

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

REZA GANJAVI,)	
)	SECOND AMENDED COMPLAINT
Plaintiff,)	
)	
v.)	Case No. 06 C 4189
)	JURY TRIAL DEMANDED
JEREMY C. SMITH, CINDY SMITH,)	
TODD TIPTON, WILLIAM D.)	
JENNINGS, DELOITTE CONSULTING)	Judge Gettleman
LLC, DELOITTE & TOUCHE USA LLP,)	Magistrate Judge Denlow
DOES 1-10,)	
)	
Defendants.)	

PLAINTIFF'S SECOND AMENDED COMPLAINT

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

FACTS

1. Plaintiff, Reza Ganjavi (www.rezamusical.com) is a classical guitarist, record producer, writer,

information technology analyst, and management consultant. Plaintiff has produced two albums (“In Friendship”, “Dancing Hands”) of his solo and ensemble performances which have been quite successful in terms of sales and listener response. He also produces records for other musicians (e.g. www.angeloangelo.com). Hundreds of pages of bona fide listener comments about Plaintiff’s CD’s on www.rezamusical.com testify to the level of response his CD’s generated. This positive response, strong sales that exceeded sales on average classical guitar CD’s, his lack of academic music qualifications, and his Middle Eastern origins attracted the envy and hostility of a small “gang” of individuals on the biggest online Classical Guitar community.

2. The named Defendants in the case are Jeremy Smith, Cindy Smith, Todd Tipton (“Tipton”), William Jennings (“Jennings”), Deloitte Consulting LLC and Deloitte & Touche USA LLP (collectively, “Deloitte”).
3. Defendants Jeremy Smith, Cindy Smith, Tipton, Jennings, Deloitte (vicariously) attacked Plaintiff and his business in several vulgar, uncivil, profane, and highly damaging manners. In carrying their mischief they evidenced jealousy, envy, hatred, malice, oppression, desire to assassinate Plaintiff’s character and stall his artistic career, calculated falsehoods, irresponsibility, total disregard for the rights and safety of Plaintiff, in some cases fraud, contempt for order, civility, integrity of electronic communications, and abuse of the implied First Amendment right of anonymous speech. There are no issues raised here regarding pure expressions of opinions, likes or dislikes, or privileged communications.
4. Plaintiff did everything to avert legal action, including numerous pleas for cessation and retraction, but the defendants opted otherwise. Throughout the course of the litigation, Plaintiff continued to negotiate for out-of-court settlement with various defendants. Jeremy Smith, Todd Tipton, and William Jennings were never genuinely sincere in taking responsibility for the full spectrum of their actions although Jeremy Smith and Todd Tipton have confessed to some of the offenses they committed against Plaintiff. Two others who are not presently named defendants in the case settled as described below.
5. Paul Levy, a prominent attorney for Public Citizen, a Freedom of Speech protection organization, examined Plaintiff’s evidence in order to decide whether a subpoena that was served to reveal an anonymous defendant’s identity should be quashed. In light of what he called, Plaintiff’s “very strong allegations”, he decided not to quash the subpoena since the evidence actually backed up the allegations in the Complaint and constituted a valid request to identify the speakers.

6. Offenses committed by some or all of the defendants, sometimes in a coordinated and collaborated fashion, include but are not limited to:
 - a) fraudulent use of Plaintiff's identity;
 - b) fraudulent publication of material using Plaintiff's email address and name, including issuing racial slurs against African-Americans and persons of African descent, sympathizing with terrorist; explicitly threatening to kill a person, uttering ethnic slurs against Plaintiff, and directing obscenity at others, all using Plaintiff's forged identity.
 - c) setup of mock websites to damage Plaintiff's business and reputation;
 - d) publication of fictitious, forged, and altered material which were falsely attributed to Plaintiff as the author;
 - e) publication of material which placed Plaintiff in a highly offensive light;
 - f) publicly accusing Plaintiff of being a pedophile (which is absolutely false);
 - g) copying and publishing Plaintiff's work without his permission and without privilege;
 - h) violating Plaintiff's rights to attribution and integrity;
 - i) attempting to assassinate Plaintiff's character;
 - j) Using Plaintiff's identity to publicize false, negative, scandalous, and damaging statements about Plaintiff's products, artistic credibility, and reputation.
 - k) directly and indirectly collaborating with each other in committing the alleged acts;
 - l) and other acts which are explained presently.
7. Defendants Jeremy Smith, Cindy Smith, Tipton, Jennings used various online service providers to carry offenses against Plaintiff, using anonymous pseudonyms and/or their real names. The services they utilized include RCN, TimeWarner RoadRunner, DataFoundry, Yahoo, Google, Email.com, Homestead, Amazon.com, Teranews, Giganews, and The Cloak.

JURISDICTION AND VENUE

8. This Court has Diversity Jurisdiction over this matter as all Defendants are citizens of different states than Plaintiff, and the amount in controversy, including compensatory and punitive damages, is over \$75,000.
9. Federal question jurisdiction exists regarding causes of action based upon 17 U.S.C. 106A(a) ["Rights of certain authors to attribution and integrity"], and 15 U.S.C. § 1125 ["False designations of origin, false descriptions, and dilution"].

10. This Court has personal jurisdiction over Defendants Jeremy Smith, Cindy Smith, and Deloitte as they are domiciled in the State of Illinois.
11. This Court has personal jurisdiction over Defendants Todd Tipton and William Jennings as they both were fully aware of Defendant Jeremy Smith's residence in the State of Illinois at the time of conducting some of their collaborative efforts with Jeremy Smith and by doing so availing themselves to the jurisdiction of this Honorable Court based on the Minimum Contact provisions of law.
12. Defendant William Jennings' contact with Defendant Jeremy Smith goes back to at the latest May 2002 where both parties used their real names to communicate on the Usenet. This contact flourished to exchange of faxes private and Usenet messages between the two. Defendant Jeremy Smith and Defendant Todd Tipton have had more than minimum contact through private emails as claimed by Jeremy Smith regarding the offensive actions against Plaintiff, as well as the Usenet and a forum hosted by Todd Tipton.
13. Venue is proper in this judicial district as several of the Defendants are domiciled in Chicago, Illinois.

