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13 8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 STEVEN BARKET,)
11) Case No.:
12 Plaintiff,)
13)
14 v.)
15 JOHN DOE, and GOOGLE, INC.,) JURY TRIAL DEMANDED
16 Defendants.)
17)
18)

19 **COMPLAINT**

20 TO THE HONORABLE JUDGE OF THE COURT:

21 Plaintiff STEVEN BARKET (“Barket”) files this original complaint against JOHN DOE
22 (“Doe”), and GOOGLE, INC. (“Google”), respectfully showing the Court as follows:

23 **I. INTRODUCTION**

24 In this case Barket asserts violations of the Anticybersquatting Consumer Protection Act, 15 U.S.C.
25 §1125(d) and the Lanham Act, 15 U.S.C. §1125(a) and 15 U.S.C. §8131, and seeks damages, an
26 injunction restraining Doe from infringing Barket’s rights, and a judgment ordering the transfer of the
27 domain <<http://www.blogger.com/profile/10034500688963114971>> and
28

1 || <<http://stevebarket.blogspot.com/>> to Barket.

II. PARTIES

1. Barket is an individual who resides in Clark County, Nevada.
 2. Doe's identity is not known with certainty at this time. Upon discovering his identity, Barket will amend the Complaint and serve him with process under the FEDERAL RULES OF CIVIL PROCEDURE.
 3. Google is a California corporation with its principal place of business located at 1600 Amphitheater Way, Mountain View, CA 94043. See Exhibit 1. Google regularly engages in business in Nevada and has failed to maintain a registered agent pursuant to NRS 80.060. See Exhibit 2. Pursuant to NRS 80.080, NRS 14.030(1), and NRCP 4, process may be served upon the Nevada Secretary of State. In addition, pursuant to NRS 14.030(4) and NRCP 4, a copy of the summons and complaint shall be mailed to the statutory agent for the Defendant located at 2710 Gateway Oaks Dr. Ste. 150N, Sacramento, CA 95833. See Exhibit 1.

III. JURISDICTION AND VENUE

4. Jurisdiction is proper in this Court under 28 U.S.C. §1331 and 1338; as well as 15 U.S.C. §1125 and and 15 U.S.C. §8131. Venue is proper in this Court under 28 U.S.C. §1391(b) and (c). The Court has personal jurisdiction over Defendants because they have conducted business and committed tortious conduct in this judicial district.

IV. FACTUAL BACKGROUND

5. Barket is an individual who resides and works in Clark County, Nevada.
 6. Barket's livelihood is reliant on the internet, as his means of earning a living is through internet based marketing and internet based reputation management.
 7. Due to Barket's profession, his name is well known on the internet and is therefore highly

valuable.

2 | 8. The Infringing Domain Names are identical and similar to that of Plaintiff's name.

3 9. Doe registered the Infringing Domain Names without the consent or authorization of Barket.

4 Doe registered, uses, and is trafficking the Infringing Domain Names with the bad faith purpose
5 of harassing Barket and for preventing Barket from claiming ownership of the Infringing
6 Domain Names.
7

8. Doe's bad faith intent is evident because (1) he has no intellectual property rights in the
9. Infringing Domain Names; (2) his legal name is not embodied in the Infringing Domain
10. Names; (3) he has not previously used the Infringing Domain Names in the past; (4) Doe has
11. provided material and misleading false contact information when applying for the registration
12. of the Infringing Domain Name, and, upon information and belief, Doe's prior conduct
13. indicates a pattern of such conduct; and (5) upon information and belief, Doe has previously
14. registered or acquired multiple domain names which he knows are identical or confusingly
15. similar to marks of others that are distinctive at the time of registration of such domain names,
16. without regard to the effect of the parties.

11. Furthermore, the domains in question are in violation of Google's content policy:

Impersonating others: Please don't mislead or confuse readers by pretending to be someone else or pretending to represent an organization when you don't. We're not saying you can't publish parody or satire - just avoid content that is likely to mislead readers about your true identity.

22 || See Exhibit 3.

