

FILED

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

2011 MAY 27 P 1:58

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

Clerk US District Court )  
ALEXANDRIA, VIRGINIA )  
Civil Action No. 11-110V-583 )  
AJT / TCB )

v. )

B-ENTREPRENEUR.COM & S- )  
ENTREPRENEUR.COM, each an Internet )  
Domain Name, )

Registrants: )

Pamela Lynn )  
2445 McCabe Way, Suite 400 )  
Irvine, CA 92614 )  
B-ENTREPRENEUR.COM & )

Entrepreneur Inc. )  
Verita Powell )  
2445 McCabe Way, Suite 400 )  
Irvine, CA 92614 )  
S-ENTREPRENEUR.COM )

Defendant. )

**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 *b-entrepreneur.com* and *s-entrepreneur.com* (collectively, 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 (the "ENTREPRENEUR Mark") 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.

### JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over these claims 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)(II), because the registrants who control the Defendant Domain Names have provided false and/or misleading contact information to the domain name registry and registrar through which the Defendant Domain Names are registered. A copy of the WHOIS records for the Defendant Domain Names as of May 27, 2011, is attached hereto as **Exhibit A**.

6. Plaintiff cannot obtain *in personam* jurisdiction over registrants of the Defendant Domain Names, because, despite its exercise of due diligence, Plaintiff was not able to identify and locate a person who controls the Defendant Domain Names and who would have been a defendant in a civil action under paragraph 1331 and 1338(a). *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, *in rem* jurisdiction is proper in this district pursuant to 15 U.S.C. § 1125(d)(2)(C)(ii), because, upon commencement of this case, documents sufficient to establish control and authority regarding the

disposition of the registrations of the Defendant Domain Names will be expeditiously deposited with the Court.

7. 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.

### **THE PARTIES**

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

9. The Defendant Domain Name *b-entrepreneur.com* is listed in the WHOIS record as registered to a "Pamela Lynn," who is unknown to Plaintiff, and whose listed contact information is the same as Plaintiff's physical address and telephone number. Upon information and belief, and as more fully set forth in Paragraph 25, Plaintiff alleges that the purported registrant "Pamela Lynn" is merely an alias for, or alter ego of, one or more parties, whose identity and location, whether within the United States or elsewhere, is unknown to Plaintiff.

10. The Defendant Domain Name *s-entrepreneur.com* is listed in the WHOIS record as registered to "Entrepreneur Inc., Verita Powell," who is unknown to Plaintiff, and whose contact information is the same as Plaintiff's physical address and telephone. Upon information and belief, and as more fully set forth in Paragraph 25, Plaintiff alleges that the purported registrant "Entrepreneur Inc., Verita Powell" is merely an alias for, or alter ego of, one or more parties, whose identity and location, whether within the United States or elsewhere, is unknown to Plaintiff.

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

11. EMI is a well-known publisher of magazines and business guides, including ENTREPRENEUR® magazine and other publications incorporating the ENTREPRENEUR Mark in their titles. ENTREPRENEUR® magazine is published monthly with a current paid circulation, including both subscriptions and newsstand sales, of more than 600,000. ENTREPRENEUR® magazine is sold and currently distributed in over 100 foreign countries.

12. Beginning in 1978, EMI has continuously used the ENTREPRENEUR Mark to identify the sources of its editorial and advertising content as marketed, sold and distributed through the numerous media outlets it owns, as well as through third-party media outlets, including in or through print publications such as magazines, business guides and other books, seminars and other educational events, and throughout the World Wide Web. EMI has prominently displayed the ENTREPRENEUR Mark in or on its letterhead, promotional literature, media advertising, and in books and periodicals circulated throughout the United States and worldwide.

13. In addition to the goods and services described above, EMI also owns and operates a number of websites, including its flagship website at < [www.entrepreneur.com](http://www.entrepreneur.com) > (the "E.com Site"), through which it disseminates its editorial content and other information, as well as offers products and services related or of interest to businesses, business owners, and prospective business owners which averages over 6 million unique visitors per month and over 52.6 million page views per month.

14. EMI owns all rights and interest to the ENTREPRENEUR Mark for various goods and services in a number of International Classes including Classes 16, 35, and 41. EMI owns, *inter alia*, the following United States Trademark Registration Nos. for the ENTREPRENEUR

Mark: 1,453,968; 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**.

