

FILED

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

2011 APR 15 P 2:36

ENTREPRENEUR MEDIA, INC.,  
2445 McCabe Way, Suite 400  
Irvine, California 92614

Plaintiff,

v.

SEATTLEENTREPRENEUR.COM &  
AUSTINENTPRENEUR.COM, each an  
Internet Domain Name,

Registrant:

Oleg Nevzorov  
Molotova-23  
Moscow 7789966  
Russian Federation

Defendants.

Clerk US District Court  
ALEXANDRIA, VIRGINIA  
Civil Action No. 11-cv-409  
LMB/JFA

**VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF**

Plaintiff Entrepreneur Media, Inc. ("Plaintiff" or "EMI") for its Complaint alleges the following in support of its *in rem* claim against the Internet Domain Names *seattleentrepreneur.com* and *austinentrepreneur.com* (the "Defendant Domain Names"):

**NATURE OF THE ACTION**

1. Plaintiff files this *in rem* action asserting a claim for cyberpiracy under the Anticybersquatting Consumer Protection Act ("ACPA"), 15 U.S.C. §§ 1125(d), *et seq.*
2. The Defendant Domain Names are confusingly similar to Plaintiff's world-famous ENTREPRENEUR® trademark and are being used by the registrant with a bad faith intent to profit from Plaintiff's substantial investment in the ENTREPRENEUR® mark.

3. In bringing this lawsuit, Plaintiff seeks a permanent injunction providing for the transfer of the Defendant Domain Names to Plaintiff EMI.

### **JURISDICTION AND VENUE**

4. This Court has subject matter jurisdiction over this claim pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has *in rem* jurisdiction over the Defendant Domain Names pursuant to 15 U.S.C. § 1125(d)(2)(A)(ii)(I) because the Plaintiff cannot obtain *in personam* jurisdiction over the registrant of the Defendant Domain Names because the registrant is located outside of the United States and is not subject to personal jurisdiction in the United States. *In rem* jurisdiction is proper in this district pursuant to 15 U.S.C. § 1125(d)(2)(C)(i) because the domain name registry, VeriSign, Inc., 21355 Ridgetop Circle, Dulles, Virginia 20166 (“VeriSign”, the operator of the authoritative domain name registry for all .com domains) is located in this district. Further, under 15 U.S.C. § 1125(d)(2)(C)(ii), upon commencement of this case, documents sufficient to establish control and authority regarding the disposition of the registration of the Defendant Domain Names will be expeditiously deposited with the Court.

6. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) and 15 U.S.C. §§ 1125(d)(2)(A) and (C) because the registry that registered or assigned the Defendant Domain Names is located in this district. Copies of the WHOIS records for each of the Defendant Domain Names as of April 15, 2011, are attached hereto as **Exhibit A**.

### **THE PARTIES**

7. EMI is a California corporation with its principal place of business at 2445 McCabe Way, Suite. 400, Irvine, California 92614.

8. The Defendant Domain Names are listed in each respective WHOIS record as registered to “Oleg Nevzorov” with the address of Molotova-23, Moscow 7789966, Russian Federation with an email address of olegnevzorov@gmail.com.

**FACTUAL BACKGROUND**  
***EMI's Trademark Rights***

9. EMI is a well-known publisher of magazines and business guides, including ENTREPRENEUR MAGAZINE® and other publications incorporating the ENTREPRENEUR® trademark in their titles. ENTREPRENEUR MAGAZINE® is published monthly with a current paid circulation, including both subscriptions and newsstand sales, of more than 500,000 in the United States. ENTREPRENEUR MAGAZINE® is also sold and currently distributed in over 100 foreign countries.

10. Beginning in 1978, EMI has continuously used its trademark ENTREPRENEUR® to identify its magazines, business guides, video and audio tapes, computer software programs, web pages, on-line services, other services in connection with conducting trade shows and educational seminars, advertising, membership and other business services. EMI has prominently displayed the mark ENTREPRENEUR® on letterheads, promotional literature, media advertising and in periodicals circulated throughout the United States.

11. In addition to the goods and services described above, EMI also maintains a number of websites, including www.entrepreneur.com (“Entrepreneur.com”), through which it disseminates editorial content and other information, as well as offers products and services related or of interest to small and midsize businesses, business owners, and prospective business owners.

12. EMI owns all rights and interest to the ENTREPRENEUR® trademark for various goods and services in a number of International Classes including Classes 9, 16, 35, 38, and 41.

EMI owns, *inter alia*, the following United States Trademark Registration Nos. for the ENTREPRENEUR® trademark: 1,453,968; 3,520,633; 2,502,032; and 2,263,883. These registrations are valid and subsisting and in full force and effect. True and correct copies of the registration certificates for the cited registrations are attached hereto as **Exhibit B**.

13. Additionally, EMI owns, *inter alia*, all rights and interest to the following United States Trademark Registration Nos. for marks incorporating the term ENTREPRENEUR for use in connection with online and/or Internet services: 3,470,064; 3,924,374; 3,519,022; 3,470,063; 3,266,532; 3,374,476; and 3,652,950. These registrations are valid and subsisting and in full force and effect. True and correct copies of the registration certificates for the cited registrations are attached hereto as **Exhibit C**.

