

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

FRANCE.COM, INC., a California corporation,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 1:18-cv-00460-LO-IDD
)	
THE FRENCH REPUBLIC, ATOUT FRANCE,)	
THE MINISTRY FOR EUROPE AND)	
FOREIGN AFFAIRS, JEAN-YVES LE)	JURY TRIAL DEMANDED
DRIAN, in his official capacity as the French)	
Republic's Minister for Europe and Foreign)	
Affairs, <france.com>, a domain name, and)	
VERISIGN, INC.,)	
)	
_____ Defendants.		

FIRST AMENDED COMPLAINT

Preliminary Statement

1. Pursuant to this Court's Order of May 31, 2019 (Docket No. 40), Plaintiff submits this Amended Complaint stating with further particularity the facts and allegations upon which its claims for Cybersquatting, Reverse Domain Name Hijacking, Expropriation, Trademark Infringement, and Federal Unfair Competition are based.

Jurisdiction and Venue

2. This Court has subject matter jurisdiction over this action because it involves federal questions that arise under the Anticybersquatting Consumer Protection Act, the Foreign Sovereign Immunities Act, and the Lanham Act. *See* 28 U.S. Code § 1331 ("The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."); 1338(a) ("The district courts shall have original jurisdiction of any civil action arising under any Act of Congress relating to... trademarks."); and 2201(a) ("In a case of actual controversy within its jurisdiction,... any court of the United States, upon the filing of an appropriate

pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought.”).

3. This Court has *in rem* jurisdiction over the property that is the subject of this lawsuit; namely the domain name <france.com> and the United States registered trademark FRANCE.COM.

4. Specifically, upon information and belief, the <france.com> domain name is hosted at Defendant VeriSign, Inc.’s global registry facility, located at or near 12061 Bluemont Way, Reston, Virginia 20190. The trademark FRANCE.COM, registered with the United States Patent and Trademark Office (“USPTO”) as U.S. Trademark Registration No. 4514330, is housed on the USPTO’s Principal Register, located at the USPTO’s headquarters at 600 Dulany St, Alexandria, Virginia 22314.

5. The Court has jurisdiction over Defendants because Defendants’ acts fall squarely within the “commercial activities” and “expropriation” exceptions to the Foreign Sovereign Immunities Act, 28 U.S.C. § 1605(a)(2)-(3).

6. Defendants fall within 28 USC §1605(a)(2) (the “commercial activities” exception) because they have engaged in commercial tourism activity carried on, advertised, and promoted in the United States. Defendants’ commercial activity causes a direct effect in the United States and upon United States consumers.

7. Specifically, Defendants are using the domain name and the trademark FRANCE.COM to redirect U.S. consumers from Plaintiff’s website to their own commercial tourism website at www.france.fr. In doing so, Defendants have shut down Plaintiff’s business and replaced it with their own.

8. Defendants’ tourism website at www.france.fr, to which visitors of www.france.com are now redirected by virtue of Defendants’ actions, offers links to various tours,

accommodations, restaurants, events, and travel passes that constitute commercial activity.

Defendant also sells ads through its website, further evidencing the commercial nature of its activities.¹

9. By way of example, in using the <france.com> domain name, Defendants advertise specific businesses (and addresses) where United States consumers can purchase items. In advertising these stores, Defendants tout (among other things) that “[t]o take advantage of top brands at low prices, stock clearance shops offer surplus and marked-down prices at affordable prices.” Upon information and belief, these businesses offering top brands at low prices are privately owned enterprises that pay Defendants to advertise their stores. Upon information and belief, Defendants advertise these same businesses to United States consumers through the <france.com> domain name and earn advertising revenue based on United States consumer activities.