23 12. Barket has requested, on more than one occasion, that Google either disable or transfer the
24 offending domains, all to no avail.
25

26 ||

27

V. CAUSES OF ACTION

COUNT 1

(VIOLATION OF 15 U.S.C. §1125(d), THE ANTICYBERSQUATTING CONSUMER PROTECTION ACT)

13. Defendants registered, used and trafficked in the Infringing Domain Names with the bad faith intent to profit from Barket's name.
 14. The name was distinctive at the time Defendants registered the Infringing Domain Names, and it remains distinctive today.
 15. The Infringing Domain Names were identical or confusingly similar to the Barket's name at the time Defendants registered the Infringing Domain Names, and they remain so today.
 16. Defendants' registration, use and trafficking in the Infringing Domain Name has caused, and will continue to cause, damages to Barket, and is causing irreparable harm where there is no adequate remedy at law.
 17. Barket is entitled to temporary and injunctive relief, statutory damages of up to \$100,000, and other damages for Defendants' violation of the Anticybersquatting Consumer Protection Act, 15 U.S.C. §1125(d).
 18. Barket seeks an Order from the Court ordering the transfer of the Infringing Domain Names to himself.

COUNT II

(DECLARATORY JUDGMENT -- DOMAIN NAME OWNERSHIP)

19. An actual controversy has arisen and exists between Barket and Defendants within the meaning of 28 U.S.C. §2201.
 20. By virtue of his registration of the Domain Names, Defendants implicitly contend that they are the rightful owners of the Domain Names to the exclusion of Barket, and that Barket has no

1 ownership rights in or to the Domain Names.

2 21. Barket seeks an order from the Court declaring that it is the sole owner of all right, title and
3 interest in and to the Domain Names.

4 **COUNT III**

5 **(VIOLATION OF 15 U.S.C. §1125(a) AND 15 U.S.C. §8131, THE LANHAM ACT)**

6 22. Barket has been damaged by Defendants conduct in an amount that is within the jurisdictional
7 limits of the Court. Barket is entitled to injunctive and equitable relief against Defendants
8 restraining and enjoining them and all others acting by, through, under or in concert with him
9 from (a) using Barket's name, trade names, or service marks in any manner; (b) registering any
10 domain names that are identical or confusing similar to the name or other trade names,
11 trademarks or service marks of Barket, or assisting, aiding or abetting any other person in
12 engaging in any of the conduct described in sections (a) and (b). Barket asks the Court to enter
13 permanent injunctive relief by exercise of its own equitable powers; and under all applicable
14 statutes and rules of law.

15 **VI. PRAYER**

16 23. Barket respectfully asks the Court to enter judgment against Defendants as follows:
17 (i) Declaring that Barket is the sole and exclusive owner of all right, title and interest of
18 the Domain Names;
19 (ii) Temporary and permanent injunctive relief restraining Doe and all others acting by,
20 through, under or in concert with him from (a) using Barket's name or other Barket
21 trademarks, trade names, or service marks in any manner; (b) registering any domain
22 names that are identical or confusing similar to Barket's name or other trade names,
23 trademarks or service marks of Barket, or which contain misspellings of the name or
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1 other trade names, trademarks or service marks of Barket, or assisting, aiding or
2 abetting any other person in engaging in any of the conduct described in sections (a)
3 and (b);

- 4 (iii) Ordering the transfer of the Infringing Domain Names to Barket;
5 (iv) Awarding to Barket all actual damages caused by Doe;
6 (v) Awarding to Barket exemplary damages against Doe, jointly and severally, in an
7 amount to be determined by the trier of fact;
8 (vi) Awarding to Barket reasonable and necessary attorney's fees pursuant to 15 U.S.C.
9 §1117 and all other applicable statutes and rules of law and equity;
10 (vii) Awarding to Barket all costs of court; and
11 (viii) Awarding to Barket all other relief to which he may be entitled.

12
13 Dated this 13th day of June, 2012.