14. EMI has continuously and extensively used, advertised, marketed and promoted the ENTREPRENEUR® mark in the United States and many foreign countries in connection with its goods and services, including its magazine and other publications. EMI has spent millions of dollars and has expended significant effort in promoting its goods and services under the ENTREPRENEUR® mark through various means, including its Internet site, Entrepreneur.com. As a result of EMI's substantial investment in developing and promoting the ENTREPRENEUR® trademark, it has come to identify and distinguish EMI's goods and services and represents enormous goodwill of great value belonging exclusively to EMI.

#### ***The Defendant Domain Names***

15. The Defendant Domain Names are located at the following internet addresses: <http://seattleentrepreneur.com/> and <http://austinentrepreneur.com/>.

16. EMI learned of the registration and use of the Defendant Domain Names, along with a number of other similar domain names that infringed EMI's trademark rights in early 2010. The Defendant Domain Names were then registered by Mr. Dale Tincher,

Consultwebs.com at the address 9913 Grayln Road, Raleigh, North Carolina. Copies of the WHOIS records for the Defendant Domain Names from May 2010 are attached hereto as

**Exhibit D.**

17. In May 2010, shortly after EMI became aware of the registration of the Defendant Domain Names and others by Mr. Tincher, EMI sent a letter by counsel to Mr. Tincher advising him of EMI's trademark rights and that his registration of the Defendant Domain Names and other similar domain names was an infringement of EMI's trademark rights. EMI's counsel also demanded that Mr. Tincher transfer the domain names at issue to EMI and cease his infringing use of the ENTREPRENEUR® mark. A copy of the May 10, 2010 letter to Mr. Tincher is attached hereto as **Exhibit E.**

18. EMI received no response from Mr. Tincher to its May 10, 2010 letter. Subsequent to receipt of EMI's letter, the Defendant Domain Names were transferred by Mr. Tincher to Vadim Piletsky at the address Zabolontnogo-114, Kiev, Ukraine 01365. Copies of the WHOIS records for the Defendant Domain Names from December 2010 and reflecting such transfer are attached hereto as **Exhibit F.**

19. After learning of Mr. Tincher's transfer of the Defendant Domain Names to Mr. Piletsky, EMI, through counsel, wrote to Mr. Piletsky notifying him of EMI's trademark rights in the ENTREPRENEUR® mark, of his infringement of EMI's rights in the ENTREPRENEUR® mark through his use and registration of the Defendant Domain Names and demanding that Mr. Piletsky transfer the Defendant Domain Names to EMI. A copy of the February 17, 2011 letter to Mr. Piletsky from EMI's counsel is attached hereto as **Exhibit G.**

20. Mr. Piletsky responded via email to EMI's counsel on February 20, 2011 refusing to transfer the domains to EMI, but offering to sell the domains to EMI for a "reasonable" price.

A copy of Mr. Piletsky's February 20, 2011 response to EMI's counsel's letter is attached hereto as **Exhibit H**.

21. On February 19, 2011, prior to responding to EMI's counsel on February 20, 2011 and offering to sell the Defendant Domain Names to EMI, Mr. Piletsky transferred the Defendant Domain Names to Oleg Nevzorov. A copy of the current WHOIS records for the Defendant Domain Names reflecting such transfer is attached at **Exhibit A**.

22. The Defendant Domain Name [seattleentrepreneur.com](http://seattleentrepreneur.com) completely encompasses EMI's ENTREPRENEUR® trademark in its entirety preceded only by the descriptive geographic word "Seattle" and is confusingly similar to the ENTREPRENEUR® trademark and to the Entrepreneur.com domain name owned by EMI. Use of the ENTREPRENEUR® trademark in the Defendant Domain Name [seattleentrepreneur.com](http://seattleentrepreneur.com) is likely to cause confusion or mistake as to whether EMI is the source or sponsor of, is affiliated with, or endorses the Defendant Domain Name.

23. The Defendant Domain Name [seattleentrepreneur.com](http://seattleentrepreneur.com) is used to display a website that features content such as links to "Start Biz," "Local Biz," "Run Biz," "Marketplace," "Biz Resources," and pay per click advertisements to sites such as "Bloomberg.com Radio 24/7," "Yellow Page Search," and "Business Search," among many others. The site also includes a section titled "Seattle, WA, Entrepreneurial and Business News" and a section titled "Entrepreneur Essentials" with links to "AudioUniverse• CBS MarketWatch• StrategyWeek• MyPrimeTime." A true and correct copy of the home page of the Defendant Domain Name [seattleentrepreneur.com](http://seattleentrepreneur.com) is attached hereto as **Exhibit I**.

