plaintiffs and/or the class; and (2) committing the acts with the bad faith intent to profit from Class Plaintiff's marks. See *Rosati's Franchise Sys., Inc. v. Rosati*, 2006 WL 163145, at *5 (N.D. Ill. 2006) (citing 15 U.S.C. §1125(d)(1)). Each of

the Deceptive Domains alleged herein are:

- i. Parked Domains;
- ii. Advertising Only/Non-Content sites;
- iii. Domain names in which Defendants have no legitimate business, legal, property, or commercial right;
- iv. Domain Names that contain all or a significant portion of Class Plaintiffs' business or personal names; and
- v. Each Deceptive Domain generates revenue that is used, distributed and shared by Defendants, as set forth in the Deceptive Domain Scheme alleged in the FAC.

C. Defendants' use of the Deceptive Domains was done with the bad faith intent to profit in violation of 15 U.S.C. §1125(d)(1)(B)(i), in so much as Defendants had no prior use of the domain names for a bona fide offering of goods or services. See *Victoria's Secret Stores v. Artco Equipment Co., Inc.*, 194 F. Supp. 2d 704, 722 (S.D. Ohio 2002), quoting *E. & J. Gallo Winery v. Gallo Cattle Co.*, 12 U.S.P.Q.2d 1657, 1675 (E.D. Cal. 1989) ("a presumption of bad faith arises in a situation such as this where 'the senior user's trademark is famous in the marketplace and where the junior user was aware of the trademark and of its fame.... In these cases, it is inferrable that the junior user adopted the mark for the purpose of profiting from the aura of goodwill surrounding the senior user's mark.'");

D. Additionally, Defendants intend to divert consumers from Class Plaintiffs' and the Putative Class Members' online location to a site accessible under the Deceptive Domain that could harm Class Plaintiffs' and the Putative Class Members' goodwill, reputation, commercial gain, create a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the site, and otherwise damage Class Plaintiffs' and the Putative Class Members' business and property;

E. Defendants routinely offer to transfer, sell, or otherwise assign Deceptive Domains to the mark owner or any third party for financial gain without having used, or having an intent to use, the domain name in the bona fide offering of any goods or services, or the person's prior conduct indicating a pattern of such conduct;

F. Defendants routinely provide material and misleading false contact information when applying for registration of Deceptive Domains, and/or intentionally fail to maintain accurate contact information;

G. Defendants engage in a widespread scheme that involves the registration, trading, acquisition, monetization, and use of multiple domain names which the Defendants know are identical or confusingly similar to marks of others that are distinctive and valuable for the express purpose of generating advertising revenue from diverted traffic and confusion;

H. Defendants otherwise act in a manner that demonstrates bad faith intent to commercially profit from the unauthorized use of Deceptive Domains in violation of 15 U.S.C. §1125(d)(1)(B)(i);

I. Defendants' actions in generating, collecting, transacting in, sharing, and distributing the revenue from their unlawful conduct establishes a RICO violation;

J. As alleged in detail in the FAC and the Motions to Dismiss, Defendants' use of the internet, electronic transmission, common electronic programs, mails and wire are among the several predicate acts that are undisputed and will form the foundation for RICO liability;

K. The FAC contains abundant factual allegations supporting and demonstrating a high likelihood of success on each of the alleged legal claims; and

L. The attached screenshots and specific identification of Deceptive Domains (including Defendants' concerted and intentional unauthorized use and monetization of those

Deceptive Domains) is sufficient to establish liability under each Count of the Complaint.

