

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FILED
08 JUL 29 PM 3:48
RICHARD W. HEALING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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E-filing

MARIA COZZI,

Plaintiff (s),

v.

MARIN COUNTY OF,

Defendant(s).

No. C 08-03633 PJH

**ORDER SETTING INITIAL CASE
MANAGEMENT CONFERENCE
AND ADR DEADLINES**

IT IS HEREBY ORDERED that this action is assigned to the Honorable Phyllis J. Hamilton. When serving the complaint or notice of removal, the plaintiff or removing defendant must serve on all other parties a copy of this order and all other documents specified in Civil Local Rule 4-2. Counsel must comply with the case schedule listed below unless the Court otherwise orders.

IT IS FURTHER ORDERED that this action is assigned to the Alternative Dispute Resolution (ADR) Multi-Option Program governed by ADR Local Rule 3. Counsel and clients shall familiarize themselves with that rule and with the material entitled "Dispute Resolution Procedures in the Northern District of California" on the Court ADR Internet site at www.adr.cand.uscourts.gov. A limited number of printed copies are available from the Clerk's Office for parties in cases not subject to the court's Electronic Case Filing program (ECF).

IT IS FURTHER ORDERED that plaintiff or removing defendant serve upon all parties the brochure entitled "Consenting To A Magistrate Judge's Jurisdiction In The Northern District Of California," additional copies of which can be downloaded from the following Internet site: <http://www.cand.uscourts.gov>.

CASE SCHEDULE -ADR MULTI-OPTION PROGRAM

| Date | Event | Governing Rule |
|------------|---|--|
| 7/29/2008 | Complaint filed | |
| 10/16/2008 | *Last day to: <ul style="list-style-type: none"> meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan file ADR Certification signed by Parties and Counsel (form available at http://www.cand.uscourts.gov) file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference (form available at http://www.cand.uscourts.gov) | <p><u>FRCivP 26(f) & ADR L.R.3-5</u></p> <p><u>Civil L.R. 16-8 (b) & ADR L.R. 3-5(b)</u></p> <p><u>Civil L.R. 16-8 (c) & ADR L.R. 3-5(b) & (c)</u></p> |

| | | |
|------------|---|---|
| 10/30/2008 | Last day to file Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report and file Case Management Statement per attached Standing Order re Contents of Joint Case Management Statement (also available at http://www.cand.uscourts.gov) | <u>FRCivP 26(a) (1)</u> <u>Civil L.R. 16-9</u> |
| 11/6/2008 | INITIAL CASE MANAGEMENT CONFERENCE (CMC) in Courtroom 3 17th Flr at 2:30 PM | <u>Civil L.R. 16-10</u> |

*If the Initial Case Management Conference is continued, the other deadlines are continued accordingly.

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
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4

5
6 Plaintiff(s),

No. C PJH

7 v.

**ORDER REQUIRING JOINT CASE
MANAGEMENT STATEMENT AND
APPEARANCE AT CASE MANAGEMENT
CONFERENCE**

8
9 Defendant(s).
10 _____ /

11 IT IS HEREBY ORDERED that, pursuant to Fed. R. Civ. P. 16(b) and Civil L. R. 16-
12 10, a Case Management Conference will be held in this case before the Honorable Phyllis
13 J. Hamilton on _____, at 2:30 p.m., in Courtroom 3, 17th Floor, Federal
14 Building, 450 Golden Gate Avenue, San Francisco, California.

15 Plaintiff(s) shall serve copies of this Order immediately on all parties to this action,
16 and on any parties subsequently joined, in accordance with Fed. R. Civ. P. 4 and 5.
17 Following service, plaintiff(s) shall file a certificate of service with the Clerk of the Court.

18 Counsel shall meet and confer as required by Fed. R. Civ. P. 26(f) prior to the Case
19 Management Conference with respect to those subjects set forth in Fed. R. Civ. P. 16(c).
20 **Not less than seven (7) calendar days** before the conference, counsel shall file a joint
21 case management statement addressing each of the items listed in the "Standing Order
22 For All Judges Of the Northern District -- Contents of Joint Case Management Statement,"
23 which is attached to this order and can also be found on the court's website. A proposed
24 order is not necessary. Following the conference, the court will enter its own Case
25 Management and Pretrial Order. If any party is proceeding without counsel, separate
26 statements may be filed by each party.

27 Each party shall appear personally or by counsel prepared to address all of the
28 matters referred to in this Order and with authority to enter stipulations and make
admissions pursuant to this Order. Any request to reschedule the date of the conference
shall be made in writing, and by stipulation if possible, at least ten (10) calendar days
before the date of the conference and must be based upon good cause.

1 8. Discovery: Discovery taken to date, if any, the scope of anticipated discovery, any
2 proposed limitations or modifications of the discovery rules, and a proposed discovery plan
3 pursuant to Fed. R. Civ. P. 26(f).

4 9. Class Actions: If a class action, a proposal for how and when the class will be
5 certified.

6 10. Related Cases: Any related cases or proceedings pending before another judge of
7 this court, or before another court or administrative body.

8 11. Relief: All relief sought through complaint or counterclaim, including the amount of
9 any damages sought and a description of the bases on which damages are calculated. In
10 addition, any party from whom damages are sought must describe the bases on which it
11 contends damages should be calculated if liability is established.

12 12. Settlement and ADR: Prospects for settlement, ADR efforts to date, and a specific
13 ADR plan for the case, including compliance with ADR L.R. 3-5 and a description of key
14 discovery or motions necessary to position the parties to negotiate a resolution.

15 13. Consent to Magistrate Judge For All Purposes: Whether all parties will consent to
16 have a magistrate judge conduct all further proceedings including trial and entry of
17 judgment.

18 14. Other References: Whether the case is suitable for reference to binding arbitration,
19 a special master, or the Judicial Panel on Multidistrict Litigation.

20 15. Narrowing of Issues: Issues that can be narrowed by agreement or by motion,
21 suggestions to expedite the presentation of evidence at trial (e.g., through summaries or
22 stipulated facts), and any request to bifurcate issues, claims, or defenses.

23 16. Expedited Schedule: Whether this is the type of case that can be handled on an
24 expedited basis with streamlined procedures.

25 17. Scheduling: Proposed dates for designation of experts, discovery cutoff, hearing of
26 dispositive motions, pretrial conference and trial.