RELATED CASES

14. Plaintiff previously filed suit against some of the defendants for the same or similar causes of action in the United States District Court in California (case no. CV 05-08619-DPP-(JWJx)). Plaintiff was pro-se at the time of the original filing.
15. Some of the offenses put Plaintiff at grave danger such as associating him with terrorism and racism, fraudulent use of his identity, and making a fraudulent threat in the name of Plaintiff to murder a person. Therefore, Plaintiff reported the case to the Federal Bureau of Investigations (FBI reference: I05091018475587), the Legal Attaché at the US Embassy in Switzerland, Los Angeles Police Department, and US Attorney. Due to the fraudulent use of Plaintiff's identity the case was reported to the Federal Trade Commission (FTC reference: 7052633).
16. The case involved an extensive discovery process using the court's subpoena power which revealed many important facts including the source of many of the fraudulent and violating actions committed, up to then, by anonymous parties.
17. A ninety (90)-page evidence document was filed under Seal with the original Complaint. The evidence document has grown to over 200 pages due to the ongoing discovery.
18. Defendant Cindy Smith was named to the case as a Plaintiff in the case at bar. By the time the case

was filed in Illinois Plaintiff had discovered new material information that led to allegations against Cindy Smith's involvement with the offenses committed from her computer systems.

19. Plaintiff settled the matter with one of the named defendants, Douglas Carlson, who was dismissed from the case with prejudice. The settlement included a monetary payment, retraction of violating posts, and other terms and conditions. Mr. Carlson issued a public apology for his offensive actions against Plaintiff, some of which, he stated: "*were in response to postings that at the time I thought were done by Reza, and I now find out that someone had used Reza's name and email to make those postings fraudulently*".
20. Plaintiff settled the matter another defendant before he was named in the case. The settlement included a monetary payment, retraction of violating posts, and other terms and conditions. Mr. Nguyen issued a public apology that stated his actions "*were in response to postings that at the time I thought were done by Reza, and I now find out that someone had used Reza's name and email to make those postings fraudulently*".
21. Defendants Todd Tipton and William Jennings were dismissed without prejudice on August 14, 2006, due to lack of personal jurisdiction, mainly because of Plaintiff's part-time residency in California after over 15 years of full time residence there, which Defendants argued they were not aware of. Plaintiff chose not to fight these Defendants lack of personal jurisdiction dismissal motions, despite evidence that they may have known of his California presence, in order to save resources.
22. Defendant Jeremy C. Smith, was dismissed due to lack of personal jurisdiction on July 14, 2006 by the order of the court.

PARTIES

23. Plaintiff Reza Ganjavi ("Plaintiff") is an individual, a classical musician, record producer and writer. He has produced three (3) CD's to date and has performed the guitar extensively in many countries. Information on his artistic endeavors and personal interest are available on www.rezamusical.com. Plaintiff also has had a successful career as a management consultant / business analyst / project manager / software engineer. Plaintiff has studied music privately and through university and conservatory courses. He has an *MBA* from the University of California, and *magna-cum-laude* degrees in Computer Science and Philosophy from the California State University. Plaintiff believes his work stands for friendship, dialog, peace, harmony, understanding,

cooperation, cultural exchange, equality of all people, and other positive values. Plaintiff was born in Tehran, Iran, and moved to the USA at age 15. He has posted on the classical guitar newsgroup only using his real name. Plaintiff's address in the USA is: 2331 Westwood Boulevard #152, Los Angeles, CA 90064-2109.

24. Upon information and belief, Defendant Jeremy C. Smith is an individual who has stated his profession in the past as an accountant, a musician, and a guitar teacher. Jeremy Smith is employed by Deloitte in Chicago, and resides at 605 W. Madison Street, Apt 4811, Chicago, Illinois 60661. Defendant Jeremy Smith fraudulently used Plaintiff's identity to publish on the internet and Usenet, including on the newsgroups, rec.music.classical.guitar, alt.tv.big-brother, other websites. Jeremy Smith made libelous statements regarding Plaintiff and illegally impersonated Plaintiff – forged Plaintiff's identity – and explicitly presented himself as Plaintiff through the unauthorized use of Plaintiff's full legal name, email, password, and website URL, as well as using other nicknames and pseudonyms to commit a number of offenses against Plaintiff including sympathizing with terrorism and directing racial slurs at African Americans and persons of African descent, uttering ethnic slurs at Plaintiff, while posing Plaintiff as the author of those statements. Defendant Jeremy Smith presented writings that Plaintiff never wrote as Plaintiff's writings. Jeremy Smith set up one or two forged websites and used Plaintiff's copyrighted material without authorization. Defendant Jeremy Smith has issued false statements to companies and individuals engaged in trade with Plaintiff and to companies and individuals potentially interested in engaging in trade with Plaintiff, either in the field of music, and/or in management consulting. Jeremy Smith's violations of Plaintiff's rights are numerous, and are partially described herein. Jeremy Smith inspired, cooperated, and collaborated with William Jennings, Todd Tipton, and others in carrying attacks on Plaintiff. Jeremy Smith explicitly orchestrated attacks on Plaintiffs and encouraged others to participate.
25. Upon information and belief, Defendant Todd Tipton, also known as Timothy T. Tipton, ("Tipton") is an individual, a musician, a performer, a guitar teacher. He resides at 4409 Aldrich Avenue S., Minneapolis, Minnesota 55419 and maintains a website, www.toddtipton.com. Tipton has reportedly had a CD which is not well known even within the classical guitar genre. He has boasted about being "a very talented teacher", living "in the greatest city in the US" (Minneapolis) and having "more to say on the topic of guitar pedagogy than almost anyone". Yet he has exhibited a highly violent character under the pseudonyms he assumed to attack Plaintiff. Defendant Tipton published

