

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

|                              |   |                                    |
|------------------------------|---|------------------------------------|
| UNITED STATES OF AMERICA,    | ) |                                    |
|                              | ) |                                    |
| Plaintiff,                   | ) |                                    |
|                              | ) |                                    |
| v.                           | ) |                                    |
|                              | ) |                                    |
| POKERSTARS, ET AL.,          | ) | Civil Action No. 1:11-cv-02564-LBS |
|                              | ) |                                    |
| Defendants,                  | ) |                                    |
|                              | ) |                                    |
| ALL RIGHTS, TITLE & INTEREST | ) |                                    |
| IN THE ASSETS OF             | ) |                                    |
| POKERSTARS, ETC.,            | ) |                                    |
|                              | ) |                                    |
| Defendants-In-Rem.           | ) |                                    |

**ANSWER OF COMMONWEALTH OF KENTUCKY  
TO AMENDED COMPLAINT FOR FORFEITURE**

Comes the Commonwealth of Kentucky, *ex rel.*, J. Michael Brown, Secretary Justice and Public Safety Cabinet (the “Commonwealth”), by and through counsel, and for its Answer pursuant to Rule G of the Supplemental Federal Rules of Civil Procedure For Admiralty or Maritime Claims and Asset Forfeiture Actions and other applicable law, states as follows:

**FIRST DEFENSE**

The Complaint fails to state a claim upon which relief may be granted and should be dismissed.

**SECOND DEFENSE**

Claimant affirmatively pleads that the court lacks subject matter jurisdiction over this matter, and relies on same as a bar, in whole or in part, to Plaintiff’s Complaint.

### **THIRD DEFENSE**

Claimant affirmatively pleads that the court lacks *in rem* jurisdiction over this matter, and relies on same as a bar, in whole or in part, to Plaintiff's Complaint.

### **FOURTH DEFENSE**

Claimant affirmatively pleads the doctrine of concurrent jurisdiction and relies on same as a bar, in whole or in part, to Plaintiff's Complaint.

### **FIFTH DEFENSE**

Claimant affirmatively pleads that venue is inappropriate in the Southern District of New York, and relies on same as a bar, in whole or in part, to Plaintiff's Complaint.

### **SIXTH DEFENSE**

Claimant affirmatively pleads the principles of comity and the doctrines of abstention as a bar, in whole or in part, to Plaintiff's Complaint.

### **SEVENTH DEFENSE**

Claimant affirmatively pleads that it has a valid and superior interest in the certain of the seized domain names as a result of the Commonwealth's prior assertion of jurisdiction, its prior *in rem* civil forfeiture action and other enforcement efforts, and relies on same as a bar, in whole or in part, to Plaintiff's Complaint.

### **EIGHTH DEFENSE**

Claimant affirmatively pleads that it is an innocent owner of certain of the seized domain names, that the property is therefore not subject to federal forfeiture, and is entitled to ownership and possession thereof.

### NINTH DEFENSE

Claimant affirmatively pleads that the federal law violations alleged to justify forfeiture are predicated on violations of state law for which the Commonwealth is pursuing remedies, and the federal violations are thus derivative of, and therefore subordinate to, those violations of state law.

### TENTH DEFENSE

1. Claimant admits the allegations set forth in Paragraph 1 of the Complaint.
2. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 2 of the Complaint, and therefore denies same.
3. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 3 of the Complaint, and therefore denies same.
4. Claimant admits the allegations set forth in Paragraph 4 of the Complaint.
5. Claimant admits the allegations set forth in Paragraph 5 of the Complaint.
6. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 6 of the Complaint, and therefore denies same.
7. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 7 of the Complaint, and therefore denies same.

8. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 8 of the Complaint, and therefore denies same.

9. Claimant admits the allegations set forth in Paragraph 9 of the Complaint.

10. Claimant admits the allegations set forth in Paragraph 10 of the Complaint.

11. As to the allegations contained in paragraph 11 of the Complaint, the Commonwealth denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein. The Claimant admits the remaining allegations of this paragraph.