27 18. Trial: Whether the case will be tried to a jury or to the court and the expected length
28 of the trial.

1 19. Disclosure of Non-party Interested Entities or Persons: Whether each party has filed
2 the "Certification of Interested Entities or Persons" required by Civil Local Rule 3-16. In
3 **addition**, each party must restate in the case management statement the contents of its
4 certification by identifying any persons, firms, partnerships, corporations (including parent
5 corporations) or other entities known by the party to have either: (i) a financial interest in
6 the subject matter in controversy or in a party to the proceeding; or (ii) any other kind of
7 interest that could be substantially affected by the outcome of the proceeding.

8 20. Such other matters as may facilitate the just, speedy and inexpensive disposition of
9 this matter.

10 IT IS SO ORDERED.

11 Dated: _____



12 _____
13 PHYLLIS J. HAMILTON
14 United States District Judge
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JS 44 (Rev. 12/07) (and rev 1-16-08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

I. (a) PLAINTIFFS
 MAINSTREAM MEDIA EC, a Bahrain (Non-Resident) Exempt Closed Joint Stock Company

(b) County of Residence of First Listed Plaintiff Bahrain
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
 Karl S. Kronenberger
 KRONENBERGER BURGOWNE, LLP
 150 Post Street, Suite 520
 San Francisco, CA 94108 (415) 955-1155

DEFENDANTS
 PETER RIVEN; ALEXANDER HYDES; DYNADOT LLC; ESCROW.COM, INC.; FM.NET; DOES 1-10

County of Residence of First Listed Defendant
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)
 08-3623PJH

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff
 2 U.S. Government Defendant
 3 Federal Question (U.S. Government Not a Party)
 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

| | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | PERSONAL INJURY | PERSONAL INJURY | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|--|--|--|--|--|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Label & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury | <input type="checkbox"/> 362 Personal Injury -- Med. Malpractice <input type="checkbox"/> 365 Personal Injury -- Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395(f)) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609 | <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Creda <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY | CIVIL RIGHTS | PRISONER PETITIONS | LABOR | | |
| <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 449 Other Civil Rights | <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition | <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions | | |

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multidistrict Litigation
 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION
 Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 18 U.S.C. § 1030 et seq
 Brief description of cause:
 Computer Fraud and Abuse

VII. REQUESTED IN COMPLAINT:
 CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
 DEMAND \$ Injunctive Relief
 CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
 PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE"

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)
 SAN FRANCISCO/OAKLAND
 SAN JOSE

SIGNATURE OF ATTORNEY OF RECORD


DATE
 July 29, 2008

BY FAX

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157
FILED
08 JUL 29 PM 12:00
RICHARD W. WILKING
DISTRICT COURT

1 **KRONENBERGER BURGOYNE, LLP**
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7 Attorneys for Plaintiffs
8 **MAINSTREAM MEDIA, EC,**
9 a Bahrain (Non-Resident) Exempt Closed Joint Stock Company

9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

PJH

CV 08 3623

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12 **MAINSTREAM MEDIA, EC, a Bahrain**
13 **(Non-Resident) Exempt Closed Joint Stock**
14 **Company,**

14 Plaintiffs,

15 vs.

16 **PETER RIVEN, an individual;**
17 **ALEXANDER HYDES, an individual;**
18 **DYNADOT LLC, a California corporation;**
19 **ESCROW.COM, INC., a California**
20 **corporation;**
21 **FM.NET, an Internet Domain name; and**
22 **DOES 1- 10,**

21 Defendants.

Case No.

PLAINTIFF MAINSTREAM MEDIA,
EC'S COMPLAINT FOR:

- (1) Violation of the Federal Computer Fraud and Abuse Act;
- (2) Action to Quiet Title;
- (3) Conversion;
- (4) Civil Violation of California Penal Code Section 496;
- (5) Identity Theft;
- (6) Negligence;
- (7) Computer Fraud Under California Penal Code Section 502(c)
- (8) Trespass to Chattels; and
- (9) Unfair Competition

AND

DEMAND FOR JURY TRIAL

BY FAX

1 Plaintiff MAINSTREAM MEDIA, EC ("Mainstream" or "Plaintiff"), a Bahrain (Non-
2 Resident) Exempt Closed Joint Stock Company, brings this Complaint against
3 Defendants PETER RIVEN ("Riven"), an individual allegedly residing in Brisbane,
4 Australia, ALEXANDER HYDES ("Hydes"), an individual allegedly residing in London,
5 United Kingdom, DYNADOT LLC ("Dynadot"), a California LLC with its principal place of
6 business in San Mateo, California, ESCROW.COM, INC. ("Escrow.com"), a California
7 corporation with its principal place of business in Irvine, California, FM.NET, an Internet
8 domain name located in this District (the "DOMAIN"), and DOES 1 – 10 (collectively,
9 "Defendants") and alleges as follows:

10 **DEFENDANTS' THEFT OF THE DOMAIN**

11 1. This is an action for the recovery of a stolen DOMAIN, valued at well over
12 \$100,000. The Australian police have convicted an individual in connection with the
13 theft of the DOMAIN.

14 2. Plaintiff is an online news service consisting of a network of several
15 hundred stand-alone news sites. It also provides website development and maintenance
16 services.

17 3. Plaintiff is the rightful owner of the DOMAIN. Up until Defendants stole the
18 DOMAIN, Plaintiff used the DOMAIN to point to the domain name server (DNS) for
19 approximately one thousand (1000) of Plaintiff's websites. Additionally, all Plaintiff's
20 domain names and websites that are used for administrative purposes utilized the
21 DOMAIN as a DNS, and such utilization of the DOMAIN was essential to the Plaintiff's
22 business operations. The DOMAIN was registered with the domain name registrar, Bulk
23 Register.com, and the DOMAIN is an integral and valuable component of Plaintiff's
24 business.

25 4. In or around July, 2006, without Plaintiff's knowledge, Defendants hacked
26 into Plaintiff's computer system in order to unlawfully transfer the DOMAIN to Defendant
27 Riven. As part of this unlawful transfer, Defendants registered the DOMAIN with the
28 domain registrar, Dynadot. Riven entered into a contract with Dynadot, a California

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1 corporation. Upon information and belief, that contract has a forum selection clause in
2 this District.

