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8
9 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF ILLINOIS

10 REZA GANJAVI,) **Case Number:**
11)
12)
13 **Plaintiff,**) **Jury Trial Demanded**
14) **Complaint for:**
15 v.) 1. Forgery
16) 2. 17 U.S.C. § 106A:
17 Jeremy C. Smith,) Attribution and Integrity
18 Cindy Smith) Rights
19 Deloitte Consulting LLC,) 3. Violations of the Lanham
20 Deloitte & Touche USA LLP,) Act, 15 U.S.C. § 1125
21 Deloitte & Touche Corporate) 4. Invasion of Privacy: False
22 Finance LLC, JOHN) Light
23 DOES 1-10,) 5. Defamation Per Se
24) 6. Defamation
25) 7. Invasion of Privacy:
26 **Defendants.**) Appropriation of Name or
27) Likeness
28) 8. Intentional Infliction of
Emotional Distress
9. Negligent Infliction of
Emotional Distress
10. Intentional Interference
with Prospective Economic
Advantage
11. Unfair Competition
12. Infringement of Common Law
Copyright
13. Intentional
Misrepresentation
14. Negligent Misrepresentation
15. Vicarious Liability
16. Negligent Enablement

1 COMES NOW, Plaintiff, REZA GANJAVI, by and through his attorneys, Law
2 Offices of Khoi Dang-Vu, P.C. And Khoi Dang-Vu, and, as against each of the
3 Defendants named herein, respectfully complains, avers and alleges as
4 follows:

5 **SUMMARY OF FACTS**

6
7 1. Plaintiff, Reza Ganjavi (www.rezamusic.com) is a record producer,
8 classical musician, as well as an information technology and management
9 consultant, who has produced some successful Compact Disks (CD's) in the
10 Classical Guitar genre (www.rezamusic.info contains hundreds of pages
11 of bona fide listener comments about the CD's). Plaintiff's success in
12 classical music despite his non-academic music training, and his Middle
13 Eastern origins (though he moved to the USA at age 15) attracted the envy
14 and hostility of a handful of individuals on the biggest online Classical
15 Guitar community; they attacked the Plaintiff and his business in several
16 vulgar, uncivil, profane, and highly damaging manners, apparently
17 motivated by jealousy, prejudice, and causeless hatred, and they
18 evidenced malice, fraud, oppression, calculated falsehoods, and disregard
19 for the rights and safety of the Plaintiff. There are no issues raised
20 here regarding pure expressions of opinions by anyone or privileged
21 communications; the allegations relate to violations of the Plaintiff's
22 rights and not mere likes and dislikes.

23 2. In summary, Defendants Jeremy Smith and Cindy Smith ("Smiths") (with
24 vicarious responsibility of his employer, Deloitte Consulting LLC and/or
25 Deloitte & Touche Corporate Finance LLC, on information and belief,
26 subsidiaries of Deloitte & Touch USA LLP (collectively, "Deloitte"), for
27 all or certain causes of action):

- 1 a) committed numerous counts of fraud / identity theft / fraudulent use
2 of Plaintiff's identity;
- 3 b) fraudulently published material using the Plaintiff's email address
4 and name, including using racial slurs against Blacks, and
5 sympathizing with terrorist;
- 6 c) setup mock a website to damage Plaintiff's business and reputation;
- 7 d) published fictitious, forged, and altered material which were falsely
8 attributed to the Plaintiff as the author;
- 9 e) published material which placed the Plaintiff in a highly offensive
10 light;
- 11 f) copied and published Plaintiff's work without his permission and
12 without privilege;
- 13 g) violated Plaintiff's rights to attribution and integrity;
- 14 h) attempted to assassinate Plaintiff's character;
- 15 i) explicitly and implicitly collaborated with other parties in
16 committing the alleged acts;
- 17 j) with respect to Deloitte, negligently enabled the above acts; and
- 18 k) and committed other acts which are explained hereinafter.
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JURISDICTION AND VENUE

22

- 23 3. This Court has Diversity Jurisdiction over this matter as all Defendants
24 are citizens of different states than the Plaintiff, and the amount in
25 controversy, including compensatory and punitive damages, is over
26 \$75,000.
- 27 4. Federal question jurisdiction exists regarding causes of action based
28 upon 17 U.S.C. 106A(a) "Rights of certain authors to attribution and

1 integrity", and 15 U.S.C. § 1125 "False designations of origin, false
2 descriptions, and dilution".

3 5. This Court has personal jurisdiction over Defendants Jeremy Smith, Cindy
4 Smith, and Deloitte (collectively, "Defendants") as they are domiciled in
5 the State of Illinois.

6 6. Venue is proper in this judicial district as Defendants are domiciled in
7 Chicago, Illinois.

8
9 **PARTIES**

10
11 7. Plaintiff Reza Ganjavi ("Plaintiff") is an individual who is presently a
12 professional musician with two Classical Guitar CDs which have done very
13 well both in terms of sales within their genre (one was termed a "best
14 seller"), and in terms of listener responses which are represented on
15 some two hundred pages of voluntarily provided listener comments on his
16 main website, www.rezamus.com (direct access to comments via
17 www.rezamus.info). Plaintiff has an *MBA* from the *University of*
18 *California*, and *magna-cum-laude* degrees in *Computer Science* and
19 *Philosophy* from the *California State University*. Plaintiff believes his
20 work stands for friendship, dialogue, peace, harmony, understanding,
21 cooperation, cultural exchange, equality of all people, and other
22 positive values. Plaintiff was born in Tehran and moved to the USA at age
23 15. His address in the USA is: 2331 Westwood Boulevard #152, Los Angeles,
24 CA 90064-2109.

25
26 **Upon information and belief:**

27 8. Defendant Jeremy C. Smith is an individual, reportedly a musician, and a
28 professional such as a consultant or an accountant, who is currently

1 employed at Deloitte in Chicago, and resides at 605 W. Madison Street,
2 Apt 4811, Chicago, Illinois 60661. Defendant Jeremy Smith fraudulently
3 used the Plaintiff's identity to publish on the Internet and Usenet
4 libelous statements regarding the Plaintiff, and to make other dangerous
5 statements including sympathizing with terrorists and directing racial
6 slurs at Blacks while posing the Plaintiff as the author of such
7 statements. Furthermore, Defendant Jeremy Smith presented writings that
8 the Plaintiff never wrote as Plaintiff's writings, and committed other
9 violations such as setting up of a forged website and using the
10 Plaintiff's copyrighted material without authorization. Defendant Jeremy
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, either in the field
14 of music, or in management consulting. Plaintiff previously filed suit
15 against Defendant, Jeremy C. Smith, for the acts alleged herein, in the
16 Central District of California on July 14, 2006, case no. CV 05-08619-
17 DPP-(JWJx). The previous suit was dismissed due to lack of personal
18 jurisdiction.

19 9. Defendant Cindy Smith is an individual, and is married to Defendant
20 Jeremy Smith. She has acted in cooperation with Defendant Jeremy Smith in
21 carrying out some, if not all of the violations against the Plaintiff.
22

23 **Upon information and belief:**

24 10. Defendant Deloitte, is the employer for Defendant Jeremy C. Smith.
25 Deloitte is located at 111 S. Wacker Drive, Chicago, IL 60606-4301.
26 Deloitte provided time, tools, office space, computer, computer network,
27 and internet access for Defendant Jeremy Smith in carrying out some of
28 the alleged offenses against Plaintiff who is a competitor of both

1 Plaintiffs in the fields of music and management consulting. It took
2 several months between the time the violations were reported to Deloitte
3 until they stopped Defendant Jeremy Smith from using their computers and
4 networks in relationship to the Plaintiff, although it was indicated by
5 Deloitte's technical staff that the source of the violations was
6 identified immediately upon reporting.

7
8
9 **Upon information and belief:**

10 11. Defendants Does 1-10 ("Doe Defendants") may have been responsible for,
11 participated in, or contributed to the matters and things of which
12 Plaintiff complains herein, and in some fashion, have legal
13 responsibility therefore. Plaintiff believes that information obtained in
14 discovery will lead to the identification of the true name, citizenship,
15 domicile, and residency of each Doe Defendant. When the exact nature and
16 identity of such Doe Defendants and their responsibility for
17 participation and contribution to the matters and things herein alleged
18 are ascertained by Plaintiff, Plaintiff will amend this Complaint to set
19 forth the same.

20
21 **INTERNET & USENET**

22
23 12. The violations occurred over the Internet through forged websites
24 setup by Smiths, and through Usenet's rec.music.classical.guitar
25 newsgroup, which is the largest online classical guitar community.
26 Currently, the largest Usenet repository is maintained by Google. However
27 there are other mirror sites and repositories that currently contain
28 messages fraudulently attributed to the Plaintiff. Those messages are

1 available to search engines and available worldwide to anyone who uses
2 the Internet. The above newsgroup is actively read by hundreds of users
3 around the world. Far more people read the newsgroup posting than post to
4 the newsgroup and as such, it is difficult to estimate the exact number
5 of users except that the number is large. The archives are used as
6 reference material currently and for potentially generations to come.

7
8 **FIRST CAUSE OF ACTION**

9 (Forgery)

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

13 14. Starting on or about 01 January 2005, Smiths attempted to fraudulently
14 assume, steal and misappropriate Plaintiff's identity in the manner
15 described presently through unauthorized use of Plaintiff's name, email
16 address, and password, in order to create and publish forged documents
17 that were falsely attributed to the Plaintiff as the author.

18 15. There are several instances of evidence that Smiths succeeded in his
19 ability to defraud others and win their trust by making the documents
20 appear genuine. Others relied on the material misrepresentations and
21 forged documents in their dealings with Plaintiff. Smiths intentionally
22 misrepresented material facts regarding Plaintiff, including Plaintiff's
23 professional activities, in these forged documents. There were a number
24 of severe, dangerous, and untrue allegations associated with the
25 Plaintiff in the forged documents designed to assassinate the Plaintiff's
26 character (a thorough list follows in Paragraph 20, *infra*).

27 16. At all times relevant, numerous messages were published on the
28 Internet by Smiths who used the Plaintiff's name, email address and a

1 password to present themselves as the Plaintiff: ["Reza Ganjavi
2 (www.rezamusic.com)" <ganjavi@dtc.ch>]. The Plaintiff did not write these
3 messages. Inarguably, the combination of four identity features, e.g.,
4 first name, last name, website URL, and email address very uniquely and
5 unambiguously purports to identify the Plaintiff. Plaintiff has in the
6 past used the same set of four identity features to publish material on
7 the Internet. While there are many persons named "Reza" in the world, to
8 the best knowledge of the Plaintiff there are no other "Reza Ganjavi's",
9 and even if there were, technically it is improbable to have another
10 "Reza Ganjavi" with the email address: "ganjavi@dtc.ch" and even more
11 improbable to have anybody, with any name, who can claim to be the "Reza"
12 referred to by "www.rezamusic.com," as the Plaintiff is the sole and
13 legal owner of this website URL. Therefore, using a combination of these
14 identity features uniquely and unambiguously purports to identify the
15 Plaintiff, and it is this combination of identity features, which Smiths
16 used to pose as the Plaintiff, and publish material with the Plaintiff
17 posed as the author.

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

1 18. The messages that were fraudulently posted as being authored by the
2 Plaintiff contained highly offensive material and violent content
3 completely contrary to the Plaintiff's character, beliefs, and philosophy
4 of life.

5 19. Most of the material posted, with the Plaintiff fraudulently presented
6 as the author, is too offensive to reproduce here in the body of this
7 complaint, however, some ingredients include the following, which is
8 merely a small example of numerous counts of violations. Upon information
9 and belief:

10 a) Using the Plaintiff's identity, Smiths directed obscenity at the
11 Plaintiff himself and posted highly defamatory material about the
12 Plaintiff.

13 b) Using the Plaintiff's identity, Smiths scandalously supported
14 terrorism -- something that is absolutely contrary to the Plaintiff's
15 beliefs and moral values.

16 c) Using the Plaintiff's identity, Smiths directed racial slurs,
17 including publicly publishing a message with the tile: "THIS IS WHY
18 BLACK PEOPLE ARE NIGGERS" containing a link to a picture of an African
19 American person. This is absolutely and unquestionably against the
20 Plaintiff's belief. Plaintiff has utmost respect and affection for the
21 Black race especially, as he does for fellow civil human beings of
22 every race, ethnicity, country, gender, and religion. In addition,
23 Plaintiff has many Black friends and fans and prospective customers
24 who would be disgruntled and likely to disassociate from Plaintiff if
25 they come upon such lies and insults purportedly written on behalf of
26 the Plaintiff on the Internet.

27 d) Using the Plaintiff's identity, Smiths made other remarks exhibiting
28 racial prejudice, for example, referring to the Plaintiff as a "sand

1 Nigger" who would do extreme graphic and obscene, filthy, lewd sexual
2 acts.

3 e) Using the Plaintiff's identity, Smiths made vulgar inappropriate
4 sexual overtures, and sexual threats to others.

5 f) Using the Plaintiff's identity, Smiths made vulgar sexual insults and
6 inappropriate and false remarks towards the Plaintiff.

7 g) Using the Plaintiff's identity, Smiths verbally attacked a civilized
8 member of the community.

9 h) Using the Plaintiff's identity, Smiths falsely discarded and quashed
10 writings that were actually written by the Plaintiff.

11 i) Using the Plaintiff's identity, Smiths altered and posted Plaintiff's
12 copyrighted works without permission.

13 20. The Plaintiff posted messages stating that Plaintiff did not write the
14 aforementioned fraudulent messages. However, Smiths would turn around; forge
15 the Plaintiff's ID and post a message uniquely identifying the Plaintiff as
16 the author, quashing the corrective message that the Plaintiff had actually
17 just posted. The result was that a reader would believe that the Plaintiff
18 did not write the corrective message.

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

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

28 23. Plaintiff has exhausted his administrative remedies.

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SECOND CAUSE OF ACTION

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

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

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

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

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2 **THIRD CAUSE OF ACTION**

3 (False Presentation in violation of the Anti-Cybersquatting Consumer
4 Protection Act, 15 U.S.C. § 1125)
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6 27. The averments set forth in all preceding paragraphs are incorporated
7 herein by reference.

8 28. On or about September 11 2005, it was brought to the Plaintiff's
9 attention that the Defendants had set up a mock website strongly resembling
10 the Plaintiff's registered website in name, design, and content.

11 29. Defendant Jeremy Smith is a potential competitors of Plaintiff in the
12 area of classical guitar service and goods, Smiths portrayed Plaintiff's
13 goods and services to potential clients and audiences falsely, fraudulently,
14 and maliciously, therefore misleading Plaintiff's potential clients of facts
15 that were likely to cause confusion. Furthermore, Smiths deceptively
16 affiliated Plaintiff to endorsement of sources of advertising presented on
17 the fraudulently setup websites. Those websites were explicitly purported to
18 be associated with the Plaintiff by name, description, pictures, and graphic
19 design.

20 30. A mock website hosted on Yahoo/Geocities referred explicitly and
21 unambiguously to the Plaintiff and his website, by name, description, photo,
22 and design. The mock website purported that Plaintiff endorsed products that
23 the Plaintiff did not endorse. The websites directed insults and invectives
24 at the Plaintiff and his products and services; disparaged his professional
25 competence; and offended the Plaintiff's potential customers and audience.
26 This website was setup and announced on the Usenet by Smiths who posed as
27 the classical guitar discussion group's "Official Moderator
28 <moderator@rmcg.com>".

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

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

22 33. These false presentations violated Section 43 of the Lanham Act, 15
23 U.S.C. § 1125, insofar as Plaintiff did not authorize, broker, sell, or
24 otherwise license the right to use his name, common law trademarks, image,
25 likeness, or professional reputation, to any of the Defendants. The
26 Plaintiff requested the hosting companies to remove the mock websites. The
27 sites were deleted after being online for several days and attracting
28 numerous visitors.

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

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

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11 **FOURTH CAUSE OF ACTION**

12 (Invasion of Privacy: False Light)

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

16 37. Smiths have committed a large array of violations against the
17 Plaintiff and put the Plaintiff in false light. His violations include
18 fraudulent use of Plaintiff's identity, impersonating the Plaintiff to
19 publicly show sympathy with terrorism, using the Plaintiff's identity to
20 utter racial slurs against Blacks, cyber-stalking the Plaintiff with
21 fraudulent electronic communications, setting up a mock website,
22 orchestrating attacks on Plaintiff's products, publishing highly offensive
23 material which were falsely attributed as authored by the Plaintiff, and
24 other vulgar acts.

25
26 **FIFTH CAUSE OF ACTION**

27 (Defamation Per Se, Libel & Slander)

1 38. The averments set forth in all preceding paragraphs are incorporated
2 herein by reference.

3 39. Plaintiff claims that the Defendants' actions have caused Plaintiff's
4 reputation to seriously suffer.

5 40. Said libel and slander as described in preceding paragraphs was
6 certainly written statements, possibly also spoken statements, and certainly
7 statements placed on the Internet.

8 41. Said statements were untrue, and were conveyed to third parties.

9 42. Said statements, were defamatory per se and also caused third parties
10 to hate, dislike and avoid Plaintiff. The statements:

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

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

1 44. Plaintiff will suffer immediate and irreparable harm if this Court
2 does not order injunctive relief, in that his business, practice, and
3 artistic reputation will be irreparably damaged. Monetary relief cannot
4 completely remedy Plaintiff's damages.

5
6 **SIXTH CAUSE OF ACTION**

7 (Defamation, Libel & Slander)

8
9 45. The averments set forth in all preceding paragraphs are incorporated
10 herein by reference.

11 46. Plaintiff claims that the Defendants' actions have caused Plaintiff's
12 reputation to seriously suffer.

13 47. Said libel and slander as described in preceding paragraphs was
14 certainly written statements, possibly also spoken statements, and certainly
15 statements placed on the Internet.

16 48. Said statements were untrue, and were conveyed to third parties.

17 49. Said statements were defamatory and also caused third parties to hate,
18 dislike and avoid Plaintiff. The statements:

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

1 i) exposed the Plaintiff to grave danger, especially in international
2 travel; and were made with actual malice.

3
4 50. On several occasions, Smiths disparaged Plaintiff's product on
5 Amazon.com in an orchestrated fashion leaving highly defamatory and false
6 reviews far exceeding the limits of their First Amendment rights. Smiths
7 also directed profanity at anyone on the group who did not cooperate in
8 attacking the Plaintiff.

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

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

18
19 **SEVENTH CAUSE OF ACTION**

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

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

24 54. As demonstrated in the preceding paragraphs Smiths have at all times
25 relevant explicitly appropriated to their own use the name or likeness of
26 the Plaintiff without the Plaintiff's authorization.

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

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

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

8
9 **EIGHT CAUSE OF ACTION**

10 (Intentional Infliction of Emotional Distress;

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

14 58. As demonstrated in the preceding paragraphs the Defendants have
15 demonstrated outrageous conduct with intention of causing or reckless
16 disregard of the probability of causing emotional distress. Such conduct has
17 caused the Plaintiff extreme suffering and severe emotional distress
18 including highly unpleasant mental reactions such as nightmares, fright,
19 nervousness, grief, anxiety, worry, mortification, shock, humiliation and
20 indignity, as well as physical pain and injury.

21 59. In addition to the actions described in the preceding paragraphs,
22 Defendant Jeremy Smith stalked and harassed the Plaintiff with numerous
23 crank emails posing as a potential customer and ultimately accusing the
24 Plaintiff of having criminal intentions. Twelve emails from: "Billy
25 Zantzinger <modelthry@yahoo.com>" IP address: [167.219.0.147] (Deloitte -
26 sent during business hours) sought to engage Plaintiff in conversation and
27 subsequently accused Plaintiff of defrauding him for not sending him a CD
28

1 for the money he never paid and threatened to sue the Plaintiff. No proof
2 was payment was ever made to Plaintiff.

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

9 61. 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.

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15 **NINTH CAUSE OF ACTION**

16 (Negligent Infliction of Emotional Distress)

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18 62. The averments set forth in all preceding paragraphs are incorporated
19 herein by reference.

20 63. As demonstrated in the preceding paragraphs the Defendants' negligent
21 acts of extreme misconduct have caused the Plaintiff extreme suffering and
22 severe emotional distress including highly unpleasant mental reactions such
23 as nightmares, fright, nervousness, grief, anxiety, worry, mortification,
24 shock, humiliation and indignity, as well as physical pain and injury.

25 64. As a result of the foregoing, and as a proximate cause thereof,
26 Plaintiff has suffered injuries to himself, his profession, his reputation,
27 his career, his health, and his relationships, in an amount to be determined
28 at time of trial, but within the jurisdictional limits of this Court. In the

1 alternative, Plaintiff prays for any applicable statutory damages for this
2 cause of action.

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

7
8 **TENTH CAUSE OF ACTION**

9 (Intentional Interference with Prospective Economic Advantage)

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

13 67. Plaintiff believes that Defendant Jeremy Smith is a classical
14 guitarist who engages in similar business as the Plaintiff (e.g. performance
15 and teaching) and that there is a prospective economic relationship as a
16 result. He intentionally committed the aforementioned violations with
17 awareness of that relationship in order to disrupt Plaintiff's business
18 activity, and managed to do so.

19 68. As a result of the foregoing, Plaintiff has suffered injuries to his
20 profession in an amount to be determined at time of trial, but within the
21 jurisdictional limits of this Court. In the alternative, Plaintiff prays for
22 any applicable statutory damages for this cause of action.

23 69. 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.

27
28 **ELEVENTH CAUSE OF ACTION**

(Unfair Competition)

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

5 71. Plaintiff believes Defendant Jeremy Smith is a classical guitarist who
6 engages in similar business as the Plaintiff (e.g., musical performance and
7 teaching) and as such the aforementioned violations were at least partly
8 committed with the motive to hurt the Plaintiff's business unfairly.

9 72. As a result of the foregoing, Plaintiff has suffered injuries to his
10 profession, in an amount to be determined at time of trial, but within the
11 jurisdictional limits of this Court. In the alternative, Plaintiff prays for
12 any applicable statutory damages for this cause of action.

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

17 74. Plaintiff is informed and believes, and on that basis alleges, that
18 Smiths' conduct as alleged in this Complaint involves the willful and
19 intentional unlawful infringement of Plaintiff's own common law copyrighted
20 materials and other unlawful acts, as described herein, for use in direct
21 competition with Plaintiff to the benefit of the Smiths, the deception of
22 the public, and the great detriment of Plaintiff and Plaintiff websites,
23 constitutes unlawful, unfair, and/or fraudulent business acts or practices
24 in violation of Illinois common law and the Illinois Consumer Fraud and
25 Deceptive Business Practices Act, **IL ST CH 815 § 505/1** et seq., that has a
26 substantial effect on commerce, resulting in Defendants' unjust enrichment.
27 On information and belief, Smiths willfully intended to trade on the
28 business goodwill of Plaintiff, Plaintiff websites, and Plaintiff's

1 intellectual property, and to deceive the public and cause injury to
2 Plaintiff through his acts of unfair competition as described herein.

3 75. On information and belief, Plaintiff alleges that Smiths are
4 continuing to engage in one or more acts of unfair competition involving the
5 conduct alleged in this Complaint (and related conduct) to Plaintiff's
6 substantial economic detriment, including willful and intentional unlawful
7 infringement of Plaintiff's copyrighted materials, identity, likeness, and
8 reputation for use in direct competition with Plaintiff and the deception of
9 the public.

10 76. As a direct and proximate result of Defendants' unlawful acts as
11 described herein, Plaintiff has suffered and will continue to suffer injury
12 to Plaintiff's business, goodwill, and property for which it is entitled to
13 restitution pursuant to Illinois common law and the Illinois Consumer Fraud
14 and Deceptive Business Practices Act, **IL ST CH 815 § 505/10(a)**.

15 77. Furthermore, Plaintiff has no adequate remedy at law to compel Smiths
16 to cease his wrongful acts, and therefore seeks injunctive relief. Unless
17 the Court grants an injunction, Plaintiff will be compelled to prosecute a
18 multiplicity of actions to remedy this continuing unfair, unlawful, and/or
19 fraudulent conduct. Unless Smiths are preliminarily and permanently enjoined
20 from committing the unlawful acts described herein, Plaintiff will continue
21 to suffer irreparable harm. Plaintiff's damages are irreparable because it
22 is extremely difficult to ascertain the amount of compensation that will
23 afford Plaintiff adequate relief if Defendants are not enjoined at this
24 time, in part because of the nature of intellectual property. Plaintiff is
25 entitled, pursuant to Illinois common law and the Illinois Consumer Fraud
26 and Deceptive Business Practices Act, **IL ST CH 815 § 505/10(a)**, to injunctive
27 relief in the form of a temporary restraining order, a preliminary
28 injunction, and/or a permanent injunction restraining Defendants, their

1 officers, agents, and employees, and all persons acting in concert with
2 them, from engaging in any further such acts of unfair competition.

3
4 **TWELFTH CAUSE OF ACTION**

5 (Infringement of Common Law Copyright)

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

9 79. Plaintiff is the owner of certain common law copyrights in connection
10 with the design and contents of his websites, which include his writings,
11 designs, photographs, and the like.

12 80. On numerous occasions, Smiths published Plaintiff's copyrighted
13 writings, designs, photographs, etc., without authorization, in violation of
14 law.

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

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

24
25 **THIRTEENTH CAUSE OF ACTION**

26 (Intentional Misrepresentation)

1 83. The averments set forth in all preceding paragraphs are incorporated
2 herein by reference.

3 84. Writings that were not written by Plaintiff were explicitly attributed
4 to the Plaintiff and published as such.

5 85. Writings that were written by Plaintiff were altered and published as
6 Plaintiff's writings.

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

12 87. 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 **FOURTEENTH CAUSE OF ACTION**

18 (Negligent Misrepresentation)

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

21 89. Defendants made misrepresentations of past and existing facts,
22 concealed facts, false promises, and intentionally failed to disclose facts
23 regarding Plaintiff, as described herein, such that Defendants'
24 representations were untrue.

25 90. Defendants made representations without any reasonable ground to
26 believe that the statements were untrue.
27
28

1 91. Defendants intended to induce Plaintiff and others to rely upon
2 Defendants' false statements.

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

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

12
13
14 **FIFTEENTH CAUSE OF ACTION**

15 (Vicarious Liability - Deloitte)

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

18 95. At all times relevant, Defendant, Jeremy Smith, was employed by
19 Deloitte and acting during his hours of employment with Deloitte.

20 96. The acts attributed to Jeremy Smith took place during the course of
21 Smith's employment with Deloitte and were within the scope of his employment
22 with Deloitte.

23 97. Through the actions of its employee, Jeremy Smith, Deloitte
24 vicariously caused Plaintiff to suffer injuries to himself, his profession,
25 his reputation, his career, his health, and his relationships, in an amount
26 to be determined at time of trial, but within the jurisdictional limits of
27 this Court.
28

1
2 **SIXTEENTH CAUSE OF ACTION**

3 (Negligent Enablement - Deloitte)

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

7 99. The alleged acts attributed to Jeremy Smith occurred during hours when
8 Smiths was in the employment of Deloitte and some or all of the acts were
9 committed using Deloitte's computers and network systems.

10 100. Plaintiff advised Deloitte of Smith's activities in September 2005,
11 yet it took several months between the time the violations were reported to
12 Deloitte until they stopped Defendant Jeremy Smith from using their
13 computers and networks in relationship to the Plaintiff, although it was
14 indicated by Deloitte's technical staff that the source of the violations
15 was identified immediately upon reporting.

16 101. Deloitte had actual notice of Smith's activities and a duty to put a
17 stop to those activities in a reasonable and timely manner.

18 102. In failing to act on its duty to stop Smith's activities in a timely
19 manner, Deloitte caused Plaintiff to suffer injuries to himself, his
20 profession, his reputation, his career, his health, and his relationships,
21 in an amount to be determined at time of trial, but within the
22 jurisdictional limits of this Court.

23 **PRAYER FOR RELIEF**

24
25 WHEREFORE, Plaintiff prays judgment against Defendants as follows:

26 1. An award of actual damages fully compensating Plaintiff for all injuries
27 he has suffered as a direct and proximate result of Defendants'
28

1 deprivation of Plaintiff's liberty and rights, without due process of
2 law;

3 2. Punitive and exemplary damages;

4 3. Reasonable attorney fees according to proof, pursuant to 17 U.S.C. § 505;

5 4. That Defendants, and each of them, be held liable for unfair competition
6 in violation of the Illinois Consumer Fraud and Deceptive Business
7 Practices Act, **IL ST CH 815 § 505/1** et seq., as alleged herein;

8 5. For expedited discovery from Defendants on all issues arising out of or
9 relating to the allegations of this Complaint, in order to prepare for a
10 temporary restraining order or preliminary injunction hearing in this
11 matter;

12 6. That Defendants' unlawful conduct as alleged herein be deemed a willful
13 violation of Plaintiff's intellectual property rights;

14 7. That Plaintiff be awarded its actual compensatory damages according to
15 proof;

16 8. That Plaintiff be awarded statutory damages;

17 9. That Defendants be ordered to disgorge any profits or gains in
18 Defendants' possession attributable to the infringement of Plaintiff's
19 copyrights or to Defendants' acts of unfair competition, and that
20 Plaintiff be awarded restitution in connection therewith;

21 10. That the Court order an accounting of all of any gains, profits, and
22 advantages realized by Defendants, or others acting in concert or
23 participation with them, from their unlawful conduct, and that all such
24 gains, profits, and advantages be deemed to be in constructive trust for
25 the benefit of Plaintiff, at the sole cost and expense of Defendants, by
26 means of an independent accountant;

27 11. Immediate issuance of a temporary restraining order, followed by a
28 preliminary injunction, and ultimately by a permanent injunction

1 preventing Defendants and their respective agents, employees and
2 representatives from using Plaintiff's name on the Internet and Usenet;
3 12. That the Court order online services that are hosting fraudulent and
4 defamatory articles composed by Defendants to remove such articles;
5 13. That Plaintiff recover its costs of this suit, including expert witness
6 costs, pursuant to 17 U.S.C. § 505; and
7 14. Such other and further relief as the Court may deem just and proper.

8 DATED: August 3, 2006

9 RESPECTFULLY SUBMITTED BY:

10 _____
11

12 Khoi Dang-Vu
13 Attorney for Plaintiff, REZA GANJAVI

14 **DEMAND FOR JURY TRIAL**

15
16 Plaintiff demands a jury trial on all causes of action against all
17 defendants.

18 DATED: August 3, 2006

19 RESPECTFULLY SUBMITTED BY:

20 _____
21

22 Khoi Dang-Vu
23 Attorney for Plaintiff, REZA GANJAVI
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