14
15 COHEN-JOHNSON, LLC

16
17 By: /s/ Brian A. Morris
18 H. STAN JOHNSON, ESQ.
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24 *Attorneys for Plaintiff*

EXHIBIT 1



California Secretary of State Debra Bowen

Secretary of State

Administration Elections **Business Programs** Political Reform Archives Registries**Business Entities (BE)**

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- [Disclosure Search](#)
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(certificates, copies & status reports)[Service of Process](#)[FAQs](#)[Contact Information](#)

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Customer Alerts

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- [Misleading Business Solicitations](#)

Business Entity Detail

Data is updated weekly and is current as of Friday, June 08, 2012. It is not a complete or certified record of the entity.

Entity Name:	GOOGLE INC.
Entity Number:	C2474131
Date Filed:	11/07/2002
Status:	ACTIVE
Jurisdiction:	DELAWARE
Entity Address:	1600 AMPHITHEATRE PARKWAY
Entity City, State, Zip:	MOUNTAIN VIEW CA 94043
Agent for Service of Process:	CORPORATION SERVICE COMPANY WHICH WILL DO BUSINESS IN CALIFORNIA AS CSC - LAWYERS INCORPORATING SERVICE
Agent Address:	2710 GATEWAY OAKS DR STE 150N
Agent City, State, Zip:	SACRAMENTO CA 95833

* Indicates the information is not contained in the California Secretary of State's database.

- If the status of the corporation is "Surrender," the agent for service of process is automatically revoked. Please refer to California Corporations Code [section 2114](#) for information relating to service upon corporations that have surrendered.
- For information on checking or reserving a name, refer to [Name Availability](#).
- For information on ordering certificates, copies of documents and/or status reports or to request a more extensive search, refer to [Information Requests](#).
- For help with searching an entity name, refer to [Search Tips](#).
- For descriptions of the various fields and status types, refer to [Field Descriptions and Status Definitions](#).

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EXHIBIT 2

Nevada Business Search

* Includes Trademarks, Trade Names, Service Marks, Reserved Names & Business Licenses

Search by Entity Name: Include phonetic matches

Sort by Relevance descending ascending **order**

[Search Tips](#)

Search Results 1 - 10 of 10 search results

Entity Name	NV Business ID	Status	Type
GOOGLE ISLAND, L.L.C.	NV20101342899	Revoked	Domestic Limited-Liability Company
GOOGLE MONEY SYSTEMS, LLC	NV20091109514	Revoked	Domestic Limited-Liability Company
GOOGLE OWL, INC.	NV20091163565	Revoked	Domestic Corporation
GOOGLE PAYMENT CORP.	NV20051133290	Active	Foreign Corporation
GOOGLE REALITY GROUP	NV20021431877	Permanently Revoked	Domestic Corporation
GOOGLE TRADING LIMITED PARTNERSHIP	NV20001132287	Permanently Revoked	Domestic Limited Partnership
GOOGLETOMORROWTODAY.COM LLC		Expired	Reserved Name
GOOGLEY HOLDINGS INC.	NV20041611705	Permanently Revoked	Domestic Corporation
GET GOOGLE RANK, LLC.	NV20071676244	Revoked	Domestic Limited-Liability Company
GOD'S GOOGLE LLC		Expired	Reserved Name

1

NOTE: This website has been tested to work with Microsoft Internet Explorer 7 or 8 and Mozilla Firefox 3 or greater.



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EXHIBIT 3



Blogger Content Policy

Blogger is a free service for communication, self-expression and freedom of speech. We believe Blogger increases the availability of information, encourages healthy debate, and makes possible new connections between people.

We respect our users' ownership of and responsibility for the content they choose to share. It is our belief that censoring this content is contrary to a service that bases itself on freedom of expression.

In order to uphold these values, we need to curb abuses that threaten our ability to provide this service and the freedom of expression it encourages. As a result, there are some boundaries on the type of content that can be hosted with Blogger. The boundaries we've defined are those that both comply with legal requirements and that serve to enhance the service as a whole.