3 5. In or around August, 2006, employing the services of Defendant
4 Escrow.com, Riven transferred the DOMAIN to Defendant Hydes for an unreasonably
5 low sale price, well below fair market value. The DOMAIN's registration remains with
6 Dynadot. Upon information and belief, Hydes entered into a contract with Dynadot which
7 has a forum selection clause in this District.

8 6. Prior to initiating this lawsuit, Plaintiff attempted to regain its DOMAIN
9 without litigation. For example, it promptly and timely contacted Escrow.com to demand
10 that it put a stop on the payment from Hydes to Riven. It likewise promptly and timely
11 contacted Dynadot to, at the very least, lock the DOMAIN, and prevent its transfer. These
12 attempts were unavailing.

13 7. Additionally, Plaintiff promptly alerted the New South Wales, Australia
14 police, regarding the unlawful transfer and theft. Accordingly, upon information and
15 belief, this matter was investigated by their Fraud Department, and an individual has
16 been convicted.

17 8. Plaintiff now brings this civil action, to recover its rightful property, and to
18 collect damages from Defendants who have unlawfully taken and withheld the property
19 from Plaintiff.

20 9. This Complaint shall be amended to substitute names of individuals or
21 business entities for "Does" in due course, upon the identification of additional
22 defendants through discovery.

23 10. Whenever in this Complaint reference is made to the acts of Riven, Hydes,
24 Dynadot, Escrow.Com, the DOMAIN, or Does 1-10, that allegation shall refer collectively
25 to all Defendants who, upon information and belief, are co-conspirators and/or are
26 engaged in an express or implied principal/agent relationship whereby individual
27 defendants operated under actual or ostensible authority to perform the acts so alleged,
28 and/or whereby individual defendants authorized, aided, abetted, furnished the means to,

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1 advised, or encouraged the acts of the other individual defendants.

2 **JURISDICTION AND VENUE**

3 11. Original federal question subject matter jurisdiction is conferred upon this
4 Court by the Computer Fraud and Abuse Act, 18 U.S.C. § 1030 *et seq.* Diversity
5 jurisdiction is also conferred upon this Court vis-à-vis Defendants Escrow.com and
6 Dynadot pursuant to 28 U.S.C. §1332, because the amount in controversy exceeds
7 \$75,000 exclusive of interest and costs, and because the action is between a citizen of a
8 foreign state and citizens of a State.

9 12. Supplemental jurisdiction over claims arising under the law of the State of
10 California is conferred upon this Court under 28 U.S.C. §1367.

11 13. Plaintiff is a Non-Resident Bahrain Exempt Closed Joint Stock Company.

12 14. This Court has personal jurisdiction over Riven and Hydes because they
13 have purposefully availed themselves of the privilege of conducting activities in this
14 forum, and Plaintiff's claims are directly related to and/or arise out of their forum related
15 activities. Specifically, and without limitation, Riven and Hydes, upon information and
16 belief, have entered into contracts with a California entity which has a forum-selection
17 clause in this State. Moreover, Riven and Hydes purport to hold, or have held, property in
18 this State, and Plaintiff's claims arise directly out of such contacts.

19 15. This Court has personal jurisdiction over Dynadot and Escrow.com as they
20 are both California corporations, incorporated and transacting business in this State.

21 16. This action is also an *in rem* matter pursuant to Cal. Code of Civil
22 Procedure § 760.010 *et seq.* The Court accordingly has *in rem* personal jurisdiction
23 over the DOMAIN as it is located in this State, as the Domain Name Registry, VeriSign,
24 Inc. for all ".net" domains is located in this State. *See Office Depot, Inc. v. Zuccarini,*
25 *Case No. 06-80356, slip. op., 2007 WL 2688460, *4 (N.D. Cal. Sept. 10, 2007).*

26 17. Venue is proper in the Northern District of California pursuant to 28 U.S.C
27 §1391(b)(2) because this action is not founded solely on diversity, a substantial part of
28 the events or omissions giving rise to the claim occurred here, and a substantial part of

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1 property that is the subject of the action, i.e., the DOMAIN, is situated in this District. See
2 also, Cal. Code of Civ. Proc. § 760.050(b). Venue is further proper in the Northern
3 District of California pursuant to 28 U.S.C §1391(b)(3) because this action is not founded
4 solely on diversity, all Defendants can be found in this District, and presently there is no
5 other District where this action may be brought.

6 **INTRADISTRICT ASSIGNMENT**

7 18. For the purposes of Local Rule 3-2(c), this action arises in San Francisco
8 County, as the property at issue, the DOMAIN, resides here. See *Office Depot, Inc. v.*
9 *Zuccarini*, Case No. 06-80356, slip. op., 2007 WL 2688460, *4 (N.D. Cal. Sept. 10,
10 2007).

11 **FIRST CLAIM**

12 ***Violation of The Computer Fraud and Abuse Act, 18 USC §1030***

13 **(As to Riven, Hydes, and Does 1-10)**

14 19. Plaintiff repeats, realleges, and incorporates each and every allegation set
15 forth in paragraphs 1 through 18 of this Complaint.

16 20. Defendants have stolen Plaintiff's DOMAIN, through the inappropriate and
17 intentional access of Plaintiff's web server.

18 21. Plaintiff's web server is used in interstate commerce and/or interstate
19 communication and constitutes a protected computer under 18 U.S.C. §1030.

20 22. Defendants have intentionally accessed Plaintiff's protected computer
21 without authorization, or in excess of the scope of authorized access, and by doing so
22 and through interstate communication, have improperly obtained information.
23 Defendants have knowingly, and with the intent to defraud, accessed Plaintiff's protected
24 computer without authorization, or in excess of authorized access, and by means of such
25 conduct have furthered their intended fraud and obtained proprietary business
26 information and property of Plaintiff.

27 23. Defendants have intentionally accessed Plaintiff's protected computer
28 without authorization, accessing Plaintiff's email accounts, and intercepting and deleting

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1 Plaintiff's emails. By doing so, Defendants have caused a loss to Plaintiff, including but
2 not limited to the costs of responding to the theft, investigating and initiating a criminal
3 action, finding a new host for Plaintiff's websites and moving such sites to the associated
4 servers, responding to the interruption in business services, and related consequential
5 damages incurred by the theft of the DOMAIN, aggregating at least \$5,000 in value in a
6 one year period.