15. Additionally, EMI owns, *inter alia*, all rights and interest in and to various United States Trademark Registrations of marks incorporating the term ENTREPRENEUR, which include marks for use in connection with EMI's various media outlets, including printed and digitized books and online and/or Internet services: 3,470,064; 3,924,374; 3,519,022; 3,470,063; 3,266,532; 3,374,476; 3,652,950; and 3,204,899. 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**.

16. 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 the E.com Site. As a result of EMI's substantial investment in developing and promoting the ENTREPRENEUR Mark, the ENTREPRENEUR Mark 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***

17. The Defendant Domain Names are located at the following internet addresses: <http://b-entrepreneur.com/> and <http://s-entrepreneur.com/>.

18. The Defendant Domain Name [b-entrepreneur.com](http://b-entrepreneur.com/) completely encompasses the ENTREPRENEUR Mark in its entirety preceded only by the letter "b" and a hyphen ("b-") and is confusingly similar to the ENTREPRENEUR Mark and to the E.com domain name. Use of

the ENTREPRENEUR Mark in the Defendant Domain Name *<b-entrepreneur.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 *<b-entrepreneur.com>*.

19. The Defendant Domain Name *<b-entrepreneur.com>* is used to display a website entitled “Entrepreneur Blog . . . Big Business,” and which, like the content on the E.com Site, displays and distributes content related to business topics. The similarity of subject matter displayed on the website of the Defendant Domain Name *<b-entrepreneur.com>* falsely suggests an affiliation and/or association with EMI. Such content includes articles and features related to free enterprise and business news. For reference, the Defendant Domain Name *<b-entrepreneur.com>* contains a section entitled “Ask Entrepreneur” and “Business Ideas,” as well as articles such as “6 Tips to Tame Technology in Your Mortgage Business” and “Strategy Driver for Global or International Business - Information Technology.” A true and correct copy of the home page of the Defendant Domain Name *<b-entrepreneur.com>* is attached hereto as **Exhibit D**.

20. The Defendant Domain Name *<s-entrepreneur.com>* completely encompasses the ENTREPRENEUR Mark in its entirety preceded only by the letter “s” and a hyphen (“s-”) and is confusingly similar to the ENTREPRENEUR Mark and to the E.com domain name. Use of the ENTREPRENEUR Mark in the Defendant Domain Name *<s-entrepreneur.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 *<s-entrepreneur.com>*.

21. The Defendant Domain Name *<s-entrepreneur.com>* is used to display a website also entitled “Entrepreneur Blog . . . Small Business,” and which, like the content on the E.com Site, displays and distributes content related to business topics. The similarity of subject matter

displayed on the website of the Defendant Domain Name <*s-entrepreneur.com*> falsely suggests an affiliation and/or association with EMI. Such content includes articles and features related to free enterprise and business news. For reference, the Defendant Domain Name <*s-entrepreneur.com*> contains a section entitled "Ask Entrepreneur" and "Business Ideas," as well as articles such as "6 Tips to Tame Technology in Your Mortgage Business" and "Strategy Driver for Global or International Business - Information Technology." A true and correct copy of the home page of the Defendant Domain Name <*s-entrepreneur.com*> is attached hereto as **Exhibit E.**

22. A copyright notice is listed at the bottom of the pages on each of the Defendant Domain Names' websites that reads "© Copyright Entrepreneur Blog 2011. All rights reserved."

23. The unauthorized use of the ENTREPRENEUR Mark and confusingly similar variations thereof in the Defendant Domain Names and throughout the related websites, in connection with content related to starting a business, business ideas, technology, and similar content is likely to cause confusion as to the source or sponsorship of the Defendant Domain Names and the content offered on the related websites.

24. The Defendant Domain Names were registered and are being used in bad faith in violation of the ACPA. The Defendant Domain Names are being used to intentionally divert consumers from EMI's online sites, such as the E.com Site, by creating a likelihood of confusion as to whether EMI is the source or a sponsor of, is affiliated with, or endorses the Defendant Domain Names, their related websites and content thereon. The registrants of the Defendant Domain Names have further deliberately registered and are using false and misleading contact information in connection with the Defendant Domain Names, for the purpose of intentionally creating an affiliation or association with the ENTREPRENEUR Mark, when no such affiliation

or association exists, for the purpose of thereby driving web traffic to, and generating pay-per-click revenues from advertising and links contained on, the Defendant Domain Names' websites. Such intent to create and profit from a likelihood of confusion is evidence of bad faith pursuant to 15 U.S.C. § 1125(d)(1)(B)(i)(V).