material which was fraudulently attributed to Plaintiff as the author, has setup one or two forged websites mocking Plaintiff's registered websites, published libelous statements regarding Plaintiff via the internet and Usenet, including on the newsgroup, rec.music.classical.guitar, and other websites on the internet accessed throughout the U.S and the world. Tipton forged Plaintiff's identity by explicitly posing himself as Plaintiff through the unauthorized use of Plaintiff's full legal name, email, password, and website URL, and used other nicknames and pseudonyms to commit a number of violations, including threatening another newsgroup member with murder (while posing Plaintiff as the author of the statement). Tipton used Plaintiff's copyrighted material without authorization. Tipton has issued false statements to companies and individuals engaged in trade with Plaintiff and to companies and individuals potentially interested in engaging in trade with Plaintiff. Tipton's violations of Plaintiff's rights are numerous, and are partially described herein. Tipton inspired, cooperated and collaborated with Jeremy Smith, William Jennings, and others in carrying attacks on Plaintiff.

26. Upon information and belief, Defendant William David Jennings ("Jennings") is an individual, a musician, residing at 1415 Babcock Road, Apt. 704, San Antonio, Texas 78201. His profession is unknown to Plaintiff, though he has portrayed himself as a "retired gynecologist" and a millionaire through stock market successes though his credibility appears less than impeccable. He has posted numerous highly illusory posts on Usenet, has admitted to drug abuse including use of hallucinogenics, run-in with law, confinement in a "federal reformatory", and recently he posted on the Usenet while he admitted to being on drugs and drinking. Jennings has published libelous statements regarding Plaintiff via websites on the internet and Usenet, including on the newsgroups, rec.music.classical.guitar, soc.culture.iranian, and other websites on the internet accessed throughout the U.S and the world. Jennings has issued false statements to companies and individuals engaged in trade with Plaintiff and to companies and individuals potentially interested in engaging in trade with Plaintiff. Jennings has forged Plaintiff's identity and writings and used Plaintiff's copyrighted material without authorization. On numerous occasions Jennings has associated Plaintiff with terrorism and extremist groups in the Middle East (an utter lie) and has published a number of defamatory statements against Plaintiff while marking them as "FACTS". Jennings' violations of Plaintiff's rights are numerous, and are partially described herein. Jennings inspired, cooperated, and collaborated with Jeremy Smith, Todd Tipton, and others in carrying attacks on Plaintiff.
27. Upon information and belief, Defendant Cindy Smith is an individual, and is married to Defendant

Jeremy Smith, and resides at 605 W. Madison Street, Apt 4811, Chicago, Illinois 60661. She has acted in cooperation with Defendant Jeremy Smith in carrying out some of the offenses against Plaintiff.

28. Upon information and belief, Defendants Deloitte Consulting LLC and Deloitte & Touche USA LLP (collectively, “Deloitte”), are employers for Defendant Jeremy C. Smith, and are located at 111 S. Wacker Drive, Chicago, IL 60606-4301. Many of the offenses on Plaintiff were linked to Deloitte’s systems. A subpoena revealed the Deloitte employee directly responsible for the attacks to be Defendant Jeremy Smith. The use of the term “Defendants” in this document always refers to the defendants collectively with Deloitte carrying vicarious liability and/or liability through negligent enablement for offenses committed by Defendant Jeremy Smith using Deloitte’s systems.
29. Defendants Does 1-10 (“Doe Defendants”) may have been responsible for, participated in, or contributed to the matters and things of which Plaintiff complains herein, and in some fashion, have legal responsibility therefore. Plaintiff believes that information obtained in discovery will lead to the identification of the true name, citizenship, domicile, and residency of each Doe Defendant. When the exact nature and identity of such Doe Defendants and their responsibility for participation and contribution to the matters and things herein alleged are ascertained by Plaintiff, Plaintiff will amend this Complaint to set forth the same.

INTERNET & USENET

30. The violations occurred over the internet through forged websites that mocked Plaintiff’s registered websites, and through Usenet’s rec.music.classical.guitar newsgroup, which is the largest online classical guitar community and is used by serious communications around the discipline of Classical Guitar at scholarly level, as well as lighter and sometimes off-topic discussions. Currently, the largest Usenet repository is maintained by Google. However there are other mirror sites and repositories that currently contain messages fraudulently attributed to Plaintiff. Those messages are available to search engines and available worldwide to anyone who uses the internet. The above newsgroup is actively read by hundreds of users around the world who subscribe to it through services such as Google, or merely through their client newsgroup software application (such as Thunderbird or Outlook Express). Far more people read the newsgroup postings than post to the newsgroup, and as such, it is difficult to estimate the exact number of users except that there are indications that the number is quite large. The archives are used as reference material presently,

and potentially for generations to come. Publications on the internet and Usenet have a near-permanent quality as there are services that take archives of archives, and archive millions of sites on the internet regularly.