7 24. As a direct and proximate result of the actions, conduct, and practices of
8 Defendants' alleged above, Plaintiff has suffered, and will continue to suffer, damages
9 and irreparable harm.

10 **SECOND CLAIM**

11 ***Action to Quiet Title Under California CCP 760.010 et. seq.***

12 **(As to Hydes, Dynadot, the DOMAIN, and Does 1-10)**

13 25. Plaintiff repeats, realleges, and incorporates each and every allegation set
14 forth in paragraphs 1 through 18 of this Complaint.

15 26. Plaintiff is the rightful owner of DOMAIN and has been since March 6,
16 2002. However, Defendants currently claim an interest therein, which is without right.

17 27. Due to Defendants' actions as alleged in paragraphs 1-18 above, Plaintiff
18 has lost control over its property. As a direct and proximate result of Defendants' actions,
19 including Defendants' detention of Plaintiff's property, Plaintiff has suffered, and will
20 continue to suffer, damages and irreparable harm.

21 28. Plaintiff seeks a judgment that it is the rightful owner of the DOMAIN, and
22 also seeks damages for Defendants' detention of the DOMAIN.

23 **THIRD CLAIM**

24 ***Conversion***

25 **(As to Riven, Hydes, Dynadot, Escrow.Com and Does 1-10)**

26 29. Plaintiff repeats, realleges, and incorporates each and every allegation set
27 forth in paragraphs 1 through 18 of this Complaint.

28 30. Plaintiff was a prior registrant of the DOMAIN and has the right to possess

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1 the DOMAIN.

2 31. Since in or around August, 2006, Defendants have had control over the
3 DOMAIN, including the ability to return the DOMAIN to Plaintiff.

4 32. Since in or around August, 2006, Defendants have known that the DOMAIN
5 was wrongfully transferred from Plaintiffs' account.

6 33. Despite Plaintiff's demands that Defendants return the DOMAIN, despite
7 Defendants' knowledge of the wrongful transfer, and despite Defendant's ability to return
8 the DOMAIN to Plaintiffs, Defendants have refused to do so, interfering with Plaintiff's
9 possession of the DOMAIN.

10 34. As a consequence, Plaintiff has suffered and continues to suffer damages.

11 **FOURTH CLAIM**

12 ***Civil Violation of Cal. Penal Code § 496***

13 **(As to Riven, Hydes, Dynadot, and Does 1-10)**

14 35. Plaintiff repeats, realleges, and incorporates each and every allegation set
15 forth in paragraphs 1 through 18 of this Complaint.

16 36. The DOMAIN constitutes personal property which Defendants have stolen
17 and/or received, concealed, sold, purchased, or withheld, knowing the DOMAIN to be
18 obtained in a manner constituting theft.

19 37. The DOMAIN constitutes personal property which Defendants have aided
20 or abetted in concealing, selling, or withholding, knowing the DOMAIN to be obtained in a
21 manner constituting theft.

22 38. As a direct and proximate result of the actions, conduct, and practices of
23 Defendants' alleged above, Plaintiff has suffered, and will continue to suffer, damages
24 and irreparable harm.

25 39. Plaintiff has no adequate remedy at law.

26 **FIFTH CLAIM**

27 ***Identity Theft Pursuant to Cal. Civ. Code § 1798.93***

28 **(As to Riven, Hydes, Dynadot, Escrow.Com, and Does 1-10)**

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San Francisco, CA 94108
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1 40. Plaintiff repeats, realleges, and incorporates each and every allegation set
2 forth in paragraphs 1 through 18 of this Complaint.

3 41. Defendants willfully obtained Plaintiff's personal identifying information, and
4 used that information for the unlawful purpose of stealing and transferring the DOMAIN.

5 42. Accordingly, Plaintiff is a victim of identity theft pursuant to Cal. Penal Code
6 § 530.5.

7 43. As a direct and proximate result of the actions, conduct, and practices of
8 Defendants' alleged above, Plaintiff has suffered, and will continue to suffer, damages
9 and irreparable harm.

10 44. Plaintiff has no adequate remedy at law.

11 **SIXTH CLAIM**

12 ***Negligence***

13 **(As to Dynadot, Escrow.com, and Does 1-10)**

14 45. Plaintiff repeats, realleges, and incorporates each and every allegation set
15 forth in paragraphs 1 through 18 of this Complaint.

16 46. Defendants, once informed of the fraudulent transfer of the DOMAIN, had a
17 duty to Plaintiff to halt the "sale" and to transfer the DOMAIN back to Plaintiff.

18 47. In breach of that duty, Defendants did not halt the "sale", despite adequate
19 time to do so. Moreover, in further breach of their duty, Defendants have yet to transfer
20 the DOMAIN back to Plaintiff.

21 48. As a direct and proximate result of the actions, conduct, and practices of
22 Defendants alleged above, Plaintiff has suffered, and will continue to suffer, damages
23 and irreparable harm.

24 49. Plaintiff has no adequate remedy at law.

25 **SEVENTH CLAIM**

26 ***Computer Fraud Under the Comprehensive Computer Data and Access Act,***

27 ***California Penal Code Section 502(c)***

28 **(As to Riven, Hydes, and Does 1-10)**

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San Francisco, CA 94108
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1 50. Plaintiff repeats, realleges, and incorporates each and every allegation set
2 forth in paragraphs 1 through 18 of this Complaint.

3 51. Defendants knowingly accessed and without permission used the
4 computer, computer systems, or computer networks of Plaintiff with the intent of
5 executing a scheme or artifice to defraud, deceive, or extort, or to wrongfully control or
6 obtain money, property or data of Plaintiff.

7 52. Defendants knowingly accessed and without permission took or copied or
8 made use of the data from Plaintiff's computer, computer systems, or computer networks.

9 53. Defendants knowingly and without permission accessed, caused to be
10 accessed, or provided or assisted in providing a means of accessing, Plaintiff's computer,
11 computer system, or computer network in violation of California Penal Code §502(c).

12 54. As a direct and proximate result of the actions, conduct, and practices of
13 Defendants' alleged above, Plaintiff has suffered, and will continue to suffer, damages
14 and irreparable harm.

15 55. Plaintiff has no adequate remedy at law.

17 **EIGHTH CLAIM**

18 ***Trespass to Chattels***

19 **(As to Riven, Hydes, Dynadot, Escrow.com, and Does 1-10)**

20 56. Plaintiff repeats, realleges, and incorporates each and every allegation set
21 forth in paragraphs 1 through 18 of this Complaint.