10. As another example, Defendants advertise the Domaine de Manville spa through the <france.com> domain name, which Defendants tout is a “sleekly-designed” spa that “offers treatments from a range of homemade products made with natural ingredients from the region, such as olives and lemons.” Defendants then provide a commercial link so that a United States consumer can purchase homemade products with natural ingredients and make reservations at the Domaine de Manville spa. Upon information and belief, Domaine de Manville spa pays Defendants advertising revenue in order to advertise the spa’s services on the website that uses the France.com domain name. Upon information and belief, every time a

¹ See, e.g., <https://www.france.fr/en/paris/list/7-respected-cafes-to-try-in-paris> (with links to cafes and services); <https://www.france.fr/en/paris/article/stock-clearance-and-brand-outlets> (listing specific stores to purchase items at, and stating that “[t]o take advantage of top brands at low prices, stock clearance shops offer surplus and marked-down prices at affordable prices.”); <https://www.france.fr/en/provence/list/7-places-to-be-pampered-in-provence-this-winter> (“In Les Baux-de-Provence, the sleekly-designed Domaine de Manville spa offers treatments from a range of homemade products made with natural ingredients from the region, such as olives and lemons.” (with link to services)).

United States consumer clicks on the Domaine de Manville spa link on that website, Defendants receive advertising revenue from the Domaine de Manville spa. Such advertising is done in English (and not French) to specifically target United States consumers, and upon information and belief, Defendants have earned advertising revenue by targeting such United States consumers.

11. Domaine de Manville spa is just one of many enterprises and business that Defendants advertise through the <france.com> domain name. As mentioned, Defendants offer a plethora of commercial links to private enterprises and advertise restaurants, tours, hotels, spas, food, wine, and numerous other businesses relating to the tourism industry. Upon information and belief, Defendants, through the <france.com> domain name, receive advertising revenue for all of these commercial links based on consumers in the United States clicking on the links. Upon information and belief, every time one of these United States consumers clicks on one of these links, Defendants receive advertising revenue via the <france.com> domain name. Defendants are therefore engaging in commercial activities just like any other privately owned business.

12. The commercial activities referenced above are done in English—and not French—which demonstrates that the <france.com> website is targeting United States consumers. Moreover, these commercial activities are no different than from any other commercial website or private business. Further, these commercial activities have been continuously online, ongoing, and constitute a regular course of commercial conduct. These commercial activities are carried on by Defendants in the United States.

13. In short, all of these activities by Defendants—and any commercial revenue flowing from them—are a direct result of Defendants illegally seizing the <france.com> website domain from plaintiff in order to sell goods and services in the United States in direct

competition with plaintiff's business, as discussed more fully below.

14. Defendants fall within 28 USC §1605(a)(3) (the "expropriation" exception) because (a) rights in property are at issue; namely, the domain name <france.com> and the trademark FRANCE.COM; (b) the property was taken by Defendants without compensation; (c) the taking violated international law in that the French courts had no authority or jurisdiction to seize United States property from a United States citizen, in contravention of valid and subsisting United States property rights; and (d) the taken property is currently operated by the sovereign Defendants, which are agencies or instrumentalities of a foreign state and which are engaged in commercial tourism activity in the United States, as discussed more fully herein.

15. Venue is proper in this district because, upon information and belief, the property that is the subject of this lawsuit; namely the domain name <france.com> and the trademark FRANCE.COM, are housed in Reston and Alexandria, Virginia, respectively.

Parties

16. Plaintiff France.com, Inc. is a corporation organized and in good standing under the laws of the State of California.

17. Plaintiff is the lawful owner and operator of the domain name <france.com>, upon which domain Plaintiff operated an award-winning French tourism website for 24 years.

18. Plaintiff is the lawful owner of United States Trademark Registration No. 4514330 for the mark FRANCE.COM for the following services, together with all associated rights and interests in said services:

IC 035: Advertising services, namely, promoting and marketing the goods and services of others in the field of travel, shopping, business, entertainment, home decor, fashion, wines, food and education, all related to France.

IC 039: Providing an on-line searchable computer database featuring information on travel; Provision of travel information; Travel and transport information service.

IC 041: *On-line journals, namely, blogs featuring articles in the field of travel, shopping, business, entertainment, home decor, food, wine education, cultural activities and news, all related to France.*

See Exhibit G.

19. Plaintiff is also the owner of a valid and subsisting trademark for FRANCE.COM in the European Union, encompassing 26 countries.

20. Defendant the French Republic (“France”) is a foreign sovereign.

21. Defendant Atout France is the French Republic’s Tourism Development Agency.

22. Defendant the Ministry for Europe and Foreign Affairs is a department of the French Republic.

23. Defendant Jean-Yves Le Drian (“Le Drian”) is the French Republic’s Minister for Europe and Foreign Affairs. As a result of Defendants’ unlawful taking, Le Drian became, and currently remains, the registered owner of the disputed domain.