12. Claimant admits the allegations set forth in Paragraph 12 of the Complaint.

13. Claimant admits the allegations set forth in Paragraph 13 of the Complaint.

14. Claimant admits the allegations set forth in Paragraph 14 of the Complaint.

15. Claimant admits the allegations set forth in Paragraph 15 of the Complaint.

16. As to the allegations contained in paragraph 16 of the Complaint, the Commonwealth denies that the domain names and the proceeds thereof are subject to

forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein. The Claimant admits the remaining allegations of this paragraph.

17. As to the allegations contained in paragraph 17 of the Complaint, the Commonwealth denies that this Court has jurisdiction of this action in relation to over the domain names denies and the proceeds thereof by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

18. As to the allegations contained in paragraph 18 of the Complaint, the Commonwealth denies that this Court is the proper venue for this action in relation to the domain names and the proceeds thereof.

19. As to the allegations contained in paragraph 19 of the Complaint, the Commonwealth denies that this Court is the proper venue for this action in relation to the domain names and the proceeds thereof.

20. As to the allegations contained in paragraph 20 of the Complaint, the Commonwealth denies that this Court is the proper venue for this action in relation to the domain names and the proceeds thereof.

21. Claimant admits the allegations set forth in Paragraph 21 of the Complaint.

22. Claimant admits the allegations set forth in Paragraph 22 of the Complaint.

23. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 23 of the Complaint, and therefore denies same.

24. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 24 of the Complaint, and therefore denies same.

25. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 25 of the Complaint, and therefore denies same.

26. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 26 of the Complaint, and therefore denies same.

27. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 27 of the Complaint, and therefore denies same.

28. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 28 of the Complaint, and therefore denies same.

29. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 29 of the Complaint, and therefore denies same.

30. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 30 of the Complaint, and therefore denies same.

31. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 31 of the Complaint, and therefore denies same.

32. Claimant admits the allegations set forth in Paragraph 32 of the Complaint.

33. Claimant admits the allegations set forth in Paragraph 33 of the Complaint.

34. Claimant admits the allegations set forth in paragraph 34 of the Complaint.

35. Claimant admits the allegations set forth in Paragraph 35 of the Complaint.

36. Claimant admits the allegations set forth in Paragraph 36 of the Complaint.

37. Claimant admits the allegations set forth in Paragraph 37 of the Complaint.

38. Claimant admits the allegations set forth in Paragraph 38 of the Complaint.

39. Claimant admits the allegations set forth in Paragraph 39 of the Complaint.

40. Claimant admits the allegations set forth in Paragraph 40 of the Complaint.

41. Claimant admits the allegations set forth in Paragraph 41 of the Complaint.

42. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 42 of the Complaint, and therefore denies same.

43. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 43 of the Complaint, and therefore denies same.

44. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 44 of the Complaint, and therefore denies same.

45. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 45 of the Complaint, and therefore denies same.

46. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 46 of the Complaint, and therefore denies same.

47. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 47 of the Complaint, and therefore denies same.



48. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 48 of the Complaint, and therefore denies same.

49. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 49 of the Complaint, and therefore denies same.

50. As to the allegations contained in paragraph 50, Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 50 of the Complaint, but affirmatively states that the Defendants committed the same and similar overt and predicate acts in the Commonwealth of Kentucky, which acts violated the laws of and caused injuries to and within the Commonwealth of Kentucky, for which violations and injuries has pursued multiple civil actions.

51. Claimant admits the allegations set forth in Paragraph 51 of the Complaint.

52. As to the allegations set forth in the subsequent Paragraph of the Complaint, which appears to be mis-numbered as paragraph 44, Claimant states as follows:

- a. As to the allegations contained in subparagraphs a, b, and c of the paragraph, the Commonwealth affirmatively states that the each of the subject domain names is a gambling device designed primarily for use in connection with gambling, and by the operation of which a person may become entitled to receive, as the result of the

operation of an element of chance, any money or property, as defined in KRS 528.010(4).

- b. The Commonwealth admits the allegations contained in subparagraphs d and e.
- c. As to the allegations contained in subparagraphs f and g, the Commonwealth admits the allegations but further affirmatively states that pursuant to the policies of ICANN, the registry and the registrars, the account and IP address can be locked against transfer, that the registrant information is often a proxy or otherwise does not reflect the identity of the true registrant or owner.

53. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 52 of the Complaint, and therefore denies same.