24. The Defendant Domain Name [austinentrepreneur.com](http://austinentrepreneur.com) completely encompasses EMI's ENTREPRENEUR® trademark in its entirety preceded only by the descriptive

geographic word “Austin” and is confusingly similar to the ENTREPRENEUR® trademark and to the Entrepreneur.com domain name owned by EMI. Use of the ENTREPRENEUR® trademark in the Defendant Domain Name austinentrepreneur.com is likely to cause confusion or mistake as to whether EMI is the source or sponsor of, is affiliated with, or endorses the Defendant Domain Name.

25. The Defendant Domain Name austinentrepreneur.com is also used to display a website that features content such as links to “Start Biz,” “Local Biz,” “Run Biz,” “Marketplace,” “Biz Resources,” and pay per click advertisements to sites such as “Bloomberg.com Radio 24/7,” “Yellow Page Search,” and “Business Search,” among many others. The site also includes a section titled “Austin, TX, Entrepreneurial and Business News” and a section titled “Entrepreneur Essentials” with links to “AudioUniverse• CBS MarketWatch• StrategyWeek• MyPrimeTime.” A true and correct copy of the home page of the Defendant Domain Name austinentrepreneur.com is attached hereto as **Exhibit J**.

26. A copyright notice is listed at the bottom of the pages on the Defendant Domain Names that reads “2000 - 2011 Consultwebs.com - All rights reserved.”

27. The unauthorized use of the ENTREPRENEUR® mark in the Defendant Domain Names and throughout the seattleentrepreneur.com and austinentrepreneur.com websites, in connection with content related to starting a business, local businesses, and running a business, is likely to cause confusion as to the source or sponsorship of the Defendant Domain Names and the content offered on the related websites.

28. The Defendant Domain Names were registered and used in bad faith in violation of the ACPA. The Defendant Domain Names divert consumers from EMI’s online sites, such as Entrepreneur.com and others by creating a likelihood of confusion as to whether EMI is the

source or sponsor of, is affiliated with, or endorses the Defendant Domain Names, their websites and content thereon. Such intent to create a likelihood of confusion is evidence of bad faith pursuant to 15 U.S.C. § 1125(d)(1)(B)(i)(V).

29. Registration of both the seattleentrepreneur.com and the austinentrepreneur.com domains by the same individual, Oleg Nevzorov, after multiple notices of EMI's trademark rights in the ENTREPRENEUR® mark, is further evidence of bad faith pursuant to 15 U.S.C. §1125(d)(1)(B)(i)(VIII), because Oleg Nevzorov, and others prior to him, knowingly registered multiple domain names which are identical or confusingly similar to EMI's distinctive ENTREPRENEUR® mark.

30. EMI has not authorized the use of the ENTREPRENEUR® trademark in connection with either of the Defendant Domain Names.

**CLAIM FOR RELIEF**  
**(Cyberpiracy)**

31. EMI incorporates and realleges by reference Paragraphs 1 through 30, as though set forth in full herein.

32. The actions described above evidence bad faith intent to profit from the registration or use of the ENTREPRENEUR® trademark and confusingly similar variations thereof in the Defendant Domain Names.

33. Plaintiff is entitled to an order and injunction immediately transferring the Defendant Domain Names to Entrepreneur Media, Inc.

WHEREFORE, Plaintiff prays for judgment as follows:

A. That VeriSign be ordered to transfer the registration of the Defendant Domain Names to Entrepreneur Media, Inc.;



- B. Awarding Entrepreneur Media, Inc. its reasonable costs and attorneys fees; and
- C. For such other relief that the Court may consider just and appropriate.

Dated: April 15, 2011

Respectfully submitted,



---

Edwin L. Fountain (Va. Bar No. 31918)  
Tara Lynn R. Zurawski (Va. Bar No. 73602)  
JONES DAY  
51 Louisiana Avenue, N.W.  
Washington, DC 20001  
Telephone: (202) 879-3939  
Facsimile: (202) 626-1700  
Email: elfountain@jonesday.com  
Email: tzurawski@jonesday.com

*Of Counsel:*

Mark A. Finkelstein  
JONES DAY  
3161 Michelson Drive, Suite 800  
Irvine, CA 92612  
Telephone: (949) 553-7502  
Facsimile: (949) 553-7539  
Email: mafinkelstein@jonesday.com

Ashley H. Zito  
JONES DAY  
1420 Peachtree Street, N.E.  
Suite 800  
Atlanta, GA 30309  
Telephone: (404) 581-8587  
Facsimile: (404) 581-8330  
Email: azito@jonesday.com

*Counsel for Plaintiff Entrepreneur Media, Inc.*

**VERIFICATION**

Ronald L. Young, under penalty of perjury of the laws of the United States, declares:

That he is an officer of Entrepreneur Media, Inc. and directs Entrepreneur Media, Inc.'s trademark enforcement program; that he has read, is familiar with, and has personal knowledge of the contents of the foregoing Verified Complaint and that the allegations thereof are true and correct. To the extent that matters are not within his personal knowledge, the facts stated therein have been assembled by authorized personnel, including counsel, and he is informed that the facts stated therein are true and correct.

Executed this 8<sup>th</sup> day of April, 2011 in Irvine, California.

  
\_\_\_\_\_  
Ronald L. Young, Esq.