32. **NO ADEQUATE REMEDY AT LAW EXISTS:** The very nature of Class Plaintiffs' and the putative class members' injuries/damages makes it difficult to assess damages associated with loss of goodwill, reputation, prospective business, diverted internet traffic, etc., and, therefore, such damages are considered to have no adequate remedy at law, and to be irreparable (often involving trademark/Lanham Act claims). *See, e.g., Promatek Indus., Ltd. v. Equitrac Corp.*, 300 F.3d 808, 813 (7th Cir. 2002); *Gateway Eastern Ry. Co. v. Terminal R.R. Ass'n of St. Louis*, 35 F.3d 1134, 1140 (7th Cir. 1994). Courts in this Circuit have held likewise for cybersquatting claims. *International Profit Associates, Inc. v. Paisola*, 461 F.Supp.2d 672 (N.D. Ill. 2006). It is obvious that there is no adequate remedy at law for Class Plaintiff Bo Jackson's unauthorized association with lewd, obscene, offensive and pornographic words, images, and advertisements. Without question, the balance of hardships tips in favor of Class Plaintiffs and the Putative Class because the preliminary injunction will essentially merely place the infringing Deceptive Domains on "hold" or "block" the use and monetization of said domains pending trial (at most causing Defendants to lose some advertising revenue that they are not entitled to anyway), whereas failure to issue the injunction will cause Class Plaintiffs and the Class to suffer and incur continued lost goodwill, dilution, embarrassment, loss of reputation, loss of business, and related property, personal and business damage.

33. **THE INJUNCTION WILL NOT HARM THE PUBLIC INTEREST:** The public interest will be served by requiring Defendants to comply with the law and cease and desist making money from the illegal and unauthorized use of Class Plaintiffs' and the putative class members' property. "The public interest is always served by requiring compliance with Congressional statutes such as the Lanham Act and by enjoining the use of infringing marks."

Quantum Fitness Corp. v. Quantum LifeStyle Centers, L.L.C., 83 F. Supp. 2d 810, 832 (S.D. Tex. 1999). Notably, injunction was expressly contemplated by Congress as a remedy for trademark infringement. See 15 U.S.C. §1125(c)(1); *Pet Silk, Inc. v. Jackson*, 481 F. Supp. 2d 824, 834 (S.D. Tex. 2007).

34. Class Plaintiffs understand that this litigation is in its early pre-discovery stages. However, the damage and injuries being sustained by Class Plaintiffs and the putative class members are irreparable in nature. Unfortunately, Defendants refuse to voluntarily cease said conduct and have chosen blatant disregard for the law, in order to reap the financial benefits of their misconduct.

VI. CONCLUSION

35. Defendants are responsible for running their business operations legally, in a manner that complies with federal and state law. Defendants have a duty to design and maintain their programs, systems and operations in a fashion that ensures compliance with the law, respect for the property rights of other citizens, and avoids the taking and use of rights/property that does not belong to Defendants. Like any other business, the responsibility to act legally lies with Defendants. If they cannot run their businesses without myriad ongoing violations, then the internet advertising and monetization aspect of their business must cease. If Defendants are not willing to voluntarily implement the available and appropriate blocking and filtering technologies, or if they posit that such technologies cannot be reasonably employed in their respective current business models/operations, than said operations must end.

VII. PRAYER FOR RELIEF

WHEREAS, Defendants refuse to cease and desist their illegal conduct detailed herein and in the FAC, without Court intervention, Class Plaintiffs respectfully request that this Court

enter a Preliminary Injunction against all Defendants, granting relief as follows:

1. All Defendants ordered to immediately cease and desist tasting, kiting, registration, monetization, sale, trafficking in, cybersquatting, typosquatting, cyberpiracy, and/or other use of Deceptive Domains that infringe on the Class Plaintiffs' and the Putative Class Members' Distinctive and Valuable Marks;
2. Defendant Google ordered to provide the Court with the domain name and associated reports (traffic statistics, revenue statistics, etc.) of every domain name that has displayed Google controlled advertising, participated in its AdSense for Domains program, been used to generate revenue from advertisements, and/or has otherwise been monetized by Google;
3. All other Defendants ordered to provide the Court with the domain name and associated reports (traffic statistics, revenue statistics, etc.) of every domain name under their ownership, license, or control that has displayed Google controlled advertisements, participated in the Google AdSense for Domains program, been used to generate revenue from internet advertisements, and/or has otherwise been monetized by one or more of the Defendants;
4. All Defendants ordered to immediately implement Court-approved, appropriate blocking and filtering technology to prevent use and monetization of Deceptive Domains and the other illegal conduct alleged in the FAC;
5. If one or more of the Defendants cannot implement appropriate blocking and filtering technologies, those Defendants shall be enjoined from all internet advertising and other monetization of any domains until an appropriate blocking and filtering system can be implemented and approved by the Court;
6. Order a constructive trust over all revenue generated by any of the Defendants from the use and/or monetization of Deceptive Domains;
7. Sanction Defendants for their blatant misrepresentations to this Court that they have stopped the registration, use, and monetization of Deceptive Domains that infringe upon Class Plaintiffs;
8. Award reasonable attorneys' fees and costs associated with the filing of this Motion; and
9. Award any and all such other relief as this Court deems just and appropriate.