54. Claimant admits the allegations set forth in Paragraph 53 of the Complaint.

55. Claimant admits the allegations set forth in Paragraph 54 of the Complaint.

56. Claimant admits the allegations set forth in Paragraph 55 of the Complaint.

57. Claimant admits the allegations set forth in Paragraph 56 of the Complaint.

58. Claimant admits the allegations set forth in Paragraph 57 of the Complaint.

59. Claimant admits the allegations set forth in Paragraph 58 of the Complaint.

60. Claimant admits the allegations set forth in Paragraph 59 of the Complaint.

61. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 60 of the Complaint, and therefore denies same.

62. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 61 of the Complaint, and therefore denies same.

63. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 62 of the Complaint, and therefore denies same.

64. As to the allegations contained in paragraph 63 of the Complaint, Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations therein, but affirmatively states that the domain registration should have reflected the Commonwealth of Kentucky as the registrant for the domain, pursuant to the Order of Seizure served upon the domain's registrar on or about September 18, 2008.

65. Claimant admits the allegations set forth in Paragraph 64 of the Complaint.

66. Claimant admits the allegations set forth in Paragraph 65 of the Complaint.

67. Claimant admits the allegations set forth in Paragraph 66 of the Complaint.

68. Claimant admits the allegations set forth in Paragraph 67 of the Complaint.

69. Claimant admits the allegations set forth in Paragraph 68 of the Complaint.

70. Claimant admits the allegations set forth in Paragraph 69 of the Complaint.

71. Claimant admits the allegations set forth in Paragraph 70 of the Complaint.

72. Claimant admits the allegations set forth in Paragraph 71 of the Complaint.

73. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 72 of the Complaint, and therefore denies same.

74. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 73 of the Complaint, and therefore denies same.

75. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 74 of the Complaint, and therefore denies same.

76. As to the allegations contained in paragraph 75 of the Complaint, Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations therein, but affirmatively states that the domain registration should have reflected the Commonwealth of Kentucky as the registrant for the domain, pursuant to the Order of Seizure served upon the domain's registrar on or about September 18, 2008.

77. Claimant admits the allegations set forth in Paragraph 76 of the Complaint.

78. Claimant admits the allegations set forth in Paragraph 77 of the Complaint.

79. Claimant admits the allegations set forth in Paragraph 78 of the Complaint.

80. Claimant admits the allegations set forth in Paragraph 79 of the Complaint.

81. Claimant admits the allegations set forth in Paragraph 80 of the Complaint.

82. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 81 of the Complaint, and therefore denies same.

83. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 82 of the Complaint, and therefore denies same.

84. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 83 of the Complaint, and therefore denies same.

85. As to the allegations contained in paragraph 84 of the Complaint, Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations therein, but affirmatively states that the domain registration should have reflected the Commonwealth of Kentucky as the registrant for the domain, pursuant to the Order of Seizure served upon the domain's registrar on or about September 18, 2008.

86. As to the allegations contained in paragraph 85 of the Complaint, Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations therein, but affirmatively states that on September 25, 2008 the registrar, GoDaddy.com, submitted the Registrar Certificate to the Commonwealth for filing with the Franklin Circuit Court, explicitly for the purpose of placing the domain under the dominion and control of that Court, where it remained as of the date of seizure by Plaintiff herein.

87. Claimant admits the allegations set forth in Paragraph 86 of the Complaint.

88. Claimant admits the allegations set forth in Paragraph 87 of the Complaint.

89. Claimant admits the allegations set forth in Paragraph 88 of the Complaint.

90. Claimant admits the allegations set forth in Paragraph 89 of the Complaint.

91. As to the allegations contained in paragraph 90 of the Complaint, Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations therein, but affirmatively states that on September 25, 2008 the registrar, GoDaddy.com, submitted the Registrar Certificate to the Commonwealth for filing with the Franklin Circuit Court, explicitly for the purpose of placing the domain under the dominion and control of that Court, where it remained as of the date of seizure by Plaintiff herein.

92. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 91 of the Complaint.

93. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 92 of the Complaint, and therefore denies same.

94. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 93 of the Complaint, and therefore denies same.

95. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 94 of the Complaint, and therefore denies same.

96. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 95 of the Complaint, and therefore denies same.

97. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 96 of the Complaint, and therefore denies same.

98. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 97 of the Complaint, and therefore denies same.

99. Claimant admits the allegations set forth in Paragraph 98 of the Complaint.

100. Claimant admits the allegations set forth in Paragraph 99 of the Complaint.

101. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 100 of the Complaint, and therefore denies same.

102. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 101 of the Complaint, and therefore denies same.



103. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 102 of the Complaint, and therefore denies same.

104. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 103 of the Complaint, and therefore denies same.

105. Claimant admits the allegations set forth in Paragraph 104 of the Complaint.

106. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 105 of the Complaint, and therefore denies same.

107. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 106 of the Complaint, and therefore denies same.

108. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 107 of the Complaint, and therefore denies same.

109. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 108 of the Complaint, and therefore denies same.

110. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 109 of the Complaint, and therefore denies same.

111. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 110 of the Complaint, and therefore denies same.

112. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 111 of the Complaint, and therefore denies same.

113. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 112 of the Complaint, and therefore denies same.

114. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 113 of the Complaint, and therefore denies same.

115. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 114 of the Complaint, and therefore denies same.

116. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 115 of the Complaint, and therefore denies same.

117. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 116 of the Complaint, and therefore denies same.

118. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 117 of the Complaint, and therefore denies same.

119. Claimant admits the allegations set forth in Paragraph 118 of the Complaint.

120. Claimant admits the allegations set forth in Paragraph 119 of the Complaint.

121. Claimant admits the allegations set forth in Paragraph 120 of the Complaint.

122. Claimant admits the allegations set forth in Paragraph 121 of the Complaint.

123. Claimant admits the allegations set forth in Paragraph 122 of the Complaint.

124. Claimant admits the allegations set forth in Paragraph 123 of the Complaint but denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

125. Claimant admits the allegations set forth in Paragraph 124 of the Complaint.

126. Claimant admits the allegations set forth in Paragraph 125 of the Complaint.

127. Claimant admits the allegations set forth in Paragraph 126 of the Complaint.

128. Claimant is without information sufficient to form a belief as to the truth or falsity of the specific allegations set forth in Paragraph 127 of the Complaint, and therefore denies same.

129. Claimant admits the allegations set forth in Paragraph 128 of the Complaint.

130. Claimant admits the allegations set forth in Paragraph 129 of the Complaint, but denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

131. As to the allegations set forth in Paragraph 130 of the Complaint, Claimant restates its answers to paragraphs 1 through 129 of the Complaint as if fully set forth herein.

132. Claimant admits the allegations set forth in Paragraph 131 of the Complaint.

133. Claimant admits the allegations set forth in Paragraph 132 of the Complaint.

134. Claimant admits the allegations set forth in Paragraph 133 of the Complaint.

135. As to the allegations contained in paragraph 134 of the Complaint, Claimant denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

136. As to the allegations contained in paragraph 135 of the Complaint, Claimant denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

137. As to the allegations set forth in Paragraph 136 of the Complaint, Claimant restates its answers to paragraphs 1 through 135 of the Complaint as if fully set forth herein.

138. Claimant admits the allegations set forth in Paragraph 137 of the Complaint.

139. Claimant admits the allegations set forth in Paragraph 138 of the Complaint.

140. Claimant admits the allegations set forth in Paragraph 139 of the Complaint.

141. Claimant admits the allegations set forth in Paragraph 140 of the Complaint.

142. Claimant admits the allegations set forth in Paragraph 141 of the Complaint.

143. Claimant admits the allegations set forth in Paragraph 142 of the Complaint.

144. As to the allegations contained in paragraph 143 of the Complaint, Claimant denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

145. As to the allegations set forth in Paragraph 144 of the Complaint, Claimant restates its answers to paragraphs 1 through 143 of the Complaint as if fully set forth herein.

146. Claimant admits the allegations set forth in Paragraph 145 of the Complaint.

147. Claimant admits the allegations set forth in Paragraph 146 of the Complaint.

148. Claimant admits the allegations set forth in Paragraph 147 of the Complaint.

149. Claimant admits the allegations set forth in Paragraph 148 of the Complaint.

150. Claimant admits the allegations set forth in Paragraph 149 of the Complaint.

151. As to the allegations contained in paragraph 150 of the Complaint, Claimant denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

152. As to the allegations set forth in Paragraph 151 of the Complaint, Claimant restates its answers to paragraphs 1 through 150 of the Complaint as if fully set forth herein.