24. Defendant <france.com> is an internet domain name.

25. Defendant VeriSign, Inc. is a Delaware corporation with its principal place of business in Reston, Virginia. VeriSign, Inc. is the administrator and operator of all .com domain names.

Factual Allegations

26. From 1994 until the taking complained of in this lawsuit, Plaintiff operated an award-winning online commercial tourism business housed at <http://www.france.com>.

27. The domain name upon which Plaintiff’s online business was operated, <france.com>, was purchased by Plaintiff in 1994 through Plaintiff’s sole owner, Jean-Noel Frydman (“Frydman”).

28. Frydman purchased <france.com> from Network Solutions, LLC, a private, United States-based technology company and domain name registrar.

29. Frydman's purpose in purchasing <france.com> was to launch and operate a "digital kiosk" for Francophiles, Francophones, and French travelers, such as himself.

30. Frydman was a *bona fide* purchaser for value of the <france.com> domain name.²

31. Frydman assigned his entire interest in the domain name <france.com> to Plaintiff France.com, Inc. (Frydman's solely-owned company), which is the current lawful owner.

32. Through its commercial website housed on the <france.com> domain name, Plaintiff sold tours to Paris, Burgundy, the Riviera and other popular French destinations, as well as offered hotels, discussion forums, news, and information about weather and exchange rates in connection with French travel.

33. In 2009, Defendant Atout France named Plaintiff "Best Website." Exhibit A.

34. In 2011, Defendant Atout France named Plaintiff "Tour Operator of the Year." Exhibit B.

35. In 2012, Defendant Atout France awarded Plaintiff the "French Affairs Award" in recognition of Plaintiff's contributions to French tourism. Exhibit C.

36. Prior to the taking complained of in this lawsuit, Defendants endorsed Plaintiff in several trade catalogs, promotions, and marketing materials recognizing Plaintiff as a legitimate and

² The ".com" top-level domain (TLD) is derived from the word "commercial," indicating its intended purpose for domains registered and used by commercial (for-profit) organizations. At the time when Plaintiff acquired <france.com>, non-commercial organizations were assigned top-level domains other than ".com" that served to indicate their not-for-profit source; for example, government entities were given ".gov" TLDs, educational institutions were given ".edu" TLDs, and military entities were assigned ".mil" TLDs. Websites operated by sovereign entities are assigned their own TLDs with two letters (such as .us for the United States, .fr for France, .mx for Mexico, and .uk for the United Kingdom, for example). These "country-code" TLDs or "ccTLDs" have been established for over 250 countries and external territories. See Internet Corporation for Assigned Names and Numbers Archives, available at: <https://archive.icann.org/en/tlds/>. Country-code TLDs serve to differentiate government websites, such as usa.gov, from privately-owned commercial websites, such as unitedstates.com and america.com. For more information on TLDs and how they apply to this particular dispute, see Russell Brandom, *The Battle for France.com*, THEVERGE.COM, available at: <https://www.theverge.com/2018/4/30/17302000/france-website-domain-name-lawsuit-french-government> (published Apr. 30, 2018).

honored contributor to the French tourism economy. Exhibit D.

37. In order to further secure and promote its commercial rights in its successful tourism enterprise, Plaintiff, through Frydman, applied for and was granted a United States trademark registration for FRANCE.COM in connection with the following services:

IC 035: Advertising services, namely, promoting and marketing the goods and services of others in the field of travel, shopping, business, entertainment, home decor, fashion, wines, food and education, all related to France.

IC 039: Providing an on-line searchable computer database featuring information on travel; Provision of travel information; Travel and transport information service.

IC 041: On-line journals, namely, blogs featuring articles in the field of travel, shopping, business, entertainment, home decor, food, wine education, cultural activities and news, all related to France.

Plaintiff's mark is published in the United States Patent and Trademark Office's Principal Register as U.S. Trademark Registration No. 4514330, with a demonstrated date of first use of June 18, 1995. Exhibit E.