Content Boundaries

Our content policies play an important role in maintaining a positive experience for you, the users. Please respect these guidelines. From time to time, we may change our content policies so please check back here. Also, please note that when applying the policies below, we may make exceptions based on artistic, educational, documentary, or scientific considerations or where there are other substantial benefits to the public from not taking action on the content.

Adult Content: We do allow adult content on Blogger, including images or videos that contain nudity or sexual activity. But, please mark your blog as 'adult' in your Blogger settings. Otherwise, we may put it behind a 'mature content' interstitial.

There are some exceptions to our adult content policy:

- Do not use Blogger as a way to make money on adult content. For example, don't create blogs where a significant percentage of the content is ads or links to commercial porn sites.
- No incest or bestiality content: We do not allow image, video or text content that depicts or encourages incest or bestiality.

Child safety: We have a zero tolerance policy towards content that exploits children. Some examples of this include:

- **Child pornography:** We will terminate the accounts of any user we find publishing or distributing child pornography. We will also report that user to law enforcement.
- **Pedophilia:** We do not allow content that encourages or promotes sexual attraction towards children. For example, do not create blogs with galleries of images of children where the collection of images or text accompanying the images is sexually suggestive.

Hate Speech: We want you to use Blogger to express your opinions, even very controversial ones. But, don't cross the line by publishing hate speech. By this, we mean content that promotes hate or violence towards groups based on race, ethnicity, religion, disability, gender,

age, veteran status, or sexual orientation/gender identity. For example, don't write a blog saying that members of Race X are criminals or advocating violence against followers of Religion Y.

Crude Content: Don't post content just to be shocking or graphic. For example, collections of close-up images of gunshot wounds or accident scenes without additional context or commentary would violate this policy.

Violence: Don't threaten other people on your blog. For example, don't post death threats against another person or group of people and don't post content encouraging your readers to take violent action against another person or group of people.

Copyright: It is our policy to respond to clear notices of alleged copyright infringement. More information about our copyright procedures can be found [here](#). Also, please don't provide links to sites where your readers can obtain unauthorized downloads of other people's content.

Personal and confidential information: It's not ok to publish another person's personal and confidential information. For example, don't post someone else's credit card numbers, Social Security numbers, unlisted phone numbers, and driver's license numbers. Also, please keep in mind that in most cases, information that is already available elsewhere on the Internet or in public records is not considered to be private or confidential under our policies.

Impersonating others: Please don't mislead or confuse readers by pretending to be someone else or pretending to represent an organization when you don't. We're not saying you can't publish parody or satire - just avoid content that is likely to mislead readers about your true identity.

Illegal activities: Don't use Blogger to engage in illegal activities or to promote dangerous and illegal activities. For example, don't author a blog encouraging people to drink and drive. Otherwise, we may delete your content. Also, in serious cases such as those involving the abuse of children, we may report you to the appropriate authorities.

Spam: Spam takes several forms in Blogger, all of which can result in deletion of your account or blog. Some examples include creating blogs designed to drive traffic to your site or to move it up in search listings, posting comments on other people's blogs just to promote your site or product, and scraping existing content from other sources for the primary purpose of generating revenue or other personal gains.

Malware and viruses: Do not create blogs that transmit viruses, cause pop-ups, attempt to install software without the reader's consent, or otherwise impact readers with malicious code. This is strictly forbidden on Blogger.

Enforcement of Blogger's Content Policy

If you encounter a blog that you believe violates our content policies, please report it to us using the 'Flag Blog' link located at the top of each blog (Note: If the blog owner has hidden this link, you can still report the blog by filling out [this form](#)).

Our team reviews these flags for policy violations. If the blog does not violate our policies, we will not take any action against the blog or blog owner. If we find that a blog does violate our content policies, we take one or more of the following actions based on the severity of the violation:

- Put the blog behind a 'mature content' interstitial
- Put the blog behind an interstitial where only the blog author can access the content

- Delete the blog
- Disable the author's access to his/her Blogger account
- Disable the author's access to his/her Google account
- Report the user to law enforcement

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