

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

DANIEL R. CASTRO,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. A 10 CA 695 LY
)	
ENTREPRENEUR MEDIA, INC.,)	
)	
Defendant.)	
)	

**ORDER GRANTING DEFENDANT’S PARTIAL MOTION TO DISMISS
UNDER FEDERAL RULE OF CIVIL PROCEDURE 12(B)(6)**

Upon consideration of Defendant Entrepreneur Media, Inc.’s (“EMI”) Partial Motion to Dismiss Under Federal Rule of Civil Procedure 12(b)(6), and the related briefs and arguments of the parties, it is hereby

ORDERED AND ADJUDGED that EMI’s motion should be, and is hereby GRANTED. Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, the following claims in Plaintiff’s First Amended Complaint are hereby DISMISSED for failure to state a claim, without leave to amend:

- 1) Cause of Action VII. A., seeking a declaration that 15 U.S.C. § 1065 and 15 U.S.C. § 1115(b) are unconstitutional (FAC ¶¶ 7.1-7.9 and 11.1(a));
- 2) Cause of Action VII. B., seeking a declaration that EMI’s mark is not incontestable (FAC ¶¶ 7.10-7.21 and 11.1(b));
- 3) Cause of Action VII. D., seeking a declaration of non-infringement and/or allowable use (FAC ¶¶ 7.29-7.41 and 11.1(d));

4) Cause of Action VII. E., for estoppel and acquiescence (FAC ¶¶ 7.42-7.44 and 11.1(e));

5) Cause of Action VII. F., seeking a declaration that Plaintiff's marks do not constitute unfair competition under 15 U.S.C. § 11125 (FAC ¶¶ 7.45-7.46 and 11.1(f));

6) Cause of Action VII. G., for violation of antitrust laws (FAC ¶¶ 7.47-7.53 and 11.1(g), 11.2-11.4);

7) Cause of Action VII. H., for misuse of trademarks and unclean hands (FAC ¶¶ 7.54 and 11.1(h)); and

8) Cause of Action X., for reverse domain name hijacking (FAC ¶¶ 10.1-10.18).

IT IS SO ORDERED.

Dated: _____

U.S. District Court Judge