38. Frydman assigned his entire interest in U.S. Trademark Registration No. 4514330 to Plaintiff France.com, Inc., which is the current lawful owner.

39. Defendants have been aware of Plaintiff's ownership and conspicuous use of the <france.com> domain name since at least 1995.

40. Defendants have been aware of Plaintiff's ownership and conspicuous use of the FRANCE.COM registered trademark since at least 2014.

41. In 2015, Defendants began expressing an interest in appropriating the valuable <france.com> domain name and exploiting it for Defendants' own commercial use, in order to boost the economy of France. *See* Exhibit F, containing an official report produced under the authority of French Minister of Foreign Affairs Laurent Fabius, declaring that:

It is imperative to be able to take advantage of the

www.france.com domain name to ensure our tourist promotion. At the instigation of the Council, new steps have been taken to obtain the recovery of this URL, currently owned by a Florida-based company [Plaintiff France.com, Inc.]. Two options open up, that of negotiation and the more offensive one of contentious action. Without a clear mandate, the first path has not produced convincing results in recent years. We must then have a single entry point with a strong strategy to regain control of the promotion of France in the digital world. The current site (www.rendezvousenfrance.com) remains difficult to identify and should be replaced by France.com or France.fr

42. As shown in Exhibit F, Defendants knew that <france.com> was owned by Plaintiff, and intentionally chose to offensively seize it rather than to negotiate a fair market purchase from Plaintiff. Defendants' stated objective in seizing Plaintiff's property was to "take advantage" of the commercial appeal of <france.com> to promote economic profits for France.

43. In keeping with its documented plan, Defendants did not approach Plaintiff to purchase or license the domain, the trademark, or Plaintiff's underlying business and goodwill.

44. Instead, in 2015, Defendants misused the French judicial system to seize the domain from Plaintiff without compensation, under the erroneous theory that Defendants were inherently entitled to take the domain because it included the word "France."

45. Specifically, Defendants intervened in a trademark infringement lawsuit Plaintiff brought against a third-party involving Plaintiff's European trademark rights in FRANCE.COM. Although that suit did not involve either Plaintiff's U.S. trademark or the U.S.-based domain name <france.com>, Defendants urged the French court to divest Plaintiff of both, on the grounds that "France"-inclusive marks and domain names should be exclusively controlled by the sovereign.

46. Defendants' position before the French courts contravened United States law and public policy that country names are not the subject of trademark rights and remain available for use by any interested party because they are non-distinctive and geographically descriptive. *See, e.g.*, 15 U.S.C. §1052(e)(2).

47. When they took their flawed position before the French courts, Defendants knew that they did not, and do not, have the exclusive right to the word “France” in the United States, as evidenced by Defendant Atout France’s U.S. Trademark Registration No. 4027580, filed in 2009, in which Defendant expressly disclaimed the exclusive right to the word “France” in the United States. Exhibit F.

48. On July 8, 2016, the Tribunal de Grand Instance de Paris (“High Court of Paris”), in a decision that is in contravention of and hostile to United States law, ordered that Plaintiff transfer <france.com> domain name to the French Republic.

49. Plaintiff appealed to the Cour d’Appel de Paris (“Paris Court of Appeals”), which affirmed the lower court judgment on September 22, 2017.

50. The French courts’ rulings were grounded on principles foreign or hostile to American law and are thus not entitled to deference or comity in this country.

51. Despite Defendants’ lack of authority to seize property located within the United States and belonging to a United States citizen, Defendants contacted Plaintiff’s domain name registrar, Web.com, directly and demanded that <france.com> be transferred to Defendants.

52. Based upon Defendants’ demand, Web.com transferred registration and control of <france.com> from the United States to a French registrar, which in turn handed access to the domain name to Defendants on March 12, 2018, without notice to Plaintiff.³

53. When Web.com transferred ownership of <france.com> away from Plaintiff, the domain was redirected towards a competing tourism website newly created by Defendants.

54. The redirection of Plaintiff’s domain name to Defendants’ business immediately

³ Plaintiff is currently investigating a parallel lawsuit against Web.com for its actions in connection with the unlawful taking and transfer of <france.com> from Plaintiff to Defendants. Because the contract terms of Plaintiff’s user agreement with Web.com may restrict Plaintiff to bringing suit against Web.com in the Middle District of Florida, it is likely that the lawsuit against Web.com will need to be filed separately from the instant E.D. VA suit.

stopped all Internet traffic to Plaintiff's business, effectively shutting down Plaintiff's operations.