SCOPE OF DAMAGES

31. As a result of the offensive actions described herein, Plaintiff has suffered tremendous damage at all levels, physically, morally, emotionally, psychologically, and materially, both in terms of actual and opportunity costs. Psycho-somatic and emotional symptoms of his suffering include recurring nightmares, fright, nervousness, stress, grief, anxiety, worry, mortification, shock, humiliation and indignity. Physically, Plaintiff developed several agonizing conditions including ulcers. Musically, Plaintiff's artistic career has been totally stalled as several development and recording projects, performance engagements, and other artistic endeavors had to be canceled. Financially, Plaintiff has had enormous losses and suffered actual and opportunity costs. Personally, his most intimate close friendships have been damaged. Professionally, Plaintiff has lost potential and existing customers due to the malicious attacks on his business and reputation. Creatively, the moral damages suffered in this case have hurt his productivity.
32. Plaintiff has strived all his life to have a impeccable reputation and credibility. The success of this attitude is reflected in numerous highly positive references from professors, employers, colleagues, customers, and partners. TransUnion places Plaintiff's credit-worthiness at the highest category ("very good"), and ranks Plaintiff's credit as "higher than 90% of the population". Today, there are several fraudulent records on the internet and Usenet which were not written by Plaintiff but are attributed to the Plaintiff as the author. These fraudulent records have had adverse effects on the reputation of Plaintiff and are bound to continue to have harmful and damaging effects on Plaintiff's reputation and success in the future if they are not erased. Since Plaintiff was not the author of these fraudulent posts, he is not able to have them erased without either the cooperation of the actual author or, order of this Honorable Court.
33. Plaintiff has suffered additional damages which will be presented at the time of trial.

FIRST CAUSE OF ACTION

(Forgery)

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

35. For the period from about October 15, 2004 to about September 13, 2005, Defendants Tipton, Jeremy Smith, Jennings fraudulently and maliciously assumed, stole and misappropriated Plaintiff's identity in the manner described presently through unauthorized use of Plaintiff's name, email address, and password, in order to create and publish forged documents that were falsely attributed to Plaintiff as the author. Defendant Cindy Smith may have had a role in these offenses. Deloitte may have been vicariously responsible.
36. There are several pieces of evidence that suggest the Defendants listed in the last paragraph succeeded in their ability to defraud others and win their trust by making the documents appear genuine. Others relied on the material misrepresentations and forged documents, in their dealings with Plaintiff. Defendants intentionally misrepresented material facts regarding Plaintiff, including Plaintiff's professional activities, in these forged documents. There were a number of severe, dangerous, and untrue allegations associated with Plaintiff in the forged documents designed to assassinate Plaintiff's character.
37. At all times relevant, numerous messages were published on the internet and Usenet using Plaintiff's name, email address and a password to present a party other than Plaintiff as Plaintiff: ["Reza Ganjavi (www.rezamusic.com)" <ganjavi@dtc.ch>]. Plaintiff did not write these messages. Inarguably, the combination of four identity features, *e.g.*, first name, last name, website URL, and email address very uniquely and unambiguously purport to identify Plaintiff. Plaintiff has in the past used the same set of four identity features to publish material on the internet. While there are many persons named "Reza" in the world, to the best knowledge of Plaintiff there are no other "Reza Ganjavi's." and even if there were, technically it is improbable to have another "Reza Ganjavi" with the email address: "ganjavi@dtc.ch" and even more improbable to have anybody, with any name, who can claim to be the "Reza" referred to by "www.rezamusic.com," as Plaintiff is the sole and legal owner of this website URL. Therefore, using a combination of these identity features uniquely and unambiguously purport to identify Plaintiff, and it is this combination of identity features, which was used to fraudulently pose as Plaintiff and publish material with Plaintiff posed as the author.
38. At all times relevant, there was no way for Plaintiff to stop the recurrence of such violations, as the Usenet/internet does not provide such technical capability. Plaintiff asked the responsible parties through their pseudonyms to stop assuming Plaintiff's identity and to retract their violations many times to no avail. Not only such request was ignored, in some instances the attacks and fraudulent

activity was intensified. Plaintiff posted messages stating that Plaintiff did not write the aforementioned fraudulent messages. However, the forgers would turn around; forge Plaintiff's ID again and post a message uniquely identifying Plaintiff as the author, quashing the corrective message that Plaintiff had actually just posted. The result was that a reader would believe that Plaintiff did not write the corrective message and that the original forged message was authentic.

39. The messages that were fraudulently posted as being authored by Plaintiff contained highly offensive material and violent content completely contrary to Plaintiff's character, beliefs, and philosophy of life.
40. Most of the materials posted, with Plaintiff fraudulently presented as the author, are too offensive to reproduce here in the body of this Complaint and will be provided with request for filing under seal when necessary, however, some ingredients include the following, which are merely a small example of numerous counts of violations. Upon information and belief:
 - a) Using Plaintiff's identity, Defendant Cindy Smith and Defendant Jeremy Smith directed obscenity at Plaintiff himself and posted highly defamatory material about Plaintiff.
 - b) Using Plaintiff's identity, Defendant Cindy Smith and Defendant Jeremy Smith scandalously portrayed and depicted Plaintiff as a supporter terrorism -- something that is absolutely contrary to Plaintiff's beliefs and moral values.
 - c) Using Plaintiff's identity, Defendant Cindy Smith and Defendant Jeremy Smith directed racial slurs, including publicly publishing a message with the tile: "THIS IS WHY BLACK PEOPLE ARE NIGGERS" containing a link to a picture of an African American person. This is absolutely and unquestionably against Plaintiff's belief. Plaintiff has utmost respect and affection for African Americans and persons of African descent especially, as he does for fellow civil human beings of every race, ethnicity, country, gender, and religion. In addition, Plaintiff has many Black friends, colleagues, existing and prospective customers, and fans who would be disgruntled and likely to disassociate with Plaintiff if they come upon such lies and insults purportedly written on behalf of Plaintiff on the internet and Usenet.
 - d) Other actions committed by one of more defendants: Using Plaintiff's identity, Defendant Cindy Smith and Defendant Jeremy Smith made other remarks exhibiting racial prejudice, for example, referring to Plaintiff as a "sand Nigger" who would do extreme graphic and obscene, filthy, lewd sexual acts.
 - e) Using Plaintiff's identity, Defendant Cindy Smith and Defendant Jeremy Smith made vulgar

inappropriate sexual overtures, and sexual threats to others.