FOOTE, MEYERS, MIELKE & FLOWERS, LLC

By: /s/ Robert M. Foote
One of Their Attorneys

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Individually and on Behalf of All	§	
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	§	
Lead Plaintiffs,	§	
	§	Honorable Blanche M. Manning
v.	§	
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INTERNET REIT, INC. d/b/a IREIT, INC.,	§	
and JOHN DOES I-X,	§	
	§	
	§	
Defendants.	§	

CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2008, I electronically filed the foregoing document with the clerk of court for the U. S. District Court, Northern District of Illinois, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means:

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s/Robert M. Foote

EXHIBIT “B”

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

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

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Civil Action No. 07 CV 3371

Lead Plaintiffs,

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§

Honorable Blanche M. Manning

v.

§
§

Magistrate Judge Geraldine Soat 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,

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Defendants.

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SUPPLEMENT TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Class Plaintiffs respectfully submit this Supplement to Plaintiffs' Motion for Preliminary Injunctive Relief, and in so doing states as follows:

1. This supplementary filing is necessitated by Defendants' outrageous conduct since the filing of the original Motion for Preliminary Injunctive Relief, which includes: (1) New registrations, tasting, monetization and other use of Deceptive Domains belonging to and/or infringing on Class Plaintiffs' Distinctive and Valuable Marks, (2) Continued use and monetization of Deceptive Domains identified in the Motion for Preliminary Injunctive Relief and correspondence from Class Counsel; and (3) New monetization with *pornographic* advertisements of Deceptive Domains infringing upon Class Plaintiff JBSS. Defendants have blatantly and willfully engaged in the ongoing unauthorized use and monetization, despite

repeated notice and the January 3, 2008 filing of the Motion for Preliminary Injunctive relief.

a. Pornographic Monetization

2. Defendant Google continues to brazenly disregard their obligations to comport with the law. Even after the filing of the Motion for Injunctive Relief, they chose to *expand* their monetization of Deceptive Domains with pornographic advertisements beyond Class Plaintiff Bo Jackson to Class Plaintiff JBSS (Fisher Nuts parent company). Defendant Google monetized the Deceptive Domain www.foshernuts.com (just 1 character deviation from Class Plaintiff JBSS's website www.fishernuts.com) with pornography advertisements. *Copy of Screenshots are attached hereto as Exhibit A.*

3. Defendant Google willfully and intentionally generated revenue from the use and monetization (with pornography ads) of the Deceptive Domain www.foshernuts.com, in blatant disregard for the reputation, goodwill, or interests of Class Plaintiff JBSS.

4. As with Class Plaintiff Bo Jackson, Class Plaintiff JBSS has and is suffering irreparable harm to its reputation, good name, and the goodwill associated with its company by Defendants' monetization of Deceptive Domains with said explicit, offensive, obscene and pornographic advertisements.

5. Class Plaintiff JBSS does not condone the degradation of humans through any form of pornography, explicit, and/or obscene material. Class Plaintiff JBSS's Fisher Nuts is in the wholesome business of selling nut products nationwide. Association with pornography, in any manner, is injurious to its business and reputation.

6. Class Plaintiff JBSS did not grant any of the Defendants any rights, licenses, permission, or otherwise support, condone or accept the association of its products, good name, goodwill, companies, or other business property and assets with the highly offensive, obscene,

pornographic and explicit material and advertisements on monetized Deceptive Domains containing pornography ads.