55. As a result of Defendants' usurpation of Plaintiff's domain, Plaintiff was immediately blocked from receiving business emails and other electronic communications at addresses ending in "@france.com."

56. The sudden disruption in Plaintiff's services, combined with Plaintiff's inability to receive or respond to customer communications, irreparably damaged Plaintiff's business.

57. By improperly converting the <france.com> domain name and associated traffic and goodwill to their own use, Defendants have unjustly benefited from over two decades of advertising, promotion, and marketing undertaken by Plaintiff at Plaintiff's substantial expense.

58. Defendants have launched and are now operating a commercial tourism website at www.france.com, in line with their objectives when they expropriated the domain from Plaintiff. Defendants' commercial intent for their actions is documented in Exhibit F, in which France's Ministry of Tourism stated:

The ambitious objectives of the France.com portal can only be achieved if an economic model allows it to be self-financing. For this purpose, a media model could be considered with product advertising and additional income from redirection to approved (pay per click) commercial sites. This funding could be based on partnerships (Accor, Orange, Air France, Voyages-SNCF, Michelin, Amadeus, Odigeo, Hoteliers, OTA etc.) through a new type of relationship more focused on efficiency than on sponsoring. With a real ambition, the portal will have to meet clearly defined performance criteria. We could set a target of one million unique visitors per month by the end of the first year following its launch.

59. Plaintiff has lost, and continues to lose at an ever-increasing rate, significant revenue due to the ongoing unavailability of Plaintiff's commercial website and email accounts.

60. Plaintiff brings this action to recover Plaintiff's domain name and associated email accounts, to mitigate the continuing damage caused by Defendants' taking, and to seek fair compensation for the damages already incurred.

Causes of Action

**COUNT I
CYBERSQUATTING**

61. Plaintiff realleges and incorporates each and every allegation set forth above as if fully set forth and restated herein.

62. Congress passed the Anticybersquatting Consumer Protection Act (the “ACPA”) in 1999 to address the problem of cybersquatting, which is defined as “purposely and maliciously registering as a domain name the trademark name of another company to divert and confuse customers.” 106 Cong. Rec., S10517.

63. Defendants have registered and are using the <france.com> domain name in bad faith in violation of the ACPA, 15 U.S.C. 1125(d).

64. Plaintiff owns valid and subsisting U.S. trademark rights in FRANCE.COM.

65. Plaintiff has made extensive prior use of the FRANCE.COM mark, both within the United States and internationally, for the past twenty-four years in connection with the *bona fide* offering of goods or services.

66. The hijacked domain name <france.com> is identical to Plaintiff’s mark.

67. Defendants intend to divert consumers to a site that was created for Defendants’ commercial gain.

68. Defendants’ acts create a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the site located at <france.com>.

69. Defendants registered <france.com> knowing that the domain name is identical to Plaintiff’s FRANCE.COM mark.

70. Defendants are depriving Plaintiff of its rights to use the disputed domain name.

71. As a direct and proximate result of the willful, deliberate, and unlawful conduct of Defendants, Plaintiff has been damaged in its business in the amount to be proven at trial.

COUNT II
REVERSE DOMAIN NAME HIJACKING

72. Plaintiff realleges and incorporates each and every allegation set forth above as if fully set forth and restated herein.

73. Defendants' seizure of the <france.com> domain name from Plaintiff and redirection of the domain to Defendants' own commercial website constitutes reverse domain name hijacking in violation of the ACPA.

74. Since 1994, Plaintiff has been the original and rightful owner of the <france.com> domain name.

75. Plaintiff was a *bona fide* purchaser for value of the <france.com> domain name, which Plaintiff registered and used in commerce continuously until it was wrongfully taken by Defendants, leading to this lawsuit.

76. Plaintiff's name, email address, and contact information were duly listed in the WHOIS record for the domain name.

77. Defendants knew that Plaintiff had rights and legitimate interests in the <france.com> domain name, and that Plaintiff had registered and was using the domain name in good faith. In fact, Defendants publicly recognized and honored Plaintiff's ownership and use of the domain prior to expropriating it for themselves.

