

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION**

Oleg Volk)	
3112 Chambley Court)	
Hermitage, TN 37076)	
)	
Plaintiff,)	Judge _____
)	
v.)	Case No. _____
)	
Derek Zeanah)	ELECTRONICALLY FILED
470 Country Club Road)	
Statesboro, Georgia 30458)	
)	
Defendant.)	

COMPLAINT

Plaintiff, Oleg Volk, for his Complaint against Derek Zeanah, states the following:

THE PARTIES

1. Plaintiff Oleg Volk (“Volk”) is an individual residing at 3112 Chambley Court, Hermitage, TN 37076.
2. On information and belief, Defendant Derek Zeanah (“Zeanah”) is an individual residing at 470 Country Club Road, Statesboro, Georgia 30458.

JURISDICTIONAL ALLEGATIONS

3. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1332.
4. This Court has personal jurisdiction over Zeanah because he is a resident of Statesboro, Georgia.
5. Venue is appropriate in this Court and in this division because Zeanah resides in this district and division and Zeanah’s actions which serve as the basis for this Complaint have occurred in this division.

FACTUAL ALLEGATIONS

6. In December 2002, Rich Lucibella announced that an internet forum he owned and operated, known as The Firing Line, would soon be shut down. In response to that announcement, Volk stepped forward to establish and provide an internet forum to serve a similar community of online members and provide a forum for exchange of information and discussion of similar issues in a civil manner. Volk chose “The High Road” as the name of the forum to reflect the high standards of civility and behavior that would be expected of participants in the forum.

7. Many of the volunteer staff of The Firing Line expressed a willingness to assist Volk in the moderation and operation of The High Road. Also wanting to see the online “community” of participants stay intact, Rich Lucibella registered the domain name Volk had chosen, <thehighroad.org>, paid the registration fee, and expressed to Volk that the domain name and fee were a gift to Volk. The domain name <thehighroad.org> was originally registered in the name of Group One Enterprises, Inc., a company owned by Rich Lucibella, through the domain name registrar Network Solutions, LLC.

8. Also in December 2002, Zeanah volunteered to act as systems administrator and web host for The High Road forum through his business, WellBuiltNetworks LLC. Others donated money to help cover the costs of hardware, software, and bandwidth.

9. At the time the internet discussion forum The High Road was established and at all times thereafter, Volk was recognized by Rich Lucibella, the volunteer staff, and the membership at large as the owner of The High Road. Rules of behavior were enforced by moderators as the rules of “Oleg’s House.”

10. Contributions of time and money have been made by many people in support of the operation, maintenance and growth of The High Road forum.

11. The service mark “The High Road,” also known as “THR,” is inherently distinctive and is recognized as an indicator of source for Volk’s internet discussion forum. As such, Volk owns rights in The High Road as a service mark for an online discussion forum.

12. At various times, Volk has authorized others to apply the mark to items of clothing for resale. Often, profits from the sale of these goods were donated to cover the expenses of operating The High Road forum.

13. Monetary contribution from forum participants and volunteer staff were used to purchase upgraded networking hardware. Zeanah was entrusted with physical possession of this hardware.

14. In 2006, noticing that the domain name for The High Road was still in the name of his company, Group One Enterprises, Inc., and that he was still identified as the contact person of record for the domain name registration, Rich Lucibella asked that the domain name registration be transferred to Volk.

15. Volk requested the technical assistance of Zeanah in making this transfer.

16. In cooperation with Rich Lucibella’s technical assistant, the registrar for the domain name was changed from Network Solutions LLC to Go Daddy Software, Inc. In order to facilitate this transfer, Zeanah was entrusted with the necessary passwords to effect the transfer on behalf of Volk and Rich Lucibella. After this transfer, the registrant remain identified as Group One Enterprises, Inc. Approximately two months later, the registrant’s name and all contact information was changed to “Derek Zeanah” and registrant organization changed to “THR.”

17. In mid-2008, an outside interest inquired about the possibility of acquiring or sponsoring The High Road.

18. Volk considered and discussed with the volunteer staff of The High Road the

possibility of generating revenue through the sale of advertisements on the forum as well as the possibility of accepting the proposed sponsorship.

19. Volk announced to the volunteer staff that he had chosen to pursue a sponsorship alternative which would have resulted in the hosting and system administration duties being transferred to an entity other than Zeanah. In response, Zeanah announced that he disapproved of Volk's choice and that he had changed the password for administrative access to the database of The High Road and for control of the domain name registration.

20. It was at this time Volk became aware that the domain name registration had been transferred into Zeanah's name, and not his own. This transfer was done without the authorization or approval of Volk, the intended transferee, or Rich Lucibella, owner of the prior registrant company, and was done in bad faith.

21. Zeanah has used and continues to use the <thehighroad.org> domain name in bad faith, in a manner that is inconsistent with Volk's wishes and ability to control his property and the good will of The High Road mark. Zeanah's refusal, after repeated demands, to release technical control of the forum and domain name is hampering Volk's ability to continue negotiations for the future use or sponsorship of The High Road forum, the marks, and the <thehighroad.org> domain name.

22. As a result of Zeanah's actions, Volk has suffered damages in excess of \$75,000.

COUNT I – DECLARATORY JUDGMENT OF OWNERSHIP

23. Volk incorporates by reference paragraphs 1 through 22 as set forth above.

24. Zeanah's unauthorized registration of the <thehighroad.org> domain name in his own name and refusal to relinquish technical control of and access to The High Road forum database and hardware is creating the appearance of insecurity and uncertainty with regard to the

ownership of the The High Road forum and domain name.

