

The Honorable James L. Robart

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

ATIGEO LLC, a Washington limited liability)
company; and MICHAEL SANDOVAL, an)
individual,)

Plaintiffs,

vs.

OFFSHORE LIMITED D, a California)
business organization, form unknown;)
OFFSHORE LIMITED D, a California)
partnership; DENNIS MONTGOMERY,)
individually and as a partner of Offshore)
Limited D; ISTVAN BURGYN,)
individually and as a partner of Offshore)
Limited D; DEMARATECH, LLC, a)
California limited liability company; and)
DOES 1-10, inclusive,)

Defendant.

NO. 2:13-cv-01694

**MOTION TO DISMISS PLAINTIFFS’
FIRST CLAIM PURSUANT TO FRCP
12(b)(6), AND SPECIAL MOTION TO
STRIKE PLAINTIFFS’ SECOND CLAIM
PURSUANT TO CCP 425.16**

**NOTE ON MOTION CALENDAR:
November 22, 2013**

I. MOTION

COME NOW Defendants Dennis Montgomery and Istvan Burgyn, by and through their undersigned attorney of record, Shellie McGaughey of McGaughey Bridges Dunlap, PLLC, and move this Court for an Order dismissing plaintiffs’ first claim pursuant to FRCP 12(b)(6), and striking plaintiffs’ second claim pursuant to California Code of Civil Procedure § 425.16.

**MOTION TO DISMISS AND SPECIAL MOTION TO
STRIKE -1-**



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1 **II. PROCEDURAL POSTURE/RELIEF REQUESTED**

2 As the Court is aware, this matter was initially filed in the United States District Court
3 for the Central District of California. Plaintiffs filed their complaint on July 15, 2013, alleging
4 claims for violation of the Anti-Cybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d),
5 and libel. [California Docket #1] Complaint at pages 9-13.

6 On September 19, 2013, defendants' California counsel filed a Notice of Motion,
7 Motion to Dismiss Plaintiffs' First Claim Pursuant to FRCP 12(b)(6), and Special Motion to
8 Strike Plaintiffs' Second Claim Pursuant to CCP 425.16 including Declaration of counsel
9 Dennis Neil Jones. [California Docket #22]

10 Also on September 19, 2013, California counsel filed a Declaration of James E. Perero
11 in Support of Motion to Dismiss Plaintiffs' First Claim Pursuant to FRCP 12(b)(6), and Special
12 Motion to Strike Plaintiffs' Second Claim Pursuant to CCP 425.16 with supporting exhibits.
13 [California Docket #23]

14 However, on September 17, this case was transferred to the Western District of
15 Washington pursuant to a Stipulation to Transfer and Order. [California Docket #20]
16 Thereafter, the October 21, 2013 hearing date was stricken as moot. [California Docket #24]

17 The Stipulation provided for transfer of this case due to convenience of the parties, 28
18 U.S.C. § 1404(a), as defendants Dennis Montgomery and Istvan Burgyan both reside in
19 Washington. Atigeo LLC is a Washington company Michael Sandoval is a Washington
20 resident.

21 While Defendants' Special Motion to Strike is based upon California law, in cases
22 transferred pursuant to 28 U.S.C. § 1404(a), the choice of law rules are that which would have
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1 been applied by the transferor court – here, California. Nelson v. International Paint Co., 716
2 F.2d 640, 643 (9th Cir. 1983).

3 Defendants wish to re-note the motion filed in California for consideration by this Court.
4 As the motion and supporting declarations are not reflected on the docket for our court here in
5 the Western District defendants re-submit the motions and declarations herewith and
6 incorporate by this reference as necessary.

7
8 DATED this 30TH day of October, 2013

9 McGAUGHEY BRIDGES DUNLAP, PLLC

10 /s/Shellie McGaughey

11 Shellie McGaughey, WSBA #16809
12 Attorney for Defendant Burgyan
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CERTIFICATE OF SERVICE

I certify that on Friday, September 27, 2013, I caused the foregoing to be served on the following by the methods indicated:

Roland Tellis	<input type="checkbox"/>	Via hand delivery by Legal Messenger
Peter Smith	<input type="checkbox"/>	Via U.S. Mail, 1st Class, Postage Prepaid
BARON & BUDD, P.C.	<input type="checkbox"/>	Via Overnight Delivery
15910 Ventura Boulevard, Suite 1600	<input type="checkbox"/>	Via Facsimile
Encino, California, 91436	<input type="checkbox"/>	Via Email
	<input checked="" type="checkbox"/>	Other: <u>Electronic Pacer</u>
Brian C. Park	<input type="checkbox"/>	Via hand delivery by Legal Messenger
STOEL RIVES LLP	<input type="checkbox"/>	Via U.S. Mail, 1st Class, Postage Prepaid
600 University Street, Suite 3600	<input type="checkbox"/>	Via Overnight Delivery
Seattle, WA 98101	<input type="checkbox"/>	Via Facsimile
	<input type="checkbox"/>	Via Email
	<input checked="" type="checkbox"/>	Other: <u>Electronic Pacer</u>
Paul Brain	<input type="checkbox"/>	Via hand delivery by Legal Messenger
Brain Law Firm PLLC	<input type="checkbox"/>	Via U.S. Mail, 1st Class, Postage Prepaid
1119 Pacific Avenue, Suite 1200	<input type="checkbox"/>	Via Overnight Delivery
Tacoma, WA 98402	<input type="checkbox"/>	Via Facsimile
	<input type="checkbox"/>	Via Email
	<input checked="" type="checkbox"/>	Other: <u>Electronic Pacer</u>

I certify under penalty of perjury that the foregoing is true and correct.

DATED this 30th day of October, 2013.

/s/ Katie Berry
Katie Berry