78. Defendants did not develop an interest in the <france.com> domain name until twenty-four years after the domain name was first acquired and registered by Plaintiff, allowing Plaintiff to develop the domain name into a multi-million-dollar commercial asset at Plaintiff's own effort and expense before taking it for themselves.

79. In seizing the <france.com> domain name, Defendants improperly wrested the domain name from Plaintiff in spite of Defendants' knowledge that Defendants were not entitled to the name.

80. Defendants' seizure of the domain name through the French courts and with the complicity of Web.com, rather through a legitimate purchase from Plaintiff for compensation, was intended to enable Defendants to hijack a valuable asset without paying the cost.

81. Defendants wrongfully seek to deprive Plaintiff of a legitimate domain name registration corresponding to a geographic term with no secondary meaning.

82. Despite the fact that Defendants failed to show that Plaintiff had registered or used the <france.com> domain name in bad faith, the French courts wrongly ruled that the domain name should be transferred away from Plaintiff.

83. Defendants' position in the French courts that Defendants are the *de facto* trademark rights holders around the world in the word "France" is in contravention of United States law and well-established precedent holding that geographic terms cannot be owned or monopolized in gross by a single entity, and that countries do not own automatic rights in their names.

84. Immediately following the French ruling, and before serving Plaintiff with the judgment, Defendants secretly contacted the domain name registrar, Web.com, and demanded that the <france.com> domain name be transferred to Defendants pursuant to the French ruling, despite the French court never having ordered Web.com to effect such a transfer, and despite the French court having no jurisdiction over property located within the United States.

85. In response to Defendants' demands, Web.com transferred the domain name away from Plaintiff, thereby preventing Plaintiff's lawful use of the domain name.

86. Web.com's transfer of the <france.com> domain name in response to Defendants' demands prevented Plaintiff from using its account with Web.com to control the administrative and technical settings for the domain name, to host its business on the domain name, and to access its @france.com emails.

87. The domain name was transferred from Plaintiff to Defendants suddenly and with

no notice to Plaintiff or to Plaintiff's customers, thereby causing irreparable harm to Plaintiff's long-standing business.

88. Neither Plaintiff's registration, nor its use of the <france.com> domain name was unlawful under the ACPA.

89. Plaintiff has every right to possess and maintain <france.com>.

90. Plaintiff has never used <france.com> in bad faith.

91. Plaintiff has never trafficked in <france.com>, nor in any other domain name.

92. The decision of the French court is due no deference in this Court.

93. Defendants have overreached their rights to the geographic term "France" and wrongfully asserted a claim to the <france.com> domain name.

94. As a direct and proximate result of the willful, deliberate, and unlawful conduct of Defendants, Plaintiff has been damaged in their business in the amount to be proven at trial.

COUNT III EXPROPRIATION

95. Plaintiff realleges and incorporates each and every allegation set forth above as if fully set forth and restated herein.

96. Defendants have taken the property of a United States citizen without compensation; namely, Defendants have taken the domain name <france.com> and the trademark FRANCE.COM, both owned by Plaintiff France.com, Inc., a California corporation, and have appropriated said property for Defendants' own use and financial gain.

97. The property expropriated is located within the United States, in this judicial district. Specifically, the domain name <france.com> is located at VeriSign, Inc. in Reston, Virginia, while the trademark FRANCE.COM is located at the United States Patent and Trademark Office in Alexandria, Virginia.

98. Defendants' taking of the domain name <france.com> and appropriation of the

trademark FRANCE.COM violated international law, in that it was in direct contravention of property rights validly granted to Plaintiff by both the laws of the United States and by the United States Patent and Trademark Office. Defendants' taking further violated international law in that it was based on grounds hostile to United States law; namely, that a foreign sovereign should have the power to seize United States property, located in the United States, from a United States citizen, based on a view of monopolistic trademark ownership that is contrary to the foundational tenets of United States law.

99. The taken property is being used by Defendants in connection with commercial tourism activity carried on in the United States by Defendants.