7. Class Plaintiff JBSS has not been compensated or received any income from the advertisements and obscenities associated with pornography ads on Deceptive Domains.

8. There is no adequate remedy at law for the injury to reputation, goodwill, business, and property that Defendants are causing Plaintiff JBSS by associating its good name with shocking and offensive obscene material.

9. Defendant Google routinely generates revenue from obscene and pornographic internet advertisements placed on Deceptive Domains without the consent or permission of the rightful owner. Its actions against Class Plaintiffs Bo Jackson and JBSS are illustrative of its common and substantially similar misconduct toward millions of putative class members.

10. Without immediate Court intervention, Defendant Google's continued blatant misconduct and disregard for the rights of Class Plaintiffs and the putative class members will unfortunately continue. In fact, Defendant Google's most recent new monetization with pornographic ads of www.foshernuts.com is demonstrative of its intentions to continue and expand its unauthorized and illegal conduct.

b. Deceptive Domains Still In Use and New Deceptive Domains

11. Defendants continue to use Deceptive Domains contained in the Motion for Injunctive Relief even after the January 3, 2008 filing of the Motion.

12. Defendants further register, taste, kite, monetize and otherwise use New Deceptive Domains subsequent to the January 3, 2008 filing of the Motion for Injunctive Relief, including but not limited to:

Domain Name	Parking Company	Date Registered
vulcaingolf.com	Google/Unnamed	Jan. 10, 2008
wwwblitzrealtygroup.com	Google/Unnamed	Jan. 12, 2008
blitzrealtygroupagents.com	Google/Unnamed	Jan. 12, 2008
Fihsernuts.com	Google/Unnamed	Jan. 15, 2008
jbssiinc.com	Google/Unnamed	Jan. 15, 2008
bojacksoncars.com	Google/Unnamed	Jan. 15, 2008
Fisherntus.com	Google/Unnamed	Jan. 15, 2008
fisshernuts.com	Google/DomainSponsor	Jan. 20, 2008
fishernuts.com	Google/DomainSponsor	Jan. 20, 2008
bojacksoncleats.com	Google/Unnamed	Jan. 19, 2008
Fishernurs.com	Google/DomainSponsor	Jan. 20, 2008
foshernuts.com foshernuts.com	Google/DomainSponsor Google/Unnamed *note foshernuts.com was used at 2 parking companies Domainsponsor first and then an unnamed parking company for porn ads	Jan. 20, 2008
Vulcangolfgifts.com	Google/DomainSponsor	Jan. 20, 2008
bojacksontrainershoe.com	Google/Sedo	Jan. 24, 2008
Bitzrealtygroup.com	Google/Unnamed	Jan. 23, 2008
bojacksonfootballs.com	Google/Unnamed	Jan. 22, 2008
bojacksonbaseballcamp.com	Google/Unnamed	Jan. 21, 2008
bojacksonfootballcamp.com	Google/Unnamed	Jan. 22, 2008
bojacksonsfootballcamp.com	Google/Unnamed	Jan. 21, 2008
boojackson.com	Google/Unnamed	Jan. 23, 2008
fishernutssales.com	Google/DomainSponsor	Jan. 19, 2008
fisherspeanuts.com	Google/DomainSponsor	Jan. 18, 2008
fishernuuts.com	Google/Unnamed	Jan. 24, 2008
mailfishernuts.com	Google/Unnamed	Jan. 23, 2008

c. Continued Tasting and Kiting of Deceptive Domains

13. Defendant Google and the other Defendants continue to “taste,” “kite,” use and monetize tasted domains. Tasting and kiting of domains is a process where Defendant Google and the other Defendants exploit the Add Grace Period (“AGP” is the five day period from registration of a domain where certain registrars can delete a domain at no cost) by registering millions of temporary sites and then monetizing those sites with advertisements.

14. A large majority of the “tasted” and “kited” domains are Deceptive Domains that infringe upon Class Plaintiffs and the putative class members’ Distinctive and Valuable marks. For example, www.bojacksontrainershoe.com is a Deceptive Domain that Defendant Sedo tasted and, in conjunction with Defendant Google, monetized and shared the resultant revenue.