153. Claimant admits the allegations set forth in Paragraph 152 of the Complaint.

154. Claimant admits the allegations set forth in Paragraph 153 of the Complaint.

155. Claimant admits the allegations set forth in Paragraph 154 of the Complaint.

156. Claimant admits the allegations set forth in Paragraph 155 of the Complaint.

157. Claimant admits the allegations set forth in Paragraph 156 of the Complaint.

158. As to the allegations contained in paragraph 157 of the Complaint, Claimant denies that the domain names and the proceeds thereof are subject to forfeiture pursuant to federal statutes by reason of the Commonwealth's prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the property, and its affirmative defenses stated herein.

159. As to the allegations set forth in Paragraph 158 of the Complaint, Claimant restates its answers to paragraphs 1 through 157 of the Complaint as if fully set forth herein.

160. Claimant admits the allegations set forth in Paragraph 159 of the Complaint.

161. Claimant admits the allegations set forth in Paragraph 160 of the Complaint.

162. Claimant admits the allegations set forth in Paragraph 161 of the Complaint.

163. Claimant denies that Plaintiff is entitled to any relief on their claims.

164. Claimant denies each and every allegation set forth in the Complaint which has not been specifically admitted.



## COUNTERCLAIM

Comes the Commonwealth of Kentucky, *ex rel.*, J. Michael Brown, Secretary Justice and Public Safety Cabinet (the “Commonwealth”), by and through counsel, and for its Counterclaim against the United States or America, states as follows:

1. By virtue of the Commonwealth’s prior assertion of jurisdiction, its prior forfeiture action, its prior seizure of and interest in the domain names, and its affirmative defenses stated above and incorporated herein by reference, the Commonwealth of Kentucky has and is entitled to all right, title and interest in the following internet domain names and all proceeds and incomes thereof: pokerstars.com; fulltiltpoker.com; absolutepoker.com; and ultimatebet.com.

2. In support of its claim, the Commonwealth avers that it was at the time of the filing of the Complaint, and still is, the true and bona fide sole owner of the property and entitled to possession, and that no other person is the owner of or entitled to possession of the property. The Commonwealth states that is the owner of the domain names by virtue of its prior seizure of said domain names, in that certain *in rem* civil forfeiture action, styled *Commonwealth of Kentucky, ex rel. J. Michael Brown, Secretary Justice and Public Safety Cabinet v. 141 Internet Domain Names*, 08-CI-1409 (Franklin Circuit Court, Commonwealth of Kentucky) (hereinafter “Kentucky Forfeiture Action:). Copies of the Second Amended Complaint, the Order of Seizure and the Court’s Findings Of Fact And Conclusions Of Law in that action are attached as Exhibits A, B and C to the Claim previously filed herein by the Commonwealth, and are incorporated herein by reference.

3. The Commonwealth seized the domains by reason of its having been victimized, both in its capacity as a sovereign state and in its *parens patriae* capacity with statutory authority on behalf of its citizens, by Defendants' actions, including those actions as pleaded in the Amended Complaint filed herein by the United States, and as pleaded in the Kentucky Forfeiture Action.

WHEREFORE, the Commonwealth of Kentucky *ex rel.*, J. Michael Brown, Secretary Justice and Public Safety Cabinet, respectfully requests the following relief:

1. That the domain names be ordered restored and released to the Commonwealth, free and clear of all liens, claims or encumbrances;
2. A trial by jury on all issues so triable;
3. Its costs incurred herein, including its reasonable attorneys' fees; and
4. Any and all such other relief to which the Commonwealth may be entitled.

Respectfully submitted,

/s/ D. Eric Lycan (*pro hac vice*)  
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*Attorney for Commonwealth of Kentucky ex rel., J.  
Michael Brown, Secretary Justice and Public Safety  
Cabinet*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 21, 2011, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ D. Eric Lycan  
ATTORNEY FOR CLAIMANT