- f) Using Plaintiff's identity, Defendant Cindy Smith and Defendant Jeremy Smith made vulgar sexual insults and inappropriate and false remarks towards Plaintiff.
 - g) Using Plaintiff's identity, Defendant Cindy Smith and Defendant Jeremy Smith verbally attacked a civilized member of the community.
 - h) Using Plaintiff's identity, Defendant Cindy Smith and Defendant Jeremy Smith falsely discarded and quashed writings that were actually written by Plaintiff.
 - i) Using Plaintiff's identity, Defendant Cindy Smith and Defendant Jeremy Smith altered and posted Plaintiff's copyrighted works without permission.
 - j) Using Plaintiff's identity, Defendant Todd Tipton threatened to kill a person with use of extreme, graphic, and physical violence.
 - k) Using Plaintiff's identity, Defendant Todd Tipton threatened and used obscene language on others.
 - l) Using Plaintiff's identity, Defendant Todd Tipton publicized false, negative, scandalous, and damaging statements about Plaintiff's products, artistic credibility, and reputation.
 - m) Defendant Todd Tipton published material fraudulently attributed to Plaintiff as the author, which falsely alleged Plaintiff with horrible accusations such as being a pedophile.
 - n) Defendant William Jennings published material fraudulently attributed to Plaintiff as the author.
41. 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.
42. Plaintiff will suffer immediate and irreparable harm if this Court does not order injunctive relief, in that Plaintiff's business, practice, and artistic reputation will be irreparably damaged otherwise. Monetary relief cannot completely remedy Plaintiff's damages.
43. Plaintiff has exhausted his administrative remedies.

SECOND CAUSE OF ACTION

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

44. The averments set forth in all preceding paragraphs are incorporated herein by reference.
45. 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 Defendants Jeremy Smith and Tipton, with possible involvement of Defendant Cindy Smith and Jennings, published websites attributed to 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.

46. 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.

THIRD CAUSE OF ACTION

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

47. The averments set forth in all preceding paragraphs are incorporated herein by reference.
48. On or about August 4, 2005, and on or about September 11 2005, it was brought to Plaintiff’s attention that Defendant Jeremy Smith and Tipton, and possibly with the assistance of Defendants Jennings and Cindy Smith, had set up mock websites strongly resembling Plaintiff’s registered websites in name, design, and content.
49. Defendants Jeremy Smith, Tipton, and Jennings are potential competitors of Plaintiff in the area of classical guitar service and goods. The defendants named in the preceding paragraph portrayed Plaintiff’s goods and services to potential clients and audiences falsely, fraudulently, and maliciously, therefore misleading Plaintiff’s potential clients of facts that were likely to cause confusion. Furthermore, they deceptively affiliated Plaintiff to endorsement of sources of advertising presented on the fraudulently set up websites. Those websites were explicitly purported to be associated with Plaintiff by name, description, pictures, and graphic design.
50. On or about August 4, 2005, a mock site, hosted on Homestead, was publicly announced by Defendant Todd Tipton using Time Warner Cable / Roadrunner ISP. Todd Tipton’s own website

(www.toddtipton.com) is also hosted on Homestead. The mock site maliciously impersonated Plaintiff, misrepresented Plaintiff's beliefs, and insulted Plaintiff, his family and friends.

51. Another mock website hosted on Yahoo/Geocities referred explicitly and unambiguously to Plaintiff and his website, by name, description, photo, and design. The mock website purported that Plaintiff endorsed products that Plaintiff did not endorse. The websites directed insults and invectives at Plaintiff and his products and services; disparaged his professional competence; and offended Plaintiff's potential customers and audience. This website announced on the Usenet by Defendant Jeremy Smith (with possible involvement of Defendant Cindy Smith) who posed as the classical guitar discussion group's "Official Moderator <moderator@rmcg.com>". It was also announced to Plaintiff by both Jeremy Smith and Tipton. Evidence suggests it was likely authored in close collaboration between Defendants Jeremy Smith and Todd Tipton.
52. The website also directed sexual slurs towards Plaintiff and his business associates, implying that Plaintiff was a homosexual, which he is not, and such allegations are dangerous because Plaintiff travels to Iran, where his relatives still reside. In Iran, homosexuality is a crime and is punished severely. Thus, posting this false allegation on the internet is especially dangerous for Plaintiff and harmful to him even though Plaintiff is not homosexual.
53. The aforementioned mock site was announced to Plaintiff on or about September 11, 2005, from the IP address [24.148.29.235] belonging to Jeremy Smith at his residence (and also used by his wife, Defendant Cindy Smith) as confirmed by Mr. Quinn Clemmons of NeuStar Fiduciary Services, agents for RCN Corporation, on or about 6 April 2006. The email read: "You and I share similar interests and even look alike. www.geocities.com/rezasworld". On the same day the site was also announced publicly. The site's visit-counter indicated the site was visited by at least 99 visitors as of September 11, 2005. From the same IP address [24.148.29.235], as well as from Todd Tipton announcing the site to Plaintiff. On or about September 12, 2005, Plaintiff received an email: "Care to negotiate a peace settlement?" but this one was from the IP address [167.219.0.140], which indicated the message was from Deloitte's network. On 13 April 2006, in response to a subpoena, Deloitte confirmed that the name of the responsible employee is Defendant Jeremy Smith. Defendant Jeremy Smith works for Deloitte and uses RCN as a home online service provider (shared with Defendant Cindy Smith). Plaintiff also has proof that Jeremy Smith has also used Giganews and Teranews newsgroup service providers to commit some of the violations anonymously.

54. These false presentations violated Section 43 of the Lanham Act, 15 U.S.C. § 1125, insofar as Plaintiff did not authorize, broker, sell, or otherwise license the right to use his name, common law trademarks, image, likeness, or professional reputation, to any of the Defendants in the case. Plaintiff requested the hosting companies to remove the mock websites. The sites were deleted after being online for several days and attracting numerous visitors.
55. 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.
56. Plaintiff will suffer immediate and irreparable harm if this Court does not order injunctive relief, in that his business, practice, and artistic reputation will be irreparably damaged. Monetary relief cannot completely remedy Plaintiff's damages.