15. Tasting and kiting allow Defendants to generate revenue (largely from the unauthorized use and monetization of Deceptive Domains) without paying for the Deceptive Domain or maintaining the Deceptive Domain past the AGP period (5 days). By deleting the name during the five day period, Defendants willfully attempt to conceal their connection to the illegal use and monetization of Deceptive Domains.

16. As part of the Deceptive Domain Scheme set forth in the First Amended Complaint (“FAC”), Defendants engage in a domain tasting cycle where the exact same Deceptive Domains are repeatedly tasted, monetized, and deleted. The tasting cycle perpetuates the deception and fraud, and involves generally Defendants’ actions to: register domains, monetize the registered domains for the 5 day AGP period, delete the domains during the AGP period, reregister the exact same domains, remonetize the exact same domains, and again delete the exact same domains during the AGP period. The cycle is ongoing and occurs with respect to millions of domains. Defendants routinely generate revenue and transact in the revenue from said tasting cycle.

17. Defendants generate millions of dollars during each five day period from monetizing tasted domains, many of which are Deceptive Domains. Defendants are using tasting as a lucrative revenue generating component of the Deceptive Domain Scheme set forth in Class Plaintiffs’ First Amended Complaint.

18. Despite Class Plaintiffs' FAC, Motion for Preliminary Injunctive Relief, and requests by Class Counsel to Defendants, Defendants persist in tasting Deceptive Domains. Illustrative of Defendants' ongoing tasting is the list of New Deceptive Domains just since January 3, 2008 set forth in the Chart in Paragraph 11 herein.

19. Class Plaintiffs have requested that Defendants cease use and monetization of tasted domains, cease use and monetization of Deceptive Domains, and have provided Defendants with lists and examples of such. Nevertheless, Defendants continue to use and monetize tasted domains even after Class Plaintiffs' filing of this action, notice to Defendants, and the filing of the Motion for Preliminary Injunctive Relief.

20. Defendants continued conduct even since the filing of the Motion for Preliminary Injunctive Relief, demonstrates that they are committed to continued use and monetization of tasted domains.

21. Defendants should be enjoined from monetizing domains during the five (5) day Add Grace Period ("AGP"). Specifically, Defendants should be enjoined from placing advertisements, or generating revenue from advertisements, on Deceptive Domains that are less than five days old.

d. Conclusion

22. In addition to the above lists of Deceptive Domains directly related to Class Plaintiffs, Defendants are continuing to transact in revenue generated from use and monetization of millions of Deceptive Domains adversely impacting all class members.

23. Defendants' continued refusal to block Deceptive Domains from their respective systems, continued monetization and transaction in revenue derived from Deceptive Domains,

and Defendants' unwillingness to take reasonable action to prevent further violations demonstrates the willfulness of their conduct and necessity for injunctive relief.

24. Defendants each have an affirmative duty to operate their respective businesses legally. If Defendants cannot engage in a particular business activity without violating the law, then said business activity must cease. In this instance, if Defendants cannot engage in the business of "internet advertising" without the blatant and widespread exploitation, use and monetization of Deceptive Domains that belong to/infringe upon the rights and property of Class Plaintiffs and the putative class, then Defendants have no option but to stop internet advertising. Defendants bear the duty and obligation to run their businesses legally and with respect for the rights and property of other businesses, individuals, and entities.

WHEREFORE, Class Plaintiffs respectfully request that this Court enter a Preliminary Injunction against all Defendants, granting relief as follows:

- a. Enjoining Defendants from placement of advertising on, use, monetization, and/or conduct resulting in the generation of revenue on domains less than five (5) days old;
- b. All Defendants ordered to immediately cease and desist tasting, registration, monetization, sale, trafficking in, or other use of Deceptive Domains that infringe on the Class Representatives' and the Putative Class Members' Distinctive and Valuable Marks;
- c. Defendant Google ordered to provide the Court with the domain name and associated reports (traffic statistics, revenue statistics, etc.) of every domain name (including "tasted domains") that has displayed Google controlled advertising, participated in its AdSense for Domains program, or otherwise been used to generate revenue from advertisements;
- d. All other Defendants ordered to provide the Court with the domain name and associated reports (traffic statistics, revenue statistics, etc.) of every domain name that they have tasted, kited, are under their ownership, license, or control, or that they have received any revenue from the displayed of Google controlled advertisements, participated in the Google AdSense for Domains program, or has otherwise been used to generate revenue from internet advertisements;