100. Specifically, Defendants are redirecting all visitors of <france.com>, a formerly multi-million dollar commercial tourism enterprise created and operated by Plaintiff, to <france.fr>, where Defendants are operating their own tourism website designed to attract United States and other visitors to France and to boost Defendants' tourism economy through promotion of Defendants' own vendors and attractions.

101. Defendants' new website, to which visitors trying to reach Plaintiff's www.france.com site are redirected, contains various links and materials directing consumers to purchase accommodations, travel passes, event tickets, travel memberships, and other commercial goods and services.

102. Defendants' actions in shutting down Plaintiff's competing business and redirecting traffic to their own tourism site that promotes the purchase of various goods and services constitutes commercial activity.

103. Defendants' new website is intentionally marketed and provided to United States consumers, who are accustomed to searching for commercial websites by using the ".com" top-level domain, and who have been familiarized with Plaintiff's United States-based website at

<france.com> for the past twenty-four years.

104. Defendants' acts constitute unlawful expropriation by a foreign state under the expropriation exception to the Foreign Sovereign Immunities Act, 28 U.S.C. § 1605(a)(3) (2012).

105. As a direct and proximate result of the willful, deliberate, and unlawful conduct of Defendants, Plaintiff has been damaged in their business in the amount to be proven at trial.

COUNT IV TRADEMARK INFRINGEMENT

106. Plaintiff realleges and incorporates each and every allegation set forth above as if fully set forth and restated herein.

107. Defendants are engaged in committing acts of trademark/service mark infringement under § 43(a) of the Federal Trademark Act, 15 U.S.C. § 1125(a), and at common law.

108. Since at least 1995, Plaintiff has been continuously engaged in developing and maintaining a tourism website that offers its customers information and packages related to French travel. These services were offered under the mark FRANCE.COM.

109. Plaintiff has continuously used this valid mark and the associated domain name <france.com> in connection with travel, tourism, and related services, and in the advertising and marketing of such services.

110. As a result of Plaintiff's extensive and substantial advertising, search engine optimization ("SEO") efforts, and client satisfaction over the past 24 years, the FRANCE.COM mark has become exceedingly well known to the public as a distinctive indication of the origin of Plaintiff's services, and accordingly is entitled to protection against infringing use.

111. Defendants' seizure of the <france.com> domain name, operation of a travel and tourism website at the domain, and the marketing and promotion of Defendants' competing services infringe upon Plaintiff's rights to the mark FRANCE.COM.

112. Defendants' use of the <france.com> domain name, which is identical to

Plaintiff's FRANCE.COM mark, has caused and is causing a likelihood of confusion, mistake, or deception as to the source, origin, sponsorship or approval of the services of Defendants in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

113. Defendants' takeover and use of <france.com> without notice, disclaimer, or clarification to the public falsely suggests an affiliation or connection with or sponsorship or approval of Defendants and its services by Plaintiff in violation of 15 U.S.C. § 1125(a).

114. Defendants knew or should have known that they had no rights to the mark and the associated domain name and as such, acted maliciously in furtherance of their own commercial interests.

115. Specifically, Defendants' position that it owns *de facto* rights to FRANCE.COM because the mark includes the word FRANCE is contrary to Section 2(e)(2) of the Trademark Act, 15 U.S.C. § 1052(e)(2), which prohibits registration of a mark that is primarily geographically descriptive of the goods or services named in the application. Thus, Defendants' position in the French courts that it should be permitted to seize <france.com> was knowingly contrary to and hostile to U.S. law and policy.

116. As a direct and proximate result of the willful, deliberate, and unlawful conduct of Defendants, Plaintiff has been damaged in their business in the amount to be proven at trial.

COUNT V FEDERAL UNFAIR COMPETITION

117. Plaintiff realleges and incorporates each and every allegation set forth above as if fully set forth and restated herein.

118. Defendants have engaged in acts of unfair competition under 15 U.S.C. § 43(a) of the Federal Trademark Act, 15 U.S.C. § 1125(a), and at common law.

119. The mark FRANCE.COM and the <france.com> domain name as used by Defendants constitute a false designation of origin that is likely to confuse or deceive the public as to

the source, sponsorship and/or approval of the services offered by Defendants, thereby causing Plaintiff immediate, ongoing and irreparable damages.