22 57. Defendants intentionally and without authorization, or by exceeding the
23 scope of authorization, interfered with Plaintiff's possession or possessory interest in its
24 computer system and DOMAIN.

25 58. As a direct and proximate result of the actions, conduct, and practices of
26 Defendants' alleged above, Plaintiff has suffered, and will continue to suffer, damages
27 and irreparable harm.

28 59. Plaintiff has no adequate remedy at law.

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NINTH CLAIM

Unfair Competition

(As to Riven, Hydes, Dynadot, Escrow.com, and Does 1-10)

60. Plaintiff repeats, realleges, and incorporates each and every allegation set forth in paragraphs 1 through 59 of this Complaint.

61. Defendants' actions, as more fully detailed above, are unlawful, – and therefore constitute unfair competition as defined in Cal. Bus. and Prof. Code § 17200.

Specifically, and without limitation:

a. As alleged in Plaintiff's First Claim, Defendants have violated the Computer Fraud and Abuse Act, 18 USC §1830;

b. As alleged in Plaintiff's Third Claim, Defendants have stolen Plaintiff's property;

c. As alleged in Plaintiff's Fifth Claim, Defendants assumed Plaintiff's identity and then stole the DOMAIN, both in violation of civil laws and Cal. Penal Code § 530.5.

d. As alleged in Plaintiff's Fourth and Seventh Claims, Defendants have violated Cal. Penal Code §§ 496 and §502(c), respectively.

62. As a direct and proximate result of the actions, conduct, and practices of Defendants' alleged above, Plaintiff has suffered, and will continue to suffer, damages and irreparable harm.

63. Such actions, unless enjoined, will cause Plaintiff further and irreparable harm.

PRAYER

WHEREFORE, Plaintiff prays this Court enter judgment in its favor on the claims set forth above, and further prays an award to Plaintiff of:

- 1. A preliminary and permanent injunction and judgment ordering Dynadot, or the current domain registrar if it is not Dynadot, to transfer the DOMAIN to Plaintiff;

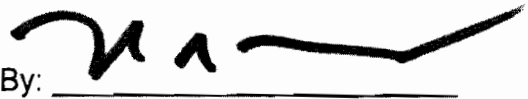
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- 2. An award of compensatory and/or statutory damages in an amount to be determined at trial;
- 3. Plaintiff's costs and attorneys fees in this action;
- 4. Treble damages pursuant to Cal. Penal Code § 496;
- 5. Pre-judgment and post-judgment interest, and
- 6. Such further relief to which Plaintiffs may be entitled as a matter of law or equity, or which the Court determines to be just and proper.

DATED: July 29, 2008

KRONENBERGER BURGOYNE, LLP

By: 

Karl S. Kronenberger
Attorneys for Plaintiff
MAINSTREAM MEDIA, EC

KRONENBERGER BURGOYNE, LLP
150 Post Street, Suite 520
San Francisco, CA 94108
www.KronenbergerLaw.com

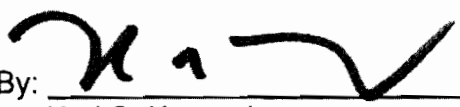
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial of this action by jury.

DATED: July 29, 2008

KRONENBERGER BURGOYNE, LLP

By: 

Karl S. Kronenberger
Attorneys for Plaintiff
MAINSTREAM MEDIA, EC

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San Francisco, CA 94108
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09

JS 44 (Rev. 12/07) (and rev 1-16-08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

I. (a) PLAINTIFFS
 MAINSTREAM MEDIA EC, a Bahrain (Non-Resident) Exempt Closed Joint Stock Company

(b) County of Residence of First Listed Plaintiff Bahrain
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
 Karl S. Kronenberger
 KRONENBERGER BURGOYNE, LLP
 150 Post Street, Suite 520
 San Francisco, CA 94108 (415) 955-1155

DEFENDANTS
 PETER RIVEN; ALEXANDER HYDES; DYNADOT LLC;
 ESCROW.COM, INC.; FM.NET; DOES 1-10

County of Residence of First Listed Defendant
 (IN U.S. PLAINTIFF CASES ONLY)
 NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)
 08-3623PJH

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff
 2 U.S. Government Defendant
 3 Federal Question (U.S. Government Not a Party)
 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

| PTF | | DEF | |
|--|---|--|--|
| <input type="checkbox"/> 1 Citizen of This State | <input type="checkbox"/> 2 Citizen of Another State | <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State |
| <input type="checkbox"/> 3 Citizen or Subject of a Foreign Country | <input type="checkbox"/> 4 Foreign Nation | <input type="checkbox"/> 3 PTF | <input type="checkbox"/> 4 DEF |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|--|--|--|--|--|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury | <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY | CIVIL RIGHTS | PRISONER PETITIONS | LABOR | SOCIAL SECURITY |
| <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights | <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition | <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Emp'l Ret. Inc. Security Act | <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark |
| | | | | FEDERAL TAX SUITS |
| | | | | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609 |
| | | | IMMIGRATION | |
| | | | <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions | |

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multidistrict Litigation
 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Do not cite jurisdictional statutes unless diversity):
 18 U.S.C. § 1030 et seq
 Computer Fraud and Abuse

VII. REQUESTED IN COMPLAINT:
 CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
 DEMAND \$ Injunctive Relief
 CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
 PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE"

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)
 SAN FRANCISCO/OAKLAND SAN JOSE

DATE: July 29, 2008
 SIGNATURE OF ATTORNEY OF RECORD:

BY FAX

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FILED
08 JUL 29 PM 12:00
RICHARD W. WILKING
DISTRICT COURT

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KRONENBERGER BURGOYNE, LLP
Karl S. Kronenberger (Bar No. 226112)
Deepa Krishnan (Bar No. 228664)
150 Post Street, Suite 520
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Telephone: (415) 955-1155
Facsimile: (415) 955-1158
karl@kronenbergerlaw.com
deepa@kronenbergerlaw.com

Attorneys for Plaintiffs
MAINSTREAM MEDIA, EC,
a Bahrain (Non-Resident) Exempt Closed Joint Stock Company

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

PJH

CV 08

3623

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MAINSTREAM MEDIA, EC, a Bahrain
(Non-Resident) Exempt Closed Joint Stock
Company,

Case No.