FOURTH CAUSE OF ACTION

(Invasion of Privacy: False Light)

57. The averments set forth in all preceding paragraphs are incorporated herein by reference.
58. Using various aliases, individually and in cooperation with one another, Defendants Jeremy Smith, Tipton, Jennings, Cindy Smith, and Deloitte (vicariously) published material, highly offensive in nature, and untrue statements about Plaintiff and his products and services, in the context of replies to quotations which were falsely attributed to Plaintiff as the author.
59. Some of these fraudulent publications e.g., by Jennings and Jeremy Smith, were ethnic slurs against people of Middle Eastern origin and racial slurs against African-Americans and persons of African descent. Some, by Jeremy Smith, for example, associated Plaintiff with terrorists and extremist groups. Some were aimed directly at Plaintiff's personality, products and services. Some had a hatred overtone, "I'd sooner see your neatly smoked carcass hanging on a meat hook in Hell." (William Jennings).

FIFTH CAUSE OF ACTION

(Defamation Per Se, Libel & Slander)

60. The averments set forth in all preceding paragraphs are incorporated herein by reference.
61. Plaintiff claims that the offenses described in this Complaint as committed by Defendants Jeremy

Smith, Cindy Smith, Tipton, Jennings, Deloitte (vicariously) have caused Plaintiff's reputation to seriously suffer.

62. Said libel and slander as described in preceding paragraphs was certainly written statements, possibly also spoken statements, and certainly statements placed on the internet.
63. Said statements were untrue, and were conveyed to third parties.
64. Said statements, were defamatory per se and also caused third parties to hate, dislike and avoid Plaintiff. The statements:
 - a) were defamatory, and false to Plaintiff's discredit;
 - b) were understood as being of and concerning Plaintiff;
 - c) were understood as tending to harm the reputation of Plaintiff;
 - d) exposed Plaintiff to hatred, ridicule, contempt, obloquy;
 - e) lowered him in the esteem of his fellows and caused him to be shunned;
 - f) injured him in respect to his business and profession;
 - g) imputed to him general disqualifications in those respects which his occupation peculiarly requires, e.g., ability to perform music;
 - h) created a great deal of mental anguish;
 - i) exposed Plaintiff to grave danger, especially in international travel; and
 - j) were made with actual malice.
65. 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.
66. Plaintiff will suffer immediate and irreparable harm if this Court does not order injunctive relief, in that his business, practice, and artistic reputation will be irreparably damaged. Monetary relief cannot completely remedy Plaintiff's damages.

SIXTH CAUSE OF ACTION

(Defamation, Libel & Slander)

67. The averments set forth in all preceding paragraphs are incorporated herein by reference.
68. Plaintiff claims that the offenses described in this Complaint as committed by Defendants Jeremy Smith, Cindy Smith, Tipton, Jennings, Deloitte (vicariously) have caused Plaintiff's reputation to

seriously suffer.

69. Said libel and slander as described in preceding paragraphs was certainly written statements, possibly also spoken statements, and certainly statements placed on the internet.

70. Said statements were untrue, and were conveyed to third parties.

71. Said statements were defamatory and also caused third parties to hate, dislike and avoid Plaintiff.

The statements:

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

72. Defendant Jeremy Smith, Cindy Smith, Tipton, Jennings and Deloitte (vicariously) disparaged Plaintiff's product on Amazon.com in an orchestrated fashion leaving highly defamatory and false reviews far exceeding the limits of their First Amendment rights. Defendant Cindy Smith and Defendant Jeremy Smith directed profanity at anyone on the group who did not cooperate in these attacks: "*Which one of you cumsluts voted against the Rosa review?*" [followed by link to the review page] (27 October 2005).

73. 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.

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

SEVENTH CAUSE OF ACTION

(Invasion of Privacy: Appropriation of Name or Likeness)

75. The averments set forth in all preceding paragraphs are incorporated herein by reference.
76. As demonstrated in the preceding paragraphs Defendants Tipton, Jeremy Smith, Jennings, Cindy Smith, and Deloitte (vicariously) have at all times relevant explicitly appropriated to their own use the name or likeness of Plaintiff without Plaintiff's authorization.
77. 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.
78. Plaintiff will suffer immediate and irreparable harm if this Court does not order injunctive relief, in that his business, practice, and artistic reputation will be irreparably damaged. Monetary relief cannot completely remedy Plaintiff's damages.

EIGHT CAUSE OF ACTION

(Intentional Infliction of Emotional Distress)

79. The averments set forth in all preceding paragraphs are incorporated herein by reference.
80. As demonstrated in the preceding paragraphs the Defendants Jeremy Smith, Cindy Smith, Tipton, Jennings, Deloitte (vicariously) have demonstrated outrageous conduct with intention of causing or reckless disregard of the probability of causing emotional distress. Such conduct has caused Plaintiff extreme suffering and severe emotional distress including severe psychological reactions such as nightmares, fright, nervousness, grief, anxiety, worry, mortification, shock, humiliation and indignity, as well as physical pain and injury including ulcers.
81. In addition to the actions described in the preceding paragraphs, Defendant Jeremy Smith stalked and harassed Plaintiff and falsely accused Plaintiff of having criminal intent. Jeremy Smith sent Plaintiff numerous crank emails posing as a potential customer and fan who had been in contact with "Cyber Troll" (Defendant Todd Tipton) and would provide testimony in the court if a case was ever litigated. The email chain ultimately led to him accusing Plaintiff of having criminal intentions which was absolutely nonsensical. Twelve emails from: "Billy Zantzinger <modelthry@yahoo.com>" IP address: [167.219.0.147] (sent from Deloitte's systems during business hours) sought to engage Plaintiff in conversation around a business dealing which turned

out to be a fraud. Defendant Jeremy Smith, posed as Billy Zantzinger subsequently accused Plaintiff of not sending him a CD for which Smith never paid but claimed to have paid but failed to provide a proof for the payment. Defendant Jeremy Smith threatened to sue Plaintiff for defrauding him !! “William Zantzinger” is one of Defendant Jeremy Smith’s favorite pastime screen names which he started using back in 27 Dec 2001 with a message soliciting tips for buying fake jewelry in Chicago (reference: Message-ID: <dd9d9a7c.0112270708.6fcf9416@posting.google.com>). At the time Smith was using the email address: jeremy.smith@banklife.com as well as cwenz123@earthlink.net on the Usenet both as “William Zantzinger” among other screen names.