- e. All Defendants ordered to immediately implement Court-approved, appropriate blocking and filtering technology to prevent use and monetization of Deceptive Domains;
- f. If one or more of the Defendants cannot implement appropriate blocking and filtering technologies, enjoin those Defendants from all internet advertising until an appropriate blocking and filtering system can be implemented;
- g. Order a constructive trust over all revenue generated by any of the Defendants from the monetization of Deceptive Domains;
- h. Sanction Defendants for their blatant misrepresentations to this Court that they have stopped the registration, use, and monetization of Deceptive Domains that infringe upon Class Plaintiffs;
- i. Award reasonable attorneys' fees and costs for the filing of this Motion; and
- j. Award any and all such other relief as this Court deems just and appropriate.

Respectfully Submitted,

By: /s/ Robert M. Foote
One of Their Attorneys

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s/Robert M. Foote

EXHIBIT “C”

www.vulcangolf.com

Below are sponsored listings for goods and services related to: www.vulcangolf.com

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Hireko Golf
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www.hirekogolf.com

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Sleek & Unique fits all clubs Pick up wet ball & even your marker
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usgolfshop.googlepages.com

Golf
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EXHIBIT “D”

Christi Spring

From: Christi Spring on behalf of Robert Foote
Sent: Monday, August 13, 2007 2:21 PM
To: 'Michael Page'; 'dockterman@wildman.com'; 'satlee@winston.com'; 'Held, Kenneth'; 'jsinger@smsm.com'
Cc: Robert Foote; 'GKEG4@aol.com'; Kathleen Chavez; Mark Bulgarelli
Subject: Vulcan Golf v. Google et al.
Attachments: Vulcan Golf Domain Names.doc

Dear Counsel:

Attached is a list of domain names that we would like blocked. It is our understanding that you will comply with our request to get these names off of your system. As stated in our meeting, we are hopeful that this will avoid our need to seek injunctive relief from the court. This list is not intended to be all inclusive, and we will follow up with any supplements to this list as needed. Thank you very much for your cooperation.

Very truly yours,
Robert M. Foote

8/14/2007

EXHIBIT “E”

Vulcangolfclubs.com

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Tuesday, September 11, 2007

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- + Golf Club Head Covers
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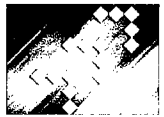
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EXHIBIT “F”

Vulcongolf.com

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Wednesday, October 17, 2007

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- + Golf Photographs
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- + Austads Golf
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- Adult Sex Websites
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- Chino and Sex
- Find Swingers



Foshernuts.com TODAYS TOP LINKS!!

- > Party Sex Toy
- > Asian Babes Cams
- > Free Phone Sex Chat
- > Video Phone Sex

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- Tim Bo Jackson
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About Us

Bo Jackson is a former professional American football player who played for the Oakland Raiders, Pittsburgh Steelers, and Cincinnati Bengals. He was a member of the Pro Football Hall of Fame.

Bo Jackson Biography | Bo Jackson Autograph | Bo Jackson Sneakers | Bo Jackson Football Schedule | Bo Jackson Cards

Bo Jackson Photo | Bo Jackson Baseball Card | Bo Jackson Poster

Vulcaingolf.com

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- ▶ Stonebridge Golf Club
- ▶ Bolingbrook Golf Club

Popular Destination

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- Ucla Cheerleading
- Cheerleaders Cheers
- Ucla Football Schedule
- Ucla Volleyball
- Ucla Notre Dame
- Ucla Team

About Us
The purpose of this website is to provide information on the various activities and events that are taking place at the Bojackson Football Camp. We hope you find this information helpful and interesting.

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