120. The intended nature and effect of Defendants' taking of the FRANCE.COM mark and the <france.com> domain name is to redirect those consumers looking for Plaintiff's site, as well as those consumers attracted to <france.com> through Plaintiffs' quarter-century of investment and expenditures, to Defendants' own commercial site, without notification or explanation to consumers that the source of the website is different than the one they intended to visit.

121. As a direct and proximate result of the willful, deliberate, and unlawful conduct of Defendants, Plaintiff has been damaged in their business in the amount to be proven at trial.

Relief Requested

WHEREFORE, Plaintiff prays that the Court:

1. Enter an order finding the Defendants engaged in cybersquatting in violation of the Anticybersquatting Consumer Protection Act.
2. Enter an order finding that Defendants engaged in reverse domain name hijacking in violation of the Anticybersquatting Consumer Protection Act.
3. Enter an order finding that Defendants engaged in unlawful expropriation of United States property belonging to a United States citizen.
4. Enter an order finding that Defendants engaged in trademark infringement and unfair competition in violation of the Lanham Act.
5. Grant a preliminary injunction and a permanent injunction enjoining Defendants and their respective agents, employees, representatives, and all persons acting in concert or participation with each or any of them from using the mark FRANCE.COM or the domain name <france.com> in connection with their own commercial endeavors.
6. Grant a preliminary injunction and a permanent injunction requiring transfer of the domain

name <france.com> back to Plaintiff.

7. Grant a preliminary injunction and a permanent injunction enjoining Defendants and their respective agents, employees, representatives, and all persons acting in concert or participation with each or any of them from directly or indirectly infringing in any manner on Plaintiff's registered trademark FRANCE.COM.
8. Award Plaintiff actual, statutory, punitive, and compensatory damages in an amount to be proven at trial, together with treble damages to the fullest extent permitted by law.
9. Award Plaintiff prejudgment and post judgment interest according to law.
10. Award Plaintiff its attorneys' fees, costs, and disbursements in this action.
11. Grant such other and further relief as this Court may deem just and proper.

Dated: July 1, 2019

Respectfully Submitted,

By _____/s/_____
David Ludwig (VSB No. 73157)
Ben Barlow (VSB No.67933)
DUNLAP BENNETT & LUDWIG PLLC
211 Church Street SE
Leesburg, VA 20175
(703) 777-7319 (telephone)
(703) 777-3656 (facsimile)
dludwig@dbllawyers.com
bbarlow@dbllawyers.com

By: _____/s/_____
Eve J. Brown
(Admitted Pro Hac Vice)
C. Alexander Chiulli
(Admitted Pro Hac Vice)
BARTON GILMAN LLP
10 Dorrance Street, 8th Floor
Providence, RI 02903
(401) 273-7171
ebrown@bglaw.com
achiulli@bglaw.com

ATTORNEYS FOR FRANCE.COM

CERTIFICATE OF SERVICE

I certify that on this 1st day of July 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to all parties entitled to receive such notice, including the following:

Mark R. Colombell (VSB No. 48183)
Zachary D. Cohen (VSB No. 74770)
John P. O'Herron (VSB No. 79357)
ThompsonMcMullan, P.C.
100 Shockoe Slip, Third Floor
Richmond, Virginia 23219
804.649.7545
804.780.1813 Fax
mcolombell@t-mlaw.com
zcohen@t-mlaw.com
joherron@t-mlaw.com
Counsel for Defendants

By /s/
David Ludwig (VSB No. 73157)
Ben Barlow (VSB No.67933)
DUNLAP BENNETT & LUDWIG PLLC
211 Church Street SE
Leesburg, VA 20175
(703) 777-7319 (telephone)
(703) 777-3656 (facsimile)
dludwig@dbllawyers.com
bbarlow@dbllawyers.com

By: /s/
Eve J. Brown
(Admitted Pro Hac Vice)
C. Alexander Chiulli
(Admitted Pro Hac Vice)
BARTON GILMAN LLP
10 Dorrance Street, 8th Floor
Providence, RI 02903
(401) 273-7171
ebrown@bglaw.com
achiulli@bglaw.com

ATTORNEYS FOR FRANCE.COM