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9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF ARIZONA**

11 Estate of Ellen Black,
12 Plaintiff,

Case No. _____

13 v.

VERIFIED COMPLAINT

14 Projecthindsight.com, an Internet domain
15 name; John Doe, an individual,

JURY TRIAL DEMANDED

16 Defendants.

17 For its Complaint, Plaintiff, the Estate of Ellen Black, through its authorized
18 representative alleges as follows:

19 **NATURE OF THE CONTROVERSY**

20 1. This is an Action to recover an internet domain name—
21 ProjectHindsight.com (the “Domain Name”)—corresponding to Plaintiff’s valuable
22 trademark, and which Domain Name has been misappropriated by unauthorized access to
23 a protected computer system, stolen from the Plaintiff, transferred to a registrar in this
24 District and trafficked by the unknown thief, John Doe, in this District.

25 **JURISDICTION AND VENUE**

26 2. This Action arises under the Computer Fraud and Abuse Act (18 U.S.C.
27 §1030), the Electronic Communications Privacy Act (18 U.S.C. § 2701 and 18 U.S.C.
28 §2707) and the Anticybersquatting Consumer Protection Act (15 U.S.C. §1125(d)), and
Arizona common law.

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1 3. This Court has *in rem* jurisdiction over the Defendant Domain Name
2 arising under 15 U.S.C. §1125(d)(2)(A) and (C) because the registrar for the Defendant
3 Domain Name, GoDaddy.com LLC of Tempe, Arizona, is located in this judicial district.
4 Public registration records of the Domain Name do not identify, and at the relevant times,
5 have not identified, a person whom the Plaintiff is able to identify, serve and thus obtain
6 personal jurisdiction. Additionally, Plaintiff has not been able to find the unidentified
7 person who misappropriated the Domain Name, transferred it to this Judicial District and
8 trafficked in the Domain Name.

9 4. This court further has *in rem* jurisdiction over the Defendant Domain Name
10 under 28 U.S. Code § 1655 due to its registration with GoDaddy.com LLC of Tempe,
11 Arizona, located in this judicial district. Plaintiff is seeking to remove any cloud upon the
12 title to property located within the district.

13 5. Plaintiff’s claims against John Doe for violation of 18 U.S.C. § 1030, 18
14 U.S.C. §§ 2701, 2707, and for conversion arise from John Doe’s unauthorized access to
15 protected computer systems for the purpose of altering computer records in order to
16 effect the transfer of the domain name into this judicial district.

17 6. Venue is proper in this District because the Defendant Domain Name is
18 located in this district, John Doe directed activity into this district and utilized
19 instrumentalities in this District to carry out the unlawful scheme complained of herein.

20 7. Joinder of Domain Name and John Doe is appropriate because John Doe is
21 the unknown individual who misappropriated and converted the Domain Name property
22 to himself and subsequently trafficked the Domain Name.

23 **PARTIES**

24 8. Until May 2023, Plaintiff’s decedent, Ms. Ellen Black, was the sole owner
25 of a business known as “Project Hindsight” which for many years operated a website in
26 connection with the business utilizing the corresponding internet domain name
27 ProjectHindsight.com. Plaintiff has since maintained operation of the business, the
28 website, and the registration account for the internet Domain Name.

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1 9. Defendant *in rem* ProjectHindsight.com is an internet domain name which
2 was misappropriated from the Plaintiff’s control and transferred without Plaintiff’s
3 authorization to a registrar in this Judicial District.

4 10. Defendant John Doe is an individual or individuals acting in concert who
5 misappropriated the Domain Name from Plaintiff’s control, transferred it without
6 Plaintiff’s authorization to a registrar in this Judicial District and subsequently trafficked
7 it via the registrar’s brokerage operation in this Judicial District.

8 **FACTS**

9 11. Plaintiff’s decedent, Ms. Ellen Black and her husband Mr. Robert Schmidt,
10 were lifelong students of ancient knowledge, mathematics, philosophy and astrology.

11 12. Plaintiff’s decedent and her future husband attended college together and
12 eventually pioneered the field known as “Hellenistic Astrology” based on Mr. Schmidt’s
13 translations of ancient astrological texts. They launched “Project Hindsight” in 1993 as a
14 distinctive mark under which they published various scholarly and interpretational works,
15 serial publications, audiovisual works, and live conferences and seminars.

16 13. As evidence of the distinctiveness of the “PROJECT HINDSIGHT” mark,
17 in 2004, Mr. Schmidt registered “PROJECT HINDSIGHT” as US TM Reg. No.
18 2,923,275. Although the registration lapsed merely for non-renewal in 2014, Ms. Black
19 and Mr. Schmidt continued to use the mark and maintain common law rights therein.

20 14. In 1998, Ms. Black and Mr. Schmidt formed “The Phaser Foundation Inc.”
21 as a corporation in Maryland to hold certain assets relating to their work, and naming Ms.
22 Black as registered agent thereof. In 1999, the Domain Name was registered to The
23 Phaser Foundation Inc., and named Mr. Schmidt as the administrative contact thereof.

24 15. The Phaser Foundation Inc. was dissolved in 2007, and was continued to be
25 used as a business name in relation to registration of the Domain Name.

26 16. After registering the Domain Name ProjectHindsight.com, Ms. Black and
27 Mr. Schmidt continuously used the domain name for a website prominently identified as
28 “PROJECT HINDSIGHT” and advertising the sale of publications, serial publications,

1 recorded lectures, software and other goods and services relating to Hellenistic
2 Astrology.

3 17. From 2000 to 2018 the website and the goods and services of Ms. Black
4 and Mr. Schmidt became well-known and highly regarded in the field of astrology,
5 including the goods and services sold under a prominent “PROJECT HINDSIGHT”
6 banner at the website denominated by the Domain Name, of which the January 2, 2018
7 capture stored by the Internet Archive is typical:

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Project Hindsight

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Publications & Products

Learn Hellenistic Astrology — We offer two independent but complementary ways of learning Hellenistic astrology. You can see the original astrology of the West gradually reveal itself by subscribing to the new translation series of Hellenistic astrological texts [The Astrological Record of the Early Sages \(TARES\)](#). Available later this year, [A Basic Course in Hellenistic Astrology](#) in audio will offer a distillation and overview of the original Hellenistic system.

Robert Schmidt has started a new series of weekend [Hellenistic Astrological Intensives](#) in the tradition of the [PHASE Lectures](#) from the early research phase of the project. The latest results of our on-going research into the original concepts and metaphysical underpinnings of Hellenistic astrology are presented in Cumberland, MD Check our announcements for upcoming intensives, which you should attