



1 NOTE: THIS IS THE SECOND AMENDED COMPLAINT. THE ORIGINAL COMPLAINT WAS FILED  
2 ON 9 DECEMBER 2005 INCLUDING "EXHIBIT 5", A 90 PAGE EVIDENCE DOCUMENT (FILED  
3 UNDER SEAL). THE FIRST AMENDED COMPLAINT WAS FILED ON 14 APRIL 2006.  
4 DEFENDANT DOUG CARLSON WAS DISMISSED DUE TO A SETTLEMENT PRIOR TO FILING OF  
5 THIS SECOND AMENDED COMPLAINT.

6 COMES NOW, Plaintiff, REZA GANJAVI, and, as against each of the  
7 Defendants named herein, respectfully complains, avers and alleges as  
8 follows:

9 **SUMMARY OF FACTS**

10  
11 1. Plaintiff is a record producer and classical musician who has produced  
12 some very successful CDs in the Classical Guitar genre. Plaintiff's success  
13 attracted the envy and hostility of certain individuals on a Classical  
14 Guitar Internet group. The Defendants have broken a number of laws by  
15 attacking the Plaintiff and his business in several vulgar, uncivil,  
16 profane, and highly damaging manners, apparently motivated by jealousy,  
17 prejudice, and causeless hatred. In performing these above actions the  
18 Defendants evidenced malice, fraud, oppression, calculated falsehoods, and  
19 disregard for the rights and safety of the Plaintiff. There are no issues  
20 raised here regarding pure expressions of opinions by the Defendants or  
21 privileged communications; the allegations relate to violations of the  
22 Plaintiff's rights and not mere likes and dislikes.

23 2. In summary,

24 a) Defendants committed numerous counts of identity theft / fraudulent  
25 use of Plaintiff's identity;

26 b) Defendants fraudulently published material using the Plaintiff's email  
27 address and name, including threatening others with fatal violence,  
28 using racial slurs against Blacks, and sympathizing with terrorism;

- 1 c) Defendants setup mock websites to damage Plaintiff's business and  
2 reputation;
- 3 d) Defendants published fictitious, forged, and altered material which  
4 were falsely attributed to the Plaintiff as the author;
- 5 e) Defendants published material which placed the Plaintiff in a highly  
6 offensive light;
- 7 f) Defendants copied and published Plaintiff's work without his  
8 permission and without privilege;
- 9 g) Defendants violated Plaintiff's rights to attribution and integrity;
- 10 h) Defendants attempted to assassinate Plaintiff's character;
- 11 i) Defendants explicitly and implicitly collaborated and cooperated in  
12 committing the alleged acts; and
- 13 j) Other acts which are explained hereinafter.

14  
15 **JURISDICTION AND VENUE**  
16

17 3. This Court has Diversity Jurisdiction over this matter as all  
18 Defendants are citizens of different states than the Plaintiff, and the  
19 amount in controversy, including compensatory and punitive damages, is over  
20 \$75,000.

21 4. Federal question jurisdiction exists regarding causes of action based  
22 upon 17 U.S.C. 106A(a) "Rights of certain authors to attribution and  
23 integrity", and 15 U.S.C. § 1125 "False designations of origin, false  
24 descriptions, and dilution".

25 5. This Court has personal jurisdiction over Jeremy Smith, Todd Tipton,  
26 William Jennings, and Does 1-10 (collectively, "Defendants") as the  
27 allegations herein relate to Defendants' purposeful attempts to transact  
28 business in the State of California, and their infliction of tortuous injury

1 on Plaintiff in the State of California through such attempted transactions.  
2 Through their conduct at issue, Defendants have purposefully availed  
3 themselves of the State of California. Defendants have published within this  
4 District, or contributed to publishing within this District; material that  
5 defames Plaintiff. Defendants have published within this District, or  
6 contributed to publishing within this District; material that infringes the  
7 rights to Plaintiff's copyrighted works. Defendants have contracted over the  
8 Internet with residents of the State of California for the provision of  
9 services. The ongoing bilateral and interactive nature of the Defendants'  
10 business activities with residents of the State of California is sufficient  
11 to establish personal jurisdiction. Because Defendants seek business  
12 relations with residents of the State of California, and conduct business  
13 relations with residents of the State of California, this Court has personal  
14 jurisdiction over Defendants and venue is proper in this judicial district.

15 6. Venue is proper in this judicial district pursuant to the provisions  
16 of 28 U.S.C. § 1391 and/or 28 U.S.C. § 1400(a) as Defendants are subject to  
17 the personal jurisdiction of the Court situated herein. Although the true  
18 identity of each Doe Defendant is unknown to Plaintiff at this time, on  
19 information and belief, each Defendant may be found in this District and/or  
20 a substantial part of the acts of infringement complained of herein occurred  
21 in this District. On information and belief, personal jurisdiction in this  
22 District is proper because the Defendants, without consent or permission of  
23 the Plaintiff disseminated over the Internet copyrighted works owned and/or  
24 controlled by Plaintiff, fraudulently used Plaintiff's identity, and  
25 published material that the Plaintiff had not written while attributing the  
26 Plaintiff as the author. On information and belief, such illegal  
27 dissemination occurred in every jurisdiction of the United States, including  
28 this judicial district. Furthermore, on information and belief, Defendants

1 have unfairly competed with Plaintiff via the Internet and otherwise, in  
2 every jurisdiction of the United States, including this judicial district.  
3 In addition, each Defendant uses an online service provider found in the  
4 State of California to access the Internet, which facilitated Defendants'  
5 infringing activities. Additionally, on information and belief, personal  
6 jurisdiction in this District is proper because each Defendant, without  
7 privilege, published false communications which exposed Plaintiff to hatred,  
8 contempt, ridicule, or obloquy, or which caused the Plaintiff to be shunned  
9 or avoided, or which had a tendency to injure the Plaintiff in Plaintiff's  
10 business. On information and belief, such identity theft, cyber-squatting,  
11 slander and libel occurred in every jurisdiction of the United States,  
12 including this judicial district.

#### 13 14 PARTIES

15  
16 7. Plaintiff Reza Ganjavi ("Plaintiff") is an individual who is presently  
17 a professional musician with two Classical Guitar CDs which have done very  
18 well both in terms of sales within their genre (one was a best seller), and  
19 in terms of listener responses which are represented on some two hundred  
20 pages of voluntarily provided listener comments on his main website,  
21 [www.rezamusic.com](http://www.rezamusic.com). Plaintiff has an *MBA* from the *University of California*,  
22 and *magna-cum-laude* degrees in *Computer Science* and *Philosophy* from the  
23 *California State University*. Plaintiff believes his work stands for  
24 friendship, dialogue, peace, harmony, understanding, cooperation, cultural  
25 exchange, equality of all people, and other positive values. Plaintiff was  
26 born in Tehran and moved to the USA at age 15. His address in the USA is:  
27 2331 Westwood Boulevard #152, Los Angeles, CA 90064-2109.

1 **Upon information and belief:**

2 8. Defendant Jeremy C. Smith ("Smith") is an individual, a musician, who  
3 is currently employed at Deloitte, and resides at 605 W. Madison Street, Apt  
4 4811, Chicago, Illinois 60661. Smith fraudulently used the Plaintiff's  
5 identity to publish on the Internet and Usenet libelous statements regarding  
6 the Plaintiff, and to make other dangerous statements including sympathizing  
7 with terrorists and insulting Blacks while posing the Plaintiff as the  
8 author, and presenting writings that the Plaintiff never wrote as  
9 Plaintiff's writings, and other acts including setting up of a forged  
10 website and use of Plaintiff's copyrighted material without authorization.  
11 Smith has issued false statements to companies and individuals engaged in  
12 trade with the Plaintiff and to companies and individuals potentially  
13 interested in engaging in trade with the Plaintiff.

14  
15 **Upon information and belief:**

16 9. Defendant Todd Tipton, also known as Timothy T. Tipton, ("Tipton") is  
17 an individual, a musician, and maintains a website,  
18 <http://www.toddtipton.com>. Tipton currently teaches guitar and is a doctoral  
19 candidate at the University of Minnesota, School of Music at 100 Ferguson  
20 Hall, 2106 4<sup>th</sup> Street South, Minneapolis, Minnesota 55455. He resides at 4409  
21 Aldrich Avenue S., Minneapolis, MN 55419. Tipton published material which  
22 was fraudulently attributed to the Plaintiff as the author, has setup a  
23 forged website mocking Plaintiff's registered websites, published libelous  
24 statements regarding the Plaintiff via the Internet and Usenet, including  
25 the newsgroup, rec.music.classical.guitar and other websites on the Internet  
26 accessed throughout the U.S. and the world. Tipton forged the Plaintiff's  
27 identity by explicitly posing himself as the Plaintiff through the  
28 unauthorized use of Plaintiff's email, password, and website URL, and used

1 other nicknames and pseudonyms to commit a number of violations, including  
2 threatening another newsgroup member with murder (while posing the Plaintiff  
3 as the author of the statement). Tipton has issued false statements to  
4 companies and individuals engaged in trade with the Plaintiff and to  
5 companies and individuals potentially interested in engaging in trade with  
6 the Plaintiff.

7  
8 **Upon information and belief:**

9 10. Defendant William David Jennings ("Jennings") is an individual, a  
10 musician, residing at 1415 Babcock Road, Apt. 704, San Antonio, Texas 78201.  
11 Jennings has published libelous statements regarding the Plaintiff via  
12 websites on the Internet and Usenet, including the newsgroup,  
13 rec.music.classical.guitar and other websites on the Internet accessed  
14 throughout the U.S., including the State of California. Jennings has issued  
15 false statements to companies and individuals engaged in trade with the  
16 Plaintiff and to companies and individuals potentially interested in  
17 engaging in trade with the Plaintiff. Jennings has at times forged  
18 Plaintiff's identity and writings.

19 11. The true names and capacities of the Defendants Does 1-10 ("Doe  
20 Defendants") are unknown to Plaintiff at this time. Plaintiff is informed  
21 and believes, and based upon such information and belief alleges, that each  
22 Doe Defendant was in some way responsible for, participated in, or  
23 contributed to the matters and things of which Plaintiff complains herein,  
24 and in some fashion, has legal responsibility therefore. Plaintiff believes  
25 that information obtained in discovery will lead to the identification of  
26 the true name, citizenship, domicile, and residency of each Doe Defendant.  
27 When the exact nature and identity of such Doe Defendants and their  
28 responsibility for participation and contribution to the matters and things

1 herein alleged is ascertained by Plaintiff, Plaintiff will amend this  
2 Complaint to set forth the same.

### 3 4 INTERNET & USENET

5  
6 **12.** The violations occurred over the Internet through forged websites  
7 setup by the Defendants, and through Usenet's rec.music.classical.guitar  
8 newsgroup, which is the largest online classical guitar community.  
9 Currently, the largest Usenet repository is maintained by Google. However  
10 there are other mirror sites and repositories that currently contain  
11 messages fraudulently attributed to the Plaintiff. Those messages are  
12 available to search engines and available worldwide to anyone who uses the  
13 Internet. The above newsgroup is actively read by hundreds of users around  
14 the world. Far more people read the newsgroup posting than post to the  
15 newsgroup and as such, it is difficult to estimate the exact number of users  
16 except that the number is large. The archives are used as reference material  
17 currently and for potentially generations to come.

### 18 19 DISCOVERY & INVESTIGATION

20  
21 13. An intensive process of discovery has been ongoing since the filing of  
22 the original Complaint. To date, over eight organizations have responded to  
23 subpoenas and provided subscriber information that has helped identify  
24 sources of anonymous posting and names and addresses for various Defendants.

25 14. The violations have been reported to the following authorities:

- 26 • The Federal Bureau of Investigations (FBI reference: I05091018475587)
- 27 • The Federal Trade Commission (FTC reference: 7052633)
- 28 • Legal Attaché: US Embassy, Bern, Switzerland

- 1 • Los Angeles Police Department, California
- 2 • US Attorney: Los Angeles, California.

3

4 **FIRST CAUSE OF ACTION**

5 (Forgery)

6

7 15. The averments set forth in all preceding paragraphs are incorporated

8 herein by reference.

9 16. For the period from about 14 December 2004 to about 13 September 2005,

10 the Defendants attempted to fraudulently assume, steal and misappropriate

11 Plaintiff's identity in the manner described presently through unauthorized

12 use of Plaintiff's name, email address, and password, in order to create and

13 publish forged documents that were falsely attributed to the Plaintiff as

14 the author.

15 17. There are several instances of evidence that the Defendants succeeded

16 in their ability to defraud others and win their trust by making the

17 documents appear genuine. Others relied on the material misrepresentations

18 and forged documents in their dealings with Plaintiff. Defendants

19 intentionally misrepresented material facts regarding Plaintiff, including

20 Plaintiff's professional activities, in these forged documents. There were a

21 number of severe, dangerous, and untrue allegations associated with the

22 Plaintiff in the forged documents designed to assassinate the Plaintiff's

23 character (a thorough list follows in Paragraph 20, *infra*).

24 18. At all times relevant, Sixteen (16) messages were published on the

25 Internet by Defendants who used the Plaintiff's name, email address and a

26 password to present themselves as the Plaintiff: ["Reza Ganjavi

27 (www.rezamusic.com)" <ganjavi@dtc.ch>]. The Plaintiff did not write these

28 messages. Inarguably, the combination of four identity features, e.g., first

1 name, last name, website URL, and email address very uniquely and  
2 unambiguously purports to identify the Plaintiff. Plaintiff has in the past  
3 used the same set of four identity features to publish material on the  
4 Internet. While there are many persons named "Reza" in the world, to the  
5 best knowledge of the Plaintiff there are no other "Reza Ganjavi's", and  
6 even if there were, technically it is improbable to have another "Reza  
7 Ganjavi" with the email address: "ganjavi@drc.ch" and even more improbable  
8 to have anybody, with any name, who can claim to be the "Reza" referred to  
9 by "www.rezamusic.com," as the Plaintiff is the sole and legal owner of this  
10 website URL. Therefore, using a combination of these identity features  
11 uniquely and unambiguously purports to identify the Plaintiff, and it is  
12 this combination of identity features, which the Defendants used to pose as  
13 the Plaintiff, and publish material with the Plaintiff posed as the author.

14 19. At all times relevant, there was no way for the Plaintiff to stop the  
15 recurrence of such violations, as the Usenet/Internet does not provide such  
16 technical capability. Here, the Defendants intentionally and maliciously  
17 used the Plaintiff's identity, without the Plaintiff's authorization, to  
18 post messages that the Plaintiff had not written, unambiguously presenting  
19 the Plaintiff as the author. The Plaintiff asked the Defendants to stop  
20 assuming Plaintiff's identity and to retract their violations many times to  
21 no avail. Not only did the Defendants refuse to retract their statements,  
22 they intensified their attacks after Plaintiff's request for cessation of  
23 their fraudulent activity.

24 20. The messages that were fraudulently posted as being authored by the  
25 Plaintiff contained highly offensive material and violent content completely  
26 contrary to the Plaintiff's character, beliefs, and philosophy of life.

27 21. Most of the material posted, with the Plaintiff fraudulently presented  
28 as the author, is too offensive to reproduce here in the body of this

1 complaint, however, some ingredients include the following, which is merely  
2 a small example of numerous counts of violations. Upon information and  
3 belief:

4 a) Using the Plaintiff's identity, Defendant Todd Tipton threatened to  
5 kill a person with use of extreme, graphic, and physical violence.

6 b) Using the Plaintiff's identity, Defendant Todd Tipton threatened and  
7 used obscene language on others.

8 c) Using the Plaintiff's identity, Defendant Todd Tipton publicized  
9 false, negative, scandalous, and damaging statements about the  
10 Plaintiff's products, artistic credibility, and reputation.

11 d) Defendant Todd Tipton published material fraudulently attributed to  
12 the Plaintiff as the author, which falsely alleged Plaintiff with  
13 horrible accusations such as being a pedophile.

14 e) Using the Plaintiff's identity, Defendant Jeremy Smith directed  
15 obscenity at the Plaintiff himself and posted highly defamatory  
16 material about the Plaintiff.

17 f) Using the Plaintiff's identity, Defendant Jeremy Smith scandalously  
18 supported terrorism -- something that is absolutely contrary to the  
19 Plaintiff's beliefs and moral values.

20 g) Using the Plaintiff's identity, Defendant Jeremy Smith directed racial  
21 slurs, including publicly publishing a message with the tile: "THIS IS  
22 WHY BLACK PEOPLE ARE NIGGERS" containing a link to a picture of an  
23 African American person. This is absolutely and unquestionably against  
24 the Plaintiff's belief. Plaintiff has utmost respect and affection for  
25 the Black race especially, as he does for fellow civil human beings of  
26 every race, ethnicity, country, gender, and religion. In addition,  
27 Plaintiff has many Black friends and fans and prospective customers  
28 who would be disgruntled and likely to disassociate from Plaintiff if

1           they come upon such lies and insults purportedly written on behalf of  
2           the Plaintiff on the Internet.

3           h) Using the Plaintiff's identity, Defendant Jeremy Smith made other  
4           remarks exhibiting racial prejudice, for example, referring to the  
5           Plaintiff as a "sand Nigger" who would do extreme graphic and obscene,  
6           filthy, lewd sexual acts.

7           i) Using the Plaintiff's identity, Defendant Jeremy Smith made vulgar  
8           inappropriate sexual overtures, and sexual threats to others.

9           j) Using the Plaintiff's identity, Defendant Jeremy Smith made vulgar  
10          sexual insults and inappropriate and false remarks towards the  
11          Plaintiff.

12          k) Using the Plaintiff's identity, Defendant Jeremy Smith verbally  
13          attacked a civilized member of the community.

14          l) Using the Plaintiff's identity, Defendant Jeremy Smith falsely  
15          discarded and quashed writings that were actually written by the  
16          Plaintiff.

17          m) Using the Plaintiff's identity, Defendant Jeremy Smith altered and  
18          posted Plaintiff's copyrighted works without permission.

19  
20         22. The Plaintiff posted messages stating that Plaintiff did not write the  
21         aforementioned fraudulent messages. However, the Defendants would turn  
22         around; forge the Plaintiff's ID and post a message uniquely identifying the  
23         Plaintiff as the author, quashing the corrective message that the Plaintiff  
24         had actually just posted. The result was that a reader would believe that  
25         the Plaintiff did not write the corrective message.

26         23. As a result of the foregoing, Plaintiff has suffered injuries to  
27         himself, his profession, his reputation, his artistic career, his health,  
28         and his relationships, in an amount to be determined at time of trial, but

1 within the jurisdictional limits of this Court. In the alternative,  
2 Plaintiff prays for any applicable statutory damages for this cause of  
3 action.

4 24. Plaintiff will suffer immediate and irreparable harm if this Court  
5 does not order injunctive relief, in that Plaintiff's business, practice,  
6 and artistic reputation will be irreparably damaged otherwise. Monetary  
7 relief cannot completely remedy Plaintiff's damages.

8 25. Plaintiff has exhausted his administrative remedies.

9  
10 **SECOND CAUSE OF ACTION**

11 (17 U.S.C. § 106A: Attribution and Integrity Rights)

12  
13 26. The averments set forth in all preceding paragraphs are incorporated  
14 herein by reference.

15 27. Plaintiff's website design and other works of visual art are protected  
16 by copyright laws and subject to protection by 17 U.S.C. § 106A(a)  
17 "attribution and integrity rights" as Plaintiff is the author of a work of  
18 visual art, including Plaintiff's websites, <http://www.rezamusic.com> and  
19 <http://www.rezaworld.com>. Plaintiff alleges that his rights to attribution  
20 and integrity were violated when the Defendants published websites  
21 attributed to the Plaintiff that closely resembled Plaintiff's websites,  
22 with the intention of causing Plaintiff harm by using Plaintiff's name as  
23 the author of a work of visual art which Plaintiff did not create and using  
24 Plaintiff's name as the author of a work of visual art in the event of a  
25 distortion, mutilation, and other modifications of Plaintiff's work which  
26 was prejudicial to Plaintiff's honor and reputation.

27 28. As a result of the foregoing, Plaintiff has suffered injuries to  
28 himself, his profession, his reputation, his artistic career, his health,

1 and his relationships, in an amount to be determined at time of trial, but  
2 within the jurisdictional limits of this Court. In the alternative,  
3 Plaintiff prays for any applicable statutory damages for this cause of  
4 action.

5  
6 **THIRD CAUSE OF ACTION**

7 (False Presentation in violation of the Anti-Cybersquatting Consumer  
8 Protection Act, 15 U.S.C. § 1125)

9  
10 29. The averments set forth in all preceding paragraphs are incorporated  
11 herein by reference.

12 30. On or about August 5, 2005, and on or about September 11 2005, it was  
13 brought to the Plaintiff's attention that the Defendants had set up mock  
14 websites strongly resembling the Plaintiff's registered websites in name,  
15 design, and content.

16 31. Defendants are potential competitors of Plaintiff in the area of  
17 classical guitar service and goods, Defendants portrayed Plaintiff's goods  
18 and services to potential clients and audiences falsely, fraudulently, and  
19 maliciously, therefore misleading Plaintiff's potential clients of facts  
20 that were likely to cause confusion. Furthermore, Defendants deceptively  
21 affiliated Plaintiff to endorsement of sources of advertising presented on  
22 the fraudulently setup websites. Those websites were explicitly purported to  
23 be associated with the Plaintiff by name, description, pictures, and graphic  
24 design.

25 32. One mock website hosted on Yahoo/Geocities referred explicitly and  
26 unambiguously to the Plaintiff and his website, by name, description, photo,  
27 and design. The mock website purported that Plaintiff endorsed products that  
28 the Plaintiff did not endorse. The websites directed insults and invectives

1 at the Plaintiff and his products and services; disparaged his professional  
2 competence; and offended the Plaintiff's potential customers and audience.  
3 This website was setup and announced on the Usenet by Defendant Jeremy Smith  
4 who posed as the classical guitar discussion group's "Official Moderator  
5 <moderator@rmcg.com>".

6 33. The website also directed sexual slurs towards the Plaintiff and his  
7 business associates, implying that the Plaintiff was a homosexual, which he  
8 is not, and such allegations are dangerous because Plaintiff travels to  
9 Iran, where his relatives still reside. In Iran, homosexuality is a crime  
10 and is punished severely. Thus, posting this false allegation on the  
11 Internet is especially dangerous for Plaintiff and harmful to him even  
12 though Plaintiff is not homosexual.

13 34. The aforementioned mock site was announced to the Plaintiff on or  
14 about September 11 2005, from the IP address [24.148.29.235] (belonging to  
15 Defendant Jeremy Smith). The Defendant wrote: "You and I share similar  
16 interests and even look alike. www.geocities.com/rezasworld". On the same  
17 day the site was also announced publicly. The site's visit-counter indicated  
18 the site was visited by at least 99 visitors as of [September 11, 2005].  
19 From the same IP address [24.148.29.235], on or about September 12, 2005,  
20 the Plaintiff received an email: "Care to negotiate a peace settlement?" but  
21 this one was from the IP address [167.219.0.140], which indicated the  
22 Defendant as an employee of Deloitte's. On 13 April 2006, in response to a  
23 subpoena, Deloitte confirmed that the name of the responsible employee is  
24 Defendant Jeremy Smith. Smith works for Deloitte and uses RCN as a home  
25 online service provider. Smith has also used Giganews and Teranews to commit  
26 some of the violations anonymously.

27 35. On or about August 4, 2005, another mock site, hosted on Homestead,  
28 was publicly announced by Defendant Todd Tipton using Time Warner Cable /

1 Roadrunner ISP. Todd Tipton's own website (www.toddtipton.com) is also  
2 hosted on Homestead. The mock site maliciously impersonated the Plaintiff,  
3 misrepresented the Plaintiff's beliefs, and insulted the Plaintiff, his  
4 family and friends.

5 36. These false presentations violated Section 43 of the Lanham Act, 15  
6 U.S.C. § 1125, insofar as Plaintiff did not authorize, broker, sell, or  
7 otherwise license the right to use his name, common law trademarks, image,  
8 likeness, or professional reputation, to any of the Defendants. The  
9 Plaintiff requested the hosting companies to remove the mock websites. The  
10 sites were deleted after being online for several days and attracting  
11 numerous visitors.

12 37. As a result of the foregoing, Plaintiff has suffered injuries to  
13 himself, his profession, his reputation, his artistic career, his health,  
14 and his relationships, in an amount to be determined at time of trial, but  
15 within the jurisdictional limits of this Court. In the alternative,  
16 Plaintiff prays for any applicable statutory damages for this cause of  
17 action.

18 38. Plaintiff will suffer immediate and irreparable harm if this Court  
19 does not order injunctive relief, in that his business, practice, and  
20 artistic reputation will be irreparably damaged. Monetary relief cannot  
21 completely remedy Plaintiff's damages.

22  
23 **FOURTH CAUSE OF ACTION**

24 (Invasion of Privacy: False Light)

25  
26 39. The averments set forth in all preceding paragraphs are incorporated  
27 herein by reference.

1 40. Defendants published material, highly offensive in nature, in the  
2 context of replies to quotations, which were falsely attributed as authored  
3 by the Plaintiff.

4 Defendant Todd Tipton

5 Upon information and belief:

6 41. On or about 7 Jul 2005, Defendant Todd Tipton published a statement,  
7 which the Plaintiff had not written, unambiguously attributing the statement  
8 to the Plaintiff as the author. The statement offended and insulted group  
9 members. Once caught, on or about 7 August 2005, Tipton emailed the  
10 Plaintiff and confessed as to having setup the forged website hosted on  
11 Homestead as discussed hereinabove, and to the 7 July 2005's forged  
12 statement.

13 42. Using the screen name (John Ed Gore <gore0026@3dm.net>), Defendant  
14 Todd Tipton published appalling statements, which the Plaintiff had not  
15 written. These statements were published as Plaintiff's writings four times,  
16 uniquely identifying the Plaintiff as the author of a quoted text.

17 43. Using the screen name (Rosa <rosa@rosarosarosa.soup>), Defendant Todd  
18 Tipton made appalling statements, which the Plaintiff had not written. These  
19 statements were published as Plaintiff's writing six times, uniquely  
20 identifying the Plaintiff as the author of a quoted text.

21  
22 Defendant William Jennings

23 Upon information and belief:

24 44. William David Jennings has used multiple aliases to publish material  
25 that violated the Plaintiff's rights and placed the Plaintiff in a False  
26 Light. Jennings posted on, or about 26 October 2005, a message titled:  
27 "Pinging the Cyber troll Administrator: I'm walking out the door headed for  
28 Mexico where I'll eat a dead kid tonight". Jennings further encourages and

1 prompts the other Defendants, known in the Newsgroup as "Cyber Trolls" to  
2 presumably continue their unlawful acts.

3 45. On several occasions on or about 20 December 2004, Defendant William  
4 Jennings fraudulently presented writings, that the Plaintiff had not  
5 written, as having been authored by the Plaintiff, explicitly and uniquely  
6 identifying the Plaintiff by his first name, last name, email address and  
7 website URL. Defendant also negatively misrepresented the amount of sales of  
8 the Plaintiff's CD's.

9 46. At least on two instances, on or about 28 December 2004, Defendant  
10 William Jennings fraudulently presented writings, that the Plaintiff had not  
11 written, as having been authored by the Plaintiff, explicitly and uniquely  
12 identifying the Plaintiff by his first name, last name, email address and  
13 website URL. Defendants also attacked Plaintiff's CD, falsely relating  
14 Plaintiff to "Pink Striped Pajamas Gang of Abu Ghraib", "the gay scene in  
15 Tehran" and in one of the messages, Defendants made ethnic slurs, and lied  
16 about the functionality of certain links on the Plaintiff's website that  
17 refer to music reviews.

18 47. On or about 28 December 2004 and on or about 29 December 2004,  
19 Defendant William Jennings fraudulently presented writings, that the  
20 Plaintiff had not written, as those of having been authored by the  
21 Plaintiff, explicitly and uniquely identifying the Plaintiff by his first  
22 name, last name, email address and website URL. Defendant also heavily  
23 attacked Plaintiff's CD, resembling it to weapons of mass destruction.

24 48. On or about 13 September 2005, the Defendant William Jennings  
25 fraudulently presented writings, that the Plaintiff had not written, as  
26 having been authored by the Plaintiff, explicitly and uniquely identifying  
27 the Plaintiff by his first name, last name, email address and website URL.  
28 This message fraudulently presented the Plaintiff as having requested the

1 Defendant to write a song for him, with lyrics included the hate lines: "I'd  
2 sooner see your neatly smoked carcass hanging on a meat hook in Hell."

3 49. On or about 31 October 2005, Defendant William Jennings wrote a review  
4 about Plaintiff's "In Friendship" CD. Jennings' review went far beyond  
5 expressing mere critical opinions. He lied and misrepresented the CD as  
6 follows:

7 a) 'I listened to Reza's CD one time. On the second repeat of Spanish  
8 Romance I began to cringe ...after hear 6 (SIX) repeats of the same  
9 song with different titles (which indicates a clear lack of creative  
10 distinction) "Spanish Romance" (with flute and guitar) is played yet  
11 again as "Sunset At The Alhambra"'. Fact is there is more difference  
12 between the variations than just the title. The melodies of the lead  
13 instrument are different in every single piece.

14 b) "Reza's CD's are not sold in stores and have almost no distribution...  
15 occasionally sold in small Swiss music stores." This is false as the  
16 Plaintiff's CD's (1) are sold in stores and do have distribution, both  
17 physical and digital, (2) in Switzerland, the physical distribution  
18 includes large music stores.

19 50. On at least two instances each, on or about 7 July 2005, on or about 8  
20 July 2005 and on or about 31 October 2005, the Defendant William Jennings  
21 fraudulently presented writings, that the Plaintiff had not written, as  
22 having been authored by the Plaintiff, explicitly and uniquely identifying  
23 the Plaintiff by his first name, last name, email address and website URL.  
24 These messages disparage the Plaintiff's products, person, personality,  
25 education, skills, and the like.

26  
27 Defendant Jeremy Smith

28 Upon information and belief:

1 51. Smith has committed a large array of violations against the Plaintiff  
2 and put the Plaintiff in false light. His violations include impersonating  
3 the Plaintiff to publicly show sympathy with terrorism, using the  
4 Plaintiff's identity to utter racial slurs against Blacks, cyber-stalking  
5 the Plaintiff with fraudulent electronic communications, setting up a mock  
6 website, and numerous other vulgar acts.

7  
8 **FIFTH CAUSE OF ACTION**

9 (Defamation Per Se, Libel & Slander)

10  
11 52. The averments set forth in all preceding paragraphs are incorporated  
12 herein by reference.

13 53. Plaintiff claims that the Defendants' actions have caused Plaintiff's  
14 reputation to seriously suffer.

15 54. Said libel and slander as described in preceding paragraphs was  
16 certainly written statements, possibly also spoken statements, and certainly  
17 statements placed on the Internet.

18 55. Said statements were untrue, and were conveyed to third parties.

19 56. Said statements, were defamatory per se and also caused third parties  
20 to hate, dislike and avoid Plaintiff. The statements:

- 21 a) were defamatory, and false to the Plaintiff's discredit;  
22 b) were understood as being of and concerning the Plaintiff;  
23 c) were understood as tending to harm the reputation of Plaintiff;  
24 d) exposed the Plaintiff to hatred, ridicule, contempt, obloquy;  
25 e) lowered him in the esteem of his fellows and caused him to be shunned;  
26 f) injured him in respect to his business and profession;  
27 g) imputed to him general disqualifications in those respects which his  
28 occupation peculiarly requires, e.g., ability to perform music;

- 1 h) created a great deal of mental anguish;  
2 i) exposed the Plaintiff to grave danger, especially in international  
3 travel; and  
4 j) were made with actual malice.

5  
6 57. As a result of the foregoing, Plaintiff has suffered injuries to  
7 himself, his profession, his reputation, his artistic career, his health,  
8 and his relationships, in an amount to be determined at time of trial, but  
9 within the jurisdictional limits of this Court. In the alternative,  
10 Plaintiff prays for any applicable statutory damages for this cause of  
11 action.

12 58. Plaintiff will suffer immediate and irreparable harm if this Court  
13 does not order injunctive relief, in that his business, practice, and  
14 artistic reputation will be irreparably damaged. Monetary relief cannot  
15 completely remedy Plaintiff's damages.

16  
17 **SIXTH CAUSE OF ACTION**

18 (Defamation, Libel & Slander)

19  
20 59. The averments set forth in all preceding paragraphs are incorporated  
21 herein by reference.

22 60. Plaintiff claims that the Defendants' actions have caused Plaintiff's  
23 reputation to seriously suffer.

24 61. Said libel and slander as described in preceding paragraphs was  
25 certainly written statements, possibly also spoken statements, and certainly  
26 statements placed on the Internet.

27 62. Said statements were untrue, and were conveyed to third parties.  
28

1 63. Said statements were defamatory and also caused third parties to hate,  
2 dislike and avoid Plaintiff. The statements:

- 3 a) were defamatory, and false to the Plaintiff's discredit;
- 4 b) were understood as being of and concerning the Plaintiff;
- 5 c) were understood as tending to harm the reputation of Plaintiff;
- 6 d) exposed the Plaintiff to hatred, ridicule, contempt, obloquy;
- 7 e) lowered him in the esteem of his fellows and caused him to be shunned;
- 8 f) injured him in respect to his business and profession;
- 9 g) imputed to him general disqualifications in those respects which his  
10 occupation peculiarly requires, e.g., ability to perform music;
- 11 h) created a great deal of mental anguish;
- 12 i) exposed the Plaintiff to grave danger, especially in international  
13 travel; and were made with actual malice.

14  
15 64. On several occasions, Defendants disparaged Plaintiff's product on  
16 Amazon.com in an orchestrated fashion leaving highly defamatory and false  
17 reviews far exceeding the limits of their First Amendment rights. Defendants  
18 also directed profanity at anyone on the group who did not cooperate in  
19 attacking the Plaintiff.

20 65. As a result of the foregoing, Plaintiff has suffered injuries to  
21 himself, his profession, his reputation, his artistic career, his health,  
22 and his relationships, in an amount to be determined at time of trial, but  
23 within the jurisdictional limits of this Court. In the alternative,  
24 Plaintiff prays for any applicable statutory damages for this cause of  
25 action.

26 66. Plaintiff will suffer immediate and irreparable harm if this Court  
27 does not order injunctive relief, in that his business, practice, and  
28

1 artistic reputation will be irreparably damaged. Monetary relief cannot  
2 completely remedy Plaintiff's damages.

3  
4 **SEVENTH CAUSE OF ACTION**

5 (Invasion of Privacy: Appropriation of Name or Likeness)

6 67. The averments set forth in all preceding paragraphs are incorporated  
7 herein by reference.

8 68. As demonstrated in the preceding paragraphs the Defendants have at all  
9 times relevant explicitly appropriated to their own use the name or likeness  
10 of the Plaintiff without the Plaintiff's authorization.

11 69. As a result of the foregoing, Plaintiff has suffered injuries to  
12 himself, his profession, his reputation, his artistic career, his health,  
13 and his relationships, in an amount to be determined at time of trial, but  
14 within the jurisdictional limits of this Court. In the alternative,  
15 Plaintiff prays for any applicable statutory damages for this cause of  
16 action.

17 70. Plaintiff will suffer immediate and irreparable harm if this Court  
18 does not order injunctive relief, in that his business, practice, and  
19 artistic reputation will be irreparably damaged. Monetary relief cannot  
20 completely remedy Plaintiff's damages.

21  
22 **EIGHT CAUSE OF ACTION**

23 (Intentional Infliction of Emotional Distress;

24  
25 71. The averments set forth in all preceding paragraphs are incorporated  
26 herein by reference.

1 72. As demonstrated in the preceding paragraphs the Defendants have  
2 demonstrated outrageous conduct with intention of causing or reckless  
3 disregard of the probability of causing emotional distress. Such conduct has  
4 caused the Plaintiff extreme suffering and severe emotional distress  
5 including highly unpleasant mental reactions such as nightmares, fright,  
6 nervousness, grief, anxiety, worry, mortification, shock, humiliation and  
7 indignity, as well as physical pain and injury.

8 73. In addition to the actions described in the preceding paragraphs,  
9 Defendant Jeremy Smith stalked and harassed the Plaintiff with numerous  
10 crank emails posing as a potential customer and ultimately accusing the  
11 Plaintiff of having criminal intentions. Twelve emails from: "Billy  
12 Zantzinger <modelthry@yahoo.com>" IP address: [167.219.0.147] (confirmed by  
13 Deloitte to be Defendant Jeremy Smith) sought to engage Plaintiff in  
14 conversation and subsequently accused Plaintiff of defrauding him for not  
15 sending him a CD for the money he never paid and threatened to sue the  
16 Plaintiff. Smith was never able to provide proof that he had paid.

17 74. As a result of the foregoing, Plaintiff has suffered injuries to  
18 himself, his profession, his business advantage, his reputation, his  
19 artistic career, his health, and his relationships, in an amount to be  
20 determined at time of trial, but within the jurisdictional limits of this  
21 Court. In the alternative, Plaintiff prays for any applicable statutory  
22 damages for this cause of action.

23 75. Plaintiff will suffer immediate and irreparable harm if this Court  
24 does not order injunctive relief, in that his business, practice, and  
25 artistic reputation will be irreparably damaged. Monetary relief cannot  
26 completely remedy Plaintiff's damages.

1 **NINTH CAUSE OF ACTION**

2 (Negligent Infliction of Emotional Distress)

3  
4 76. The averments set forth in all preceding paragraphs are incorporated  
5 herein by reference.

6 77. As demonstrated in the preceding paragraphs the Defendants' negligent  
7 acts of extreme misconduct have caused the Plaintiff extreme suffering and  
8 severe emotional distress including highly unpleasant mental reactions such  
9 as nightmares, fright, nervousness, grief, anxiety, worry, mortification,  
10 shock, humiliation and indignity, as well as physical pain and injury.

11 78. As a result of the foregoing, and as a proximate cause thereof,  
12 Plaintiff has suffered injuries to himself, his profession, his reputation,  
13 his artistic career, his health, and his relationships, in an amount to be  
14 determined at time of trial, but within the jurisdictional limits of this  
15 Court. In the alternative, Plaintiff prays for any applicable statutory  
16 damages for this cause of action.

17 79. Plaintiff will suffer immediate and irreparable harm if this Court  
18 does not order injunctive relief, in that his business, practice, and  
19 artistic reputation will be irreparably damaged. Monetary relief cannot  
20 completely remedy Plaintiff's damages.

21  
22 **TENTH CAUSE OF ACTION**

23 (Intentional Interference with Prospective Economic Advantage)

24  
25 80. The averments set forth in all preceding paragraphs are incorporated  
26 herein by reference.

27 81. Plaintiff believes that the Defendants are classical guitarists who  
28 engage in similar business as the Plaintiff (e.g. performance) and that

1 there is a prospective economic relationship as a result. The Defendants  
2 intentionally committed the aforementioned violations with awareness of that  
3 relationship in order to disrupt Plaintiff's business activity, and managed  
4 to do so.

5 82. As a result of the foregoing, Plaintiff has suffered injuries to his  
6 profession in an amount to be determined at time of trial, but within the  
7 jurisdictional limits of this Court. In the alternative, Plaintiff prays for  
8 any applicable statutory damages for this cause of action.

9 83. Plaintiff will suffer immediate and irreparable harm if this Court  
10 does not order injunctive relief, in that his business, practice, and  
11 artistic reputation will be irreparably damaged. Monetary relief cannot  
12 completely remedy Plaintiff's damages.

13  
14 **ELEVENTH CAUSE OF ACTION**

15 (Unfair Competition)

16  
17 84. The averments set forth in all preceding paragraphs are incorporated  
18 herein by reference.

19 85. Plaintiff believes the Defendants are classical guitarists who engage  
20 in similar business as the Plaintiff (e.g. musical performance) and as such  
21 the aforementioned violations were at least partly committed with the motive  
22 to hurt the Plaintiff's business unfairly.

23 86. As a result of the foregoing, Plaintiff has suffered injuries to his  
24 profession, in an amount to be determined at time of trial, but within the  
25 jurisdictional limits of this Court. In the alternative, Plaintiff prays for  
26 any applicable statutory damages for this cause of action.

27 87. Plaintiff will suffer immediate and irreparable harm if this Court  
28 does not order injunctive relief, in that his business, practice, and

1 artistic reputation will be irreparably damaged. Monetary relief cannot  
2 completely remedy Plaintiff's damages.

3 88. Plaintiff is informed and believes, and on that basis alleges, that  
4 Defendants' conduct as alleged in this Complaint involves the willful and  
5 intentional unlawful infringement of Plaintiff's own common law copyrighted  
6 materials and other unlawful acts, as described herein, for use in direct  
7 competition with Plaintiff to the benefit of Defendants, the deception of  
8 the public, and the great detriment of Plaintiff and Plaintiff websites,  
9 constitutes unlawful, unfair, and/or fraudulent business acts or practices  
10 in violation of California Business & Professions Code § 17200 et seq. that  
11 has a substantial effect on commerce, resulting in Defendants' unjust  
12 enrichment. On information and belief, Defendants willfully intended to  
13 trade on the business goodwill of Plaintiff, Plaintiff websites, and  
14 Plaintiff's intellectual property, and to deceive the public and cause  
15 injury to Plaintiff through their acts of unfair competition as described  
16 herein.

17 89. On information and belief, Plaintiff alleges that Defendants are  
18 continuing to engage in one or more acts of unfair competition involving the  
19 conduct alleged in this Complaint (and related conduct) to Plaintiff's  
20 substantial economic detriment, including willful and intentional unlawful  
21 infringement of Plaintiff's copyrighted materials, identity, likeness, and  
22 reputation for use in direct competition with Plaintiff and the deception of  
23 the public with the knowledge, aid, encouragement, and support of each  
24 other.

25 90. As a direct and proximate result of Defendants' unlawful acts as  
26 described herein, Plaintiff has suffered and will continue to suffer injury  
27 to Plaintiff's business, goodwill, and property for which it is entitled to  
28 restitution pursuant to California Business & Professions Code § 17203.

1 91. Furthermore, Plaintiff has no adequate remedy at law to compel  
2 Defendants to cease their wrongful acts, and therefore seeks injunctive  
3 relief. Unless the Court grants an injunction, Plaintiff will be compelled  
4 to prosecute a multiplicity of actions to remedy this continuing unfair,  
5 unlawful, and/or fraudulent conduct. Unless Defendants are preliminarily and  
6 permanently enjoined from committing the unlawful acts described herein,  
7 Plaintiff will continue to suffer irreparable harm. Plaintiff's damages are  
8 irreparable because it is extremely difficult to ascertain the amount of  
9 compensation that will afford Plaintiff adequate relief if Defendants are  
10 not enjoined at this time, in part because of the nature of intellectual  
11 property. Plaintiff is entitled, pursuant to California Business &  
12 Professions Code §§ 17203 and 17535, to injunctive relief in the form of a  
13 temporary restraining order, a preliminary injunction, and/or a permanent  
14 injunction restraining Defendants, their officers, agents, and employees,  
15 and all persons acting in concert with them, from engaging in any further  
16 such acts of unfair competition.

17  
18 **TWELFTH CAUSE OF ACTION**

19 (Infringement of Common Law Copyright)

20  
21 92. The averments set forth in all preceding paragraphs are incorporated  
22 herein by reference.

23 93. Plaintiff is the owner of certain common law copyrights in connection  
24 with the design and contents of his websites, which include his writings,  
25 designs, photographs, and the like.

26 94. On numerous occasions, Defendants published Plaintiff's copyrighted  
27 writings, designs, photographs, etc., without authorization, in violation of  
28 law.

1 95. As a result of the foregoing, Plaintiff has suffered injuries to  
2 himself, his profession, his reputation, his artistic career, his health,  
3 and his relationships, in an amount to be determined at time of trial, but  
4 within the jurisdictional limits of this Court. In the alternative,  
5 Plaintiff prays for any applicable statutory damages for this cause of  
6 action.

7 96. Plaintiff will suffer immediate and irreparable harm if this Court  
8 does not order injunctive relief, in that his business, practice, and  
9 artistic reputation will be irreparably damaged. Monetary relief cannot  
10 completely remedy Plaintiff's damages.

11  
12 **THIRTEENTH CAUSE OF ACTION**

13 (Intentional Misrepresentation)

14 97. The averments set forth in all preceding paragraphs are incorporated  
15 herein by reference.

16 98. Writings that were not written by Plaintiff were explicitly attributed  
17 to the Plaintiff and published as such.

18 99. Writings that were written by Plaintiff were altered and published as  
19 Plaintiff's writings.

20 100. As a result of the foregoing, Plaintiff has suffered injuries to  
21 himself, his profession, his reputation, his artistic career, his health,  
22 and his relationships, in an amount to be determined at time of trial, but  
23 within the jurisdictional limits of this Court. In the alternative,  
24 Plaintiff prays for any applicable statutory damages for this cause of  
25 action.

26 101. Plaintiff will suffer immediate and irreparable harm if this Court  
27 does not order injunctive relief, in that his business, practice, and  
28

1 artistic reputation will be irreparably damaged. Monetary relief cannot  
2 completely remedy Plaintiff's damages.

3  
4 **FOURTEENTH CAUSE OF ACTION**

5 (Negligent Misrepresentation)

6 102. The averments set forth in all preceding paragraphs are incorporated  
7 herein by reference.

8 103. Defendants made misrepresentations of past and existing facts,  
9 concealed facts, false promises, and intentionally failed to disclose facts  
10 regarding Plaintiff, as described herein, such that Defendants'  
11 representations were untrue.

12 104. Defendants made representations without any reasonable ground to  
13 believe that the statements were untrue.

14 105. Defendants intended to induce Plaintiff and others to rely upon  
15 Defendants' false statements.

16 106. As a result of the foregoing, Plaintiff has suffered injuries to  
17 himself, his profession, his reputation, his artistic career, his health,  
18 and his relationships, in an amount to be determined at time of trial, but  
19 within the jurisdictional limits of this Court. In the alternative,  
20 Plaintiff prays for any applicable statutory damages for this cause of  
21 action.

22 107. Plaintiff will suffer immediate and irreparable harm if this Court  
23 does not order injunctive relief, in that his business, practice, and  
24 artistic reputation will be irreparably damaged. Monetary relief cannot  
25 completely remedy Plaintiff's damages.

26 .

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays judgment against Defendants as follows:

1. An award of actual damages fully compensating Plaintiff for all injuries he has suffered as a direct and proximate result of Defendants' deprivation of Plaintiff's liberty and rights, without due process of law;
2. Punitive and exemplary damages;
3. Reasonable attorney fees according to proof, pursuant to 17 U.S.C. § 505;
4. That Defendants, and each of them, be held liable for unfair competition in violation of California Business & Professions Code § 17200 et seq., as alleged herein;
5. For expedited discovery from Defendants on all issues arising out of or relating to the allegations of this Complaint, in order to prepare for a temporary restraining order or preliminary injunction hearing in this matter;
6. That Defendants' unlawful conduct as alleged herein be deemed a willful violation of Plaintiff's intellectual property rights;
7. That Plaintiff be awarded its actual compensatory damages according to proof;
8. That Plaintiff be awarded statutory damages;
9. That Defendants be ordered to disgorge any profits or gains in Defendants' possession attributable to the infringement of Plaintiff's copyrights or to Defendants' acts of unfair competition, and that Plaintiff be awarded restitution in connection therewith;
10. That the Court order an accounting of all of any gains, profits, and advantages realized by Defendants, or others acting in concert or participation with them, from their unlawful conduct, and that all such

1 gains, profits, and advantages be deemed to be in constructive trust for the  
2 benefit of Plaintiff, at the sole cost and expense of Defendants, by means  
3 of an independent accountant;

4 11. Immediate issuance of a temporary restraining order, followed by a  
5 preliminary injunction, and ultimately by a permanent injunction preventing  
6 Defendants and their respective agents, employees and representatives from  
7 using Plaintiff's name on the Internet;

8 12. That the Court order online services that are hosting fraudulent and  
9 defamatory articles composed by Defendants to remove such articles;

10 13. That Plaintiff recover its costs of this suit, including expert witness  
11 costs, pursuant to 17 U.S.C. § 505; and

12 14. Such other and further relief as the Court may deem just and proper.

13 DATED: May 30, 2006

14 RESPECTFULLY SUBMITTED BY:

15  
16 \_\_\_\_\_  
17 Frederic M. Douglas

18 Attorney for Plaintiff, REZA GANJAVI

19 **DEMAND FOR JURY TRIAL**

20  
21 Plaintiff demands a jury trial on all causes of action against all  
22 defendants.

23 DATED: May 30, 2006

24 RESPECTFULLY SUBMITTED BY:

25  
26 \_\_\_\_\_  
27 Frederic M. Douglas

28 Attorney for Plaintiff, REZA GANJAVI