82. On 30 October 2005 Jeremy Smith posted a message on Usenet saying: *“I forged Reza's posts solely to get my rocks off.... The fun part was imagining Reza's reaction to the post, which I hope involved much writhing and the occasional regurgitation”*.
83. As a result of the foregoing, Plaintiff has suffered injuries to himself, his profession, his business advantage, 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.
84. Plaintiff will suffer immediate and irreparable harm if this Court does not order injunctive relief, in that his business, practice, and artistic reputation will be irreparably damaged. Monetary relief cannot completely remedy Plaintiff’s damages.

NINTH CAUSE OF ACTION

(Negligent Infliction of Emotional Distress)

85. The averments set forth in all preceding paragraphs are incorporated herein by reference.
86. As demonstrated in the preceding paragraphs the Defendants’ (Jeremy Smith, Cindy Smith, Tipton, Jennings, Deloitte (vicariously)) negligent acts of extreme misconduct have caused Plaintiff extreme suffering and severe emotional distress including highly unpleasant mental reactions such as nightmares, fright, nervousness, grief, anxiety, worry, mortification, shock, humiliation and indignity, as well as physical pain and injury.
87. As a result of the foregoing, and as a proximate cause thereof, 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.

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

TENTH CAUSE OF ACTION

(Intentional Interference with Prospective Economic Advantage)

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

90. Plaintiff believes that Defendants Jeremy Smith, Todd Tipton, and William Jennings are classical guitarist who engage in similar business as Plaintiff (e.g. performance and teaching) and that there is a prospective economic relationship as a result. They intentionally committed the aforementioned violations with awareness of that relationship in order to disrupt Plaintiff's business activity, and managed to do so. There is evidence to suggest Defendant Cindy Smith may have had a hand in assisting her husband in this cause of action.

91. On 14 May 2006 Jeremy Smith wrote: "Surely trolls often start fights, but their primary objective is usually to waste other posters' time. Causing people to waste money is nice too".

92. As a result of the foregoing, Plaintiff has suffered injuries to his profession 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.

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

ELEVENTH CAUSE OF ACTION

(Unfair Competition)

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

95. Plaintiff believes Defendants Jeremy Smith, Todd Tipton, and William Jennings are classical guitarist who engage in similar business as Plaintiff (e.g., musical performance and teaching) and as such the aforementioned violations were at least partly committed with the motive to hurt Plaintiff's business unfairly.

96. As a result of the foregoing, Plaintiff has suffered injuries to his profession, 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.

97. Plaintiff will suffer immediate and irreparable harm if this Court does not order injunctive relief, in that his business, practice, and artistic reputation will be irreparably damaged. Monetary relief cannot completely remedy Plaintiff's damages.
98. Plaintiff is informed and believes, and on that basis alleges, that some of the conduct as alleged in this Complaint involves the willful and intentional unlawful acts, as described herein, for use in direct competition with Plaintiff to the benefit of Defendants Jeremy Smith, Cindy Smith, Todd Tipton, and William Jennings, and for the deception of the public, the detriment of Plaintiff and Plaintiff's websites, and constitutes unlawful, unfair, and/or fraudulent business acts or practices in violation of Illinois common law and the Illinois Consumer Fraud and Deceptive Business Practices Act, IL ST CH 815 § 505/1 et seq., and has a substantial effect on commerce, resulting in Defendants Jeremy Smith, Todd Tipton, and William Jennings' unjust enrichment. On information and belief, Defendants Jeremy Smith, Todd Tipton, and William Jennings willfully intended to trade on the business goodwill of Plaintiff, Plaintiff's websites, and Plaintiff's intellectual property, to deceive the public, and cause injury to Plaintiff through their acts of unfair competition as described herein.
99. On information and belief, Plaintiff alleges that Defendants Jeremy Smith, Todd Tipton, and William Jennings are continuing to engage in one or more acts of unfair competition involving the conduct alleged in this Complaint (and related conduct) to Plaintiff's substantial economic detriment, including willful and intentional unlawful infringement of Plaintiff's copyrighted materials, identity, likeness, and reputation for use in direct competition with Plaintiff and the deception of the public with the knowledge, aid, encouragement, and support of each other.
100. As a direct and proximate result of Defendants Jeremy Smith, Todd Tipton, and William Jennings unlawful acts as described herein, Plaintiff has suffered and will continue to suffer injury to Plaintiff's business, goodwill, and property for which it is entitled to restitution pursuant to Illinois common law and the Illinois Consumer Fraud and Deceptive Business Practices Act, IL ST CH 815 § 505/10(a).
101. Furthermore, Plaintiff has no adequate remedy at law to compel Defendants Jeremy Smith, Todd Tipton, and William Jennings to cease their wrongful acts, and therefore seeks injunctive relief. Unless the Court grants an injunction, Plaintiff will be compelled to prosecute a multiplicity of actions to remedy this continuing unfair, unlawful, and/or fraudulent conduct. Unless the

Defendants Jeremy Smith, Todd Tipton, and William Jennings are preliminarily and permanently enjoined from committing the unlawful acts described herein, Plaintiff will continue to suffer irreparable harm. Plaintiff's damages are irreparable because it is extremely difficult to ascertain the amount of compensation that will afford Plaintiff adequate relief if Defendants Jeremy Smith, Todd Tipton, and William Jennings are not enjoined at this time, in part because of the nature of intellectual property. Plaintiff is entitled, pursuant to Illinois common law and the Illinois Consumer Fraud and Deceptive Business Practices Act, IL ST CH 815 § 505/10(a), to injunctive relief in the form of a temporary restraining order, a preliminary injunction, and/or a permanent injunction restraining Defendants Jeremy Smith, Todd Tipton, and William Jennings, their officers, agents, and employees, and all persons acting in concert with them, from engaging in any further such acts of unfair competition.