**PLAINTIFF MAINSTREAM MEDIA,
EC'S COMPLAINT FOR:**

Plaintiffs,

vs.

- (1) Violation of the Federal Computer Fraud and Abuse Act;
- (2) Action to Quiet Title;
- (3) Conversion;
- (4) Civil Violation of California Penal Code Section 496;
- (5) Identity Theft;
- (6) Negligence;
- (7) Computer Fraud Under California Penal Code Section 502(c)
- (8) Trespass to Chattels; and
- (9) Unfair Competition

PETER RIVEN, an individual;
ALEXANDER HYDES, an individual;
DYNADOT LLC, a California corporation;
ESCROW.COM, INC., a California corporation;
FM.NET, an Internet Domain name; and
DOES 1- 10,

Defendants.

AND

DEMAND FOR JURY TRIAL

BY FAX

Case No.

COMPLAINT OF MAINSTREAM MEDIA, EC

1 Plaintiff MAINSTREAM MEDIA, EC ("Mainstream" or "Plaintiff"), a Bahrain (Non-
2 Resident) Exempt Closed Joint Stock Company, brings this Complaint against
3 Defendants PETER RIVEN ("Riven"), an individual allegedly residing in Brisbane,
4 Australia, ALEXANDER HYDES ("Hydes"), an individual allegedly residing in London,
5 United Kingdom, DYNADOT LLC ("Dynadot"), a California LLC with its principal place of
6 business in San Mateo, California, ESCROW.COM, INC. ("Escrow.com"), a California
7 corporation with its principal place of business in Irvine, California, FM.NET, an Internet
8 domain name located in this District (the "DOMAIN"), and DOES 1 – 10 (collectively,
9 "Defendants") and alleges as follows:

10 **DEFENDANTS' THEFT OF THE DOMAIN**

11 1. This is an action for the recovery of a stolen DOMAIN, valued at well over
12 \$100,000. The Australian police have convicted an individual in connection with the
13 theft of the DOMAIN.

14 2. Plaintiff is an online news service consisting of a network of several
15 hundred stand-alone news sites. It also provides website development and maintenance
16 services.

17 3. Plaintiff is the rightful owner of the DOMAIN. Up until Defendants stole the
18 DOMAIN, Plaintiff used the DOMAIN to point to the domain name server (DNS) for
19 approximately one thousand (1000) of Plaintiff's websites. Additionally, all Plaintiff's
20 domain names and websites that are used for administrative purposes utilized the
21 DOMAIN as a DNS, and such utilization of the DOMAIN was essential to the Plaintiff's
22 business operations. The DOMAIN was registered with the domain name registrar, Bulk
23 Register.com, and the DOMAIN is an integral and valuable component of Plaintiff's
24 business.

25 4. In or around July, 2006, without Plaintiff's knowledge, Defendants hacked
26 into Plaintiff's computer system in order to unlawfully transfer the DOMAIN to Defendant
27 Riven. As part of this unlawful transfer, Defendants registered the DOMAIN with the
28 domain registrar, Dynadot. Riven entered into a contract with Dynadot, a California

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1 corporation. Upon information and belief, that contract has a forum selection clause in
2 this District.

3 5. In or around August, 2006, employing the services of Defendant
4 Escrow.com, Riven transferred the DOMAIN to Defendant Hydes for an unreasonably
5 low sale price, well below fair market value. The DOMAIN's registration remains with
6 Dynadot. Upon information and belief, Hydes entered into a contract with Dynadot which
7 has a forum selection clause in this District.

8 6. Prior to initiating this lawsuit, Plaintiff attempted to regain its DOMAIN
9 without litigation. For example, it promptly and timely contacted Escrow.com to demand
10 that it put a stop on the payment from Hydes to Riven. It likewise promptly and timely
11 contacted Dynadot to, at the very least, lock the DOMAIN, and prevent its transfer. These
12 attempts were unavailing.

13 7. Additionally, Plaintiff promptly alerted the New South Wales, Australia
14 police, regarding the unlawful transfer and theft. Accordingly, upon information and
15 belief, this matter was investigated by their Fraud Department, and an individual has
16 been convicted.

17 8. Plaintiff now brings this civil action, to recover its rightful property, and to
18 collect damages from Defendants who have unlawfully taken and withheld the property
19 from Plaintiff.

20 9. This Complaint shall be amended to substitute names of individuals or
21 business entities for "Does" in due course, upon the identification of additional
22 defendants through discovery.

23 10. Whenever in this Complaint reference is made to the acts of Riven, Hydes,
24 Dynadot, Escrow.Com, the DOMAIN, or Does 1-10, that allegation shall refer collectively
25 to all Defendants who, upon information and belief, are co-conspirators and/or are
26 engaged in an express or implied principal/agent relationship whereby individual
27 defendants operated under actual or ostensible authority to perform the acts so alleged,
28 and/or whereby individual defendants authorized, aided, abetted, furnished the means to,

1 advised, or encouraged the acts of the other individual defendants.

2 **JURISDICTION AND VENUE**

3 11. Original federal question subject matter jurisdiction is conferred upon this
4 Court by the Computer Fraud and Abuse Act, 18 U.S.C. § 1030 *et seq.*. Diversity
5 jurisdiction is also conferred upon this Court vis-à-vis Defendants Escrow.com and
6 Dynadot pursuant to 28 U.S.C. §1332, because the amount in controversy exceeds
7 \$75,000 exclusive of interest and costs, and because the action is between a citizen of a
8 foreign state and citizens of a State.

9 12. Supplemental jurisdiction over claims arising under the law of the State of
10 California is conferred upon this Court under 28 U.S.C. §1367.

11 13. Plaintiff is a Non-Resident Bahrain Exempt Closed Joint Stock Company.

12 14. This Court has personal jurisdiction over Riven and Hydes because they
13 have purposefully availed themselves of the privilege of conducting activities in this
14 forum, and Plaintiff's claims are directly related to and/or arise out of their forum related
15 activities. Specifically, and without limitation, Riven and Hydes, upon information and
16 belief, have entered into contracts with a California entity which has a forum-selection
17 clause in this State. Moreover, Riven and Hydes purport to hold, or have held, property in
18 this State, and Plaintiff's claims arise directly out of such contacts.