25. The provision of false and misleading contact registration information when applying for registration of the Defendant Domain Names and intentional failure to provide and maintain accurate contact information is further evidence of bad faith pursuant to 15 U.S.C. § 1125(d)(1)(B)(i)(VII). In fact, the registration information for the Defendant Domain Names is not merely false or misleading, but is Plaintiff's information. As reflected in Exhibit A, the purported registrant of the Defendant Domain Name <*b-entrepreneur.com*>, Pamela Lynn, shows her physical address and telephone number as the same as EMI's; and similarly, the purported registrant of the Defendant Domain Name <*s-entrepreneur.com*>, Entrepreneur Inc., Verita Powell, shows its/her physical address and telephone number as the same as EMI's. Moreover, the "Administrative Contact" for each of the Defendant Domains is listed as:

**b-entrepreneur.com:**

Entrepreneur.com, Inc.  
Michael Frazier  
2445 McCabe Way, Suite 400  
Irvine, CA 92614  
US  
Phone: +1.9492612325  
Email: admin@b-entrepreneur.com

**s-entrepreneur.com:**

Entrepreneur Inc.  
Michael Frazier  
2445 McCabe Way, Suite 400  
Irvine, CA 92614  
US  
Email: admin@s-entrepreneur.com



26. In addition to providing false and misleading contact information in connection with each of the Defendant Domain Names, the Defendant Domain Names also falsely and fraudulently identify the administrative contacts for: *<b-entrepreneur.com>* as Entrepreneur.com, Inc., a wholly-owned subsidiary of EMI, and for *<s-entrepreneur.com>* as Entrepreneur, Inc., a former wholly-owned subsidiary of EMI. The Defendant Domain Names also falsely and fraudulently identify Michael Frazier as the administrative contact for both Domain Names. Mr. Frazier has never been an employee of, or affiliated with, Entrepreneur Inc. Mr. Frazier, a former employee of Entrepreneur.com, Inc., is a current employee (for almost 2 ½ years) of EMI. These acts of fraud and deception and other deficiencies were and are intended to mask, and to make it impossible for Plaintiff to determine, the true identities of the registrants of the Defendant Domain Names. Such conduct evidences bad faith pursuant to 15 U.S.C. § 1125(d)(1)(B)(i)(VII).

27. EMI has not authorized the use of the ENTREPRENEUR Mark in connection with either of the Defendant Domain Names.

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

28. EMI incorporates and realleges by reference Paragraphs 1 through 27, as though set forth in full herein.

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

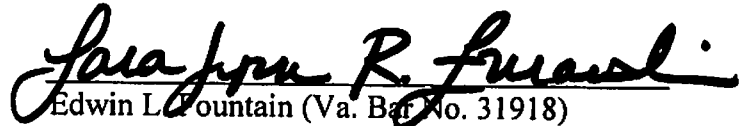
30. Plaintiff is therefore entitled to an order and injunction immediately transferring the Defendant Domain Names to Entrepreneur Media, Inc.

WHEREFORE, Plaintiff prays for judgment as follows:

- A. That VeriSign be ordered to transfer the registration of each of the Defendant Domain Names to Entrepreneur Media, Inc.;
- B. That Entrepreneur Media, Inc. be awarded its reasonable costs and attorneys fees;  
and
- C. For such other relief that the Court may consider just and appropriate.

Dated: May 27, 2011

Respectfully submitted,



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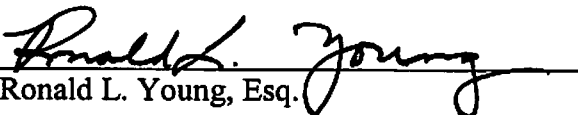
*Counsel for Plaintiff Entrepreneur Media, Inc.*

**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 24<sup>th</sup> day of May, 2011 in Irvine, California.

  
Ronald L. Young, Esq.