25. By reason of Zeanah's actions, Volk has suffered loss of use of and control over his property and opportunities to enter into a contractual relationship with third parties with respect to the use and/or location of his property. Volk has been, and unless ownership is properly declared, will continue to be irreparably harmed.

26. As a direct and proximate result of Zeanah's conduct, Volk suffered and will continue to suffer damages in excess of \$75,000 in an amount to be proved at trial.

**COUNT II – CYBERPIRACY IN VIOLATION OF THE ANTICYBERSQUATTING
CONSUMER PROTECTION ACT, 15 U.S.C. § 1125(d)**

27. Volk incorporates by reference paragraphs 1 through 26 as set forth above.

28. Zeanah's has registered and/or is using the <thehighroad.org> domain name that is identical to The High Road mark owned by Volk. Zeanah has no legitimate rights in The High Road mark. This registration and/or use was and continues to be in bad faith.

29. Zeanah's acts, as alleged herein, constitute a violation of the Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d).

30. By reason of Zeanah's actions, Volk has suffered irreparable harm to his valuable service mark, domain name and the goodwill associated therewith. Volk has been, and unless Zeanah is restrained from his actions, will continue to be irreparably harmed.

31. As a direct and proximate result of Zeanah's conduct, Volk has suffered and will continue to suffer damages in an amount in excess of \$75,000 to be proved at trial.

COUNT III – BREACH OF FIDUCIARY DUTY

32. Volk incorporates by reference paragraphs 1 through 31 as set forth above.

33. In late 2002, Zeanah began providing technical support and web hosting on a volunteer basis for the website forum associated with The High Road mark and <thehighroad.org>

domain name.

34. When ownership of the <thehighroad.org> domain name was intended to be transferred to Volk, Zeanah was entrusted with executing that transfer as an agent of Volk.

35. Zeanah violated that trust by registering the <thehighroad.org> domain name in his own name.

36. By reason of Zeanah's actions, Volk has suffered irreparable harm to his valuable <thehighroad.org> domain name, The High Road mark, and the good will associated therewith. Volk has been, and unless Zeanah is restrained from his actions, will continue to be irreparably harmed.

37. As a direct and proximate result of Zeanah's conduct, Volk has suffered and will continue to suffer damages in an amount in excess of \$75,000 to be proved at trial.

COUNT IV – CONVERSION/REPLEVIN

38. Volk incorporates by reference paragraphs 1 through 36 as set forth above.

39. In late 2002, Zeanah began providing technical support and web hosting on a volunteer basis for the website forum associated with The High Road mark and <thehighroad.org> domain name. Later, upgraded hardware was purchased using donated funds, physical possession of which was entrusted to Zeanah.

40. When ownership of the <thehighroad.org> domain name was intended to be transferred to Volk, Zeanah was entrusted with executing that transfer as an agent of Volk.

41. Zeanah violated that trust by registering the <thehighroad.org> domain name in his own name.

42. Zeanah registered and has exercised wrongful authority and control over the <thehighroad.org> domain name and The High Road forum database and hardware to the

exclusion of Volk with the intent to wrongfully depriving Volk of his property.

43. Zeanah continues to wrongfully exercise wrongful authority and control over the <thehighroad.org> domain name and The High Road forum database and hardware to the exclusion of Volk with the intent of depriving Volk of possession.

44. By reason of Zeanah's actions, Volk has suffered irreparable harm to his valuable domain name and the goodwill associated therewith and loss of control over The High Road forum. Volk has been, and unless Zeanah is restrained from his actions, will continue to be irreparably harmed.

45. As a direct and proximate result of Zeanah's conduct, Volk has suffered and will continue to suffer damages in excess of \$75,000 in an amount to be proved at trial.

COUNT IV – TORTIOUS INTERFERENCE WITH BUSINESS RELATIONS

46. Volk incorporates by reference paragraphs 1 through 44 as set forth above.

47. In or about August 2008 and with Zeanah's knowledge, Volk began negotiations with a third party for a business relationship regarding the <thehighroad.org> domain name and The High Road forum.

48. Zeanah improperly and with intent to injure communicated to Volk that the <thehighroad.org> domain name was registered to Zeanah.

49. Zeanah communicated to other volunteers of the forum that Zeanah would interfere with Volk's negotiations, preferring instead to enter into negotiations of his own, thereby tortiously interfering with Volk's business relations and opportunities.

50. By reason of Zeanah's actions, Volk has suffered irreparable harm to his valuable domain name, the goodwill associated with The High Road mark, and his opportunity to complete a business transaction with a third party. Volk has been, and unless Zeanah is restrained from his

actions, will continue to be irreparably harmed.

51. As a direct and proximate result of Zeanah's conduct, Volk has suffered and will continue to suffer damages in an amount to be proved at trial.

WHEREFORE, Volk hereby demands the following relief:

A. For an order declaring that Volk is the rightful owner of the <thehighroad.org> domain name, The High Road forum, and hardware;

B. For an order directing Zeanah and/or the domain name registrar to transfer the <thehighroad.org> domain name to Volk and to release and/or return The High Road database and hardware to Volk;

C. For an award of damages sustained by Volk for the interruption and interference in the business negotiations;

D. For an order directing Zeanah to file with this Court, and serve upon Volk's counsel within thirty (30) days after entry of such judgment, a written report under oath, setting forth in detail the manner and form in which they have complied with such judgment;

E. For an award of Volk's costs and disbursements incurred in this action;

F. For an order awarding attorneys fees for violation of the Anticybersquatting Consumer protection Act, or as otherwise allowed by law or equity;

G. For an award of interest, including prejudgment interest; and

H. For such other and further relief as the Court may deem just and proper.

Dated: October 14, 2008

Respectfully submitted,

/s/

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