19 15. This Court has personal jurisdiction over Dynadot and Escrow.com as they
20 are both California corporations, incorporated and transacting business in this State.

21 16. This action is also an *in rem* matter pursuant to Cal. Code of Civil
22 Procedure § 760.010 *et seq.*. The Court accordingly has *in rem* personal jurisdiction
23 over the DOMAIN as it is located in this State, as the Domain Name Registry, VeriSign,
24 Inc. for all ".net" domains is located in this State. *See Office Depot, Inc. v. Zuccarini*,
25 Case No. 06-80356, slip. op., 2007 WL 2688460, *4 (N.D. Cal. Sept. 10, 2007).

26 17. Venue is proper in the Northern District of California pursuant to 28 U.S.C
27 §1391(b)(2) because this action is not founded solely on diversity, a substantial part of
28 the events or omissions giving rise to the claim occurred here, and a substantial part of

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1 property that is the subject of the action, i.e., the DOMAIN, is situated in this District. See
2 also, Cal. Code of Civ. Proc. § 760.050(b). Venue is further proper in the Northern
3 District of California pursuant to 28 U.S.C §1391(b)(3) because this action is not founded
4 solely on diversity, all Defendants can be found in this District, and presently there is no
5 other District where this action may be brought.

6 **INTRADISTRICT ASSIGNMENT**

7 18. For the purposes of Local Rule 3-2(c), this action arises in San Francisco
8 County, as the property at issue, the DOMAIN, resides here. See *Office Depot, Inc. v.*
9 *Zuccarini*, Case No. 06-80356, slip. op., 2007 WL 2688460, *4 (N.D. Cal. Sept. 10,
10 2007).

11 **FIRST CLAIM**

12 ***Violation of The Computer Fraud and Abuse Act, 18 USC §1030***

13 **(As to Riven, Hydes, and Does 1-10)**

14 19. Plaintiff repeats, realleges, and incorporates each and every allegation set
15 forth in paragraphs 1 through 18 of this Complaint.

16 20. Defendants have stolen Plaintiff's DOMAIN, through the inappropriate and
17 intentional access of Plaintiff's web server.

18 21. Plaintiff's web server is used in interstate commerce and/or interstate
19 communication and constitutes a protected computer under 18 U.S.C. §1030.

20 22. Defendants have intentionally accessed Plaintiff's protected computer
21 without authorization, or in excess of the scope of authorized access, and by doing so
22 and through interstate communication, have improperly obtained information.
23 Defendants have knowingly, and with the intent to defraud, accessed Plaintiff's protected
24 computer without authorization, or in excess of authorized access, and by means of such
25 conduct have furthered their intended fraud and obtained proprietary business
26 information and property of Plaintiff.

27 23. Defendants have intentionally accessed Plaintiff's protected computer
28 without authorization, accessing Plaintiff's email accounts, and intercepting and deleting

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San Francisco, CA 94108
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1 Plaintiff's emails. By doing so, Defendants have caused a loss to Plaintiff, including but
2 not limited to the costs of responding to the theft, investigating and initiating a criminal
3 action, finding a new host for Plaintiff's websites and moving such sites to the associated
4 servers, responding to the interruption in business services, and related consequential
5 damages incurred by the theft of the DOMAIN, aggregating at least \$5,000 in value in a
6 one year period.

7 24. As a direct and proximate result of the actions, conduct, and practices of
8 Defendants' alleged above, Plaintiff has suffered, and will continue to suffer, damages
9 and irreparable harm.

10 **SECOND CLAIM**

11 ***Action to Quiet Title Under California CCP 760.010 et. seq.***

12 **(As to Hydes, Dynadot, the DOMAIN, and Does 1-10)**

13 25. Plaintiff repeats, realleges, and incorporates each and every allegation set
14 forth in paragraphs 1 through 18 of this Complaint.

15 26. Plaintiff is the rightful owner of DOMAIN and has been since March 6,
16 2002. However, Defendants currently claim an interest therein, which is without right.

17 27. Due to Defendants' actions as alleged in paragraphs 1-18 above, Plaintiff
18 has lost control over its property. As a direct and proximate result of Defendants' actions,
19 including Defendants' detention of Plaintiff's property, Plaintiff has suffered, and will
20 continue to suffer, damages and irreparable harm.

21 28. Plaintiff seeks a judgment that it is the rightful owner of the DOMAIN, and
22 also seeks damages for Defendants' detention of the DOMAIN.

23 **THIRD CLAIM**

24 ***Conversion***

25 **(As to Riven, Hydes, Dynadot, Escrow.Com and Does 1-10)**

26 29. Plaintiff repeats, realleges, and incorporates each and every allegation set
27 forth in paragraphs 1 through 18 of this Complaint.

28 30. Plaintiff was a prior registrant of the DOMAIN and has the right to possess

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1 the DOMAIN.

2 31. Since in or around August, 2006, Defendants have had control over the
3 DOMAIN, including the ability to return the DOMAIN to Plaintiff.

4 32. Since in or around August, 2006, Defendants have known that the DOMAIN
5 was wrongfully transferred from Plaintiffs' account.

6 33. Despite Plaintiff's demands that Defendants return the DOMAIN, despite
7 Defendants' knowledge of the wrongful transfer, and despite Defendant's ability to return
8 the DOMAIN to Plaintiffs, Defendants have refused to do so, interfering with Plaintiff's
9 possession of the DOMAIN.

10 34. As a consequence, Plaintiff has suffered and continues to suffer damages.

11 **FOURTH CLAIM**

12 ***Civil Violation of Cal. Penal Code § 496***

13 **(As to Riven, Hydes, Dynadot, and Does 1-10)**

14 35. Plaintiff repeats, realleges, and incorporates each and every allegation set
15 forth in paragraphs 1 through 18 of this Complaint.

16 36. The DOMAIN constitutes personal property which Defendants have stolen
17 and/or received, concealed, sold, purchased, or withheld, knowing the DOMAIN to be
18 obtained in a manner constituting theft.

19 37. The DOMAIN constitutes personal property which Defendants have aided
20 or abetted in concealing, selling, or withholding, knowing the DOMAIN to be obtained in a
21 manner constituting theft.

22 38. As a direct and proximate result of the actions, conduct, and practices of
23 Defendants' alleged above, Plaintiff has suffered, and will continue to suffer, damages
24 and irreparable harm.

25 39. Plaintiff has no adequate remedy at law.

26 **FIFTH CLAIM**

27 ***Identity Theft Pursuant to Cal. Civ. Code § 1798.93***

28 **(As to Riven, Hydes, Dynadot, Escrow.Com, and Does 1-10)**

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1 40. Plaintiff repeats, realleges, and incorporates each and every allegation set
2 forth in paragraphs 1 through 18 of this Complaint.

3 41. Defendants willfully obtained Plaintiff's personal identifying information, and
4 used that information for the unlawful purpose of stealing and transferring the DOMAIN.

5 42. Accordingly, Plaintiff is a victim of identity theft pursuant to Cal. Penal Code
6 § 530.5.

7 43. As a direct and proximate result of the actions, conduct, and practices of
8 Defendants' alleged above, Plaintiff has suffered, and will continue to suffer, damages
9 and irreparable harm.

10 44. Plaintiff has no adequate remedy at law.

11 **SIXTH CLAIM**

12 ***Negligence***

13 **(As to Dynadot, Escrow.com, and Does 1-10)**

14 45. Plaintiff repeats, realleges, and incorporates each and every allegation set
15 forth in paragraphs 1 through 18 of this Complaint.

16 46. Defendants, once informed of the fraudulent transfer of the DOMAIN, had a
17 duty to Plaintiff to halt the "sale" and to transfer the DOMAIN back to Plaintiff.

18 47. In breach of that duty, Defendants did not halt the "sale", despite adequate
19 time to do so. Moreover, in further breach of their duty, Defendants have yet to transfer
20 the DOMAIN back to Plaintiff.

21 48. As a direct and proximate result of the actions, conduct, and practices of
22 Defendants alleged above, Plaintiff has suffered, and will continue to suffer, damages
23 and irreparable harm.

24 49. Plaintiff has no adequate remedy at law.

25 **SEVENTH CLAIM**

26 ***Computer Fraud Under the Comprehensive Computer Data and Access Act,***

27 ***California Penal Code Section 502(c)***

28 **(As to Riven, Hydes, and Does 1-10)**

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1 50. Plaintiff repeats, realleges, and incorporates each and every allegation set
2 forth in paragraphs 1 through 18 of this Complaint.

3 51. Defendants knowingly accessed and without permission used the
4 computer, computer systems, or computer networks of Plaintiff with the intent of
5 executing a scheme or artifice to defraud, deceive, or extort, or to wrongfully control or
6 obtain money, property or data of Plaintiff.

7 52. Defendants knowingly accessed and without permission took or copied or
8 made use of the data from Plaintiff's computer, computer systems, or computer networks.

9 53. Defendants knowingly and without permission accessed, caused to be
10 accessed, or provided or assisted in providing a means of accessing, Plaintiff's computer,
11 computer system, or computer network in violation of California Penal Code §502(c).

12 54. As a direct and proximate result of the actions, conduct, and practices of
13 Defendants' alleged above, Plaintiff has suffered, and will continue to suffer, damages
14 and irreparable harm.

15 55. Plaintiff has no adequate remedy at law.

17 **EIGHTH CLAIM**

18 ***Trespass to Chattels***

19 **(As to Riven, Hydes, Dynadot, Escrow.com, and Does 1-10)**

20 56. Plaintiff repeats, realleges, and incorporates each and every allegation set
21 forth in paragraphs 1 through 18 of this Complaint.

22 57. Defendants intentionally and without authorization, or by exceeding the
23 scope of authorization, interfered with Plaintiff's possession or possessory interest in its
24 computer system and DOMAIN.

25 58. As a direct and proximate result of the actions, conduct, and practices of
26 Defendants' alleged above, Plaintiff has suffered, and will continue to suffer, damages
27 and irreparable harm.

28 59. Plaintiff has no adequate remedy at law.

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NINTH CLAIM

Unfair Competition

(As to Riven, Hydes, Dynadot, Escrow.com, and Does 1-10)

60. Plaintiff repeats, realleges, and incorporates each and every allegation set forth in paragraphs 1 through 59 of this Complaint.

61. Defendants' actions, as more fully detailed above, are unlawful, – and therefore constitute unfair competition as defined in Cal. Bus. and Prof. Code § 17200.

Specifically, and without limitation:

a. As alleged in Plaintiff's First Claim, Defendants have violated the Computer Fraud and Abuse Act, 18 USC §1830;

b. As alleged in Plaintiff's Third Claim, Defendants have stolen Plaintiff's property;

c. As alleged in Plaintiff's Fifth Claim, Defendants assumed Plaintiff's identity and then stole the DOMAIN, both in violation of civil laws and Cal. Penal Code § 530.5.

d. As alleged in Plaintiff's Fourth and Seventh Claims, Defendants have violated Cal. Penal Code §§ 496 and §502(c), respectively.

62. As a direct and proximate result of the actions, conduct, and practices of Defendants' alleged above, Plaintiff has suffered, and will continue to suffer, damages and irreparable harm.

63. Such actions, unless enjoined, will cause Plaintiff further and irreparable harm.

PRAYER

WHEREFORE, Plaintiff prays this Court enter judgment in its favor on the claims set forth above, and further prays an award to Plaintiff of:

- 1. A preliminary and permanent injunction and judgment ordering Dynadot, or the current domain registrar if it is not Dynadot, to transfer the DOMAIN to Plaintiff;

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- 2. An award of compensatory and/or statutory damages in an amount to be determined at trial;
- 3. Plaintiff's costs and attorneys fees in this action;
- 4. Treble damages pursuant to Cal. Penal Code § 496;
- 5. Pre-judgment and post-judgment interest, and
- 6. Such further relief to which Plaintiffs may be entitled as a matter of law or equity, or which the Court determines to be just and proper.

DATED: July 29, 2008

KRONENBERGER BURGOYNE, LLP

By: 

Karl S. Kronenberger
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MAINSTREAM MEDIA, EC

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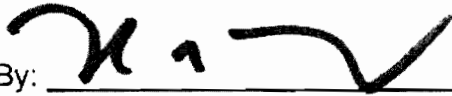
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial of this action by jury.

DATED: July 29, 2008

KRONENBERGER BURGOYNE, LLP

By: 

Karl S. Kronenberger
Attorneys for Plaintiff
MAINSTREAM MEDIA, EC

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