TWELFTH CAUSE OF ACTION

(Infringement of Common Law Copyright)

102. The averments set forth in all preceding paragraphs are incorporated herein by reference.
103. Plaintiff is the owner of certain common law copyrights in connection with the design and contents of his websites, which include his writings, designs, photographs, and the like.
104. On numerous occasions, Defendants Jeremy Smith, Cindy Smith, Tipton, Jennings, Deloitte (vicariously) published Plaintiff's copyrighted writings, designs, photographs, etc., without authorization, in violation of law.
105. 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.
106. Plaintiff will suffer immediate and irreparable harm if this Court does not order injunctive relief, in that his business, practice, and artistic reputation will be irreparably damaged. Monetary relief cannot completely remedy Plaintiff's damages.

THIRTEENTH CAUSE OF ACTION

(Intentional Misrepresentation)

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

108. Defendants Jeremy Smith, Cindy Smith, Tipton, Jennings, Deloitte (vicariously) published writings that were not written by Plaintiff and explicitly attributed them to Plaintiff as the author, and altered Plaintiff's writings and published them as Plaintiff's original writings.

109. 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.

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

FOURTEENTH CAUSE OF ACTION

(Negligent Misrepresentation)

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

112. Defendants Jeremy Smith, Cindy Smith, Tipton, Jennings, Deloitte (vicariously) made misrepresentations of past and existing facts, concealed facts, made false promises, and intentionally failed to disclose facts regarding Plaintiff, as described herein, such that those representations were untrue.

113. Defendants Jeremy Smith, Cindy Smith, Tipton, Jennings, Deloitte (vicariously) made representations without any reasonable ground to believe that the statements were true, and they intended to induce Plaintiff and others to rely upon such false statements.

114. 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.

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

SIXTEENTH CAUSE OF ACTION

(Vicarious Liability)

- 116.The averments set forth in all preceding paragraphs are incorporated herein by reference.
- 117.At all times relevant, Defendant, Jeremy Smith, was employed by Deloitte and acted during his hours of employment with Deloitte.
- 118.The acts attributed to Jeremy Smith herein took place during the course of Smith's employment with Deloitte and some were conducted within the scope of his employment, during business hours, using Deloitte's computers and networks.
- 119.Specific incidents of Jeremy Smith's actions from Deloitte's systems include but are not limited to an abusive, fraudulent, and threatening chain of emails, attacks on Plaintiff's products on a popular e*retailer, fake fan mail to win trust in order to make attacks more effective, and obsessive visits to Plaintiff's website (hundreds of times).
- 120.Through the actions of its employee, Jeremy Smith, as alleged herein, Deloitte vicariously caused Plaintiff to suffer 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.

SEVENTEENTH CAUSE OF ACTION

(Negligent Enablement)

- 121.The averments set forth in all preceding paragraphs are incorporated herein by reference.
- 122.The alleged acts attributed to Jeremy Smith occurred while Jeremy Smith was in the employment of Deloitte and some of the acts were committed using Deloitte's computers and networks.
- 123.Plaintiff advised Deloitte of Smith's activities in September 2005, yet it took several months between the time the violations were reported to Deloitte until they stopped Defendant Jeremy Smith from using their computers and networks in relationship to Plaintiff, although it was indicated by Deloitte's technical staff that the source of the violations was identified immediately upon reporting.
- 124.Specific incidents of Jeremy Smith's actions from Deloitte's systems include but are not limited to an abusive, fraudulent, and threatening chain of emails, attacks on Plaintiff's products on a popular e*retailer, fake fan mail to win trust in order to make attacks more effective, and obsessive visits to Plaintiff's website (hundreds of times).
- 125.Deloitte had actual notice of Smith's activities and a duty to put a stop to those activities in a reasonable and timely manner. Deloitte waited months to have a manager address the problem

although they were notified in writing that they need to put a stop to the problem immediately due to the urgent nature of the problem, and the problem had been explained to them in detail, and they were provided with the electronic traces of the Defendant.

126. In failing to act on its duty to stop Smith's activities in a timely manner, Deloitte caused Plaintiff to suffer 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.

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 the Illinois Consumer Fraud and Deceptive Business Practices Act, IL ST CH 815 § 505/1 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 gains, profits, and advantages be deemed to be in constructive trust for the benefit of Plaintiff, at the sole cost and expense of Defendants, by means of an independent accountant;

11. Immediate issuance of a temporary restraining order, followed by a preliminary injunction, and ultimately by a permanent injunction preventing Defendants and their respective agents, employees and representatives from using Plaintiff's name on the internet and Usenet;
12. That the Court order online services that are hosting fraudulent and defamatory articles composed by Defendants to remove such articles;
13. That Plaintiff recover its costs of this suit, including expert witness costs, pursuant to 17 U.S.C. § 505; and
14. Such other and further relief as the Court may deem just and proper.

DATED: December 29, 2006

RESPECTFULLY SUBMITTED BY:

/s/ Khoi Dang-Vu

Khoi Dang-Vu

Attorney for Plaintiff, REZA GANJAVI

A.R.D.C. Number 6271169

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DEMAND FOR JURY TRIAL

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

DATED: September 29, 2006

RESPECTFULLY SUBMITTED BY:

/s/ Khoi Dang-Vu

Khoi Dang-Vu

Attorney for Plaintiff, REZA GANJAVI

A.R.D.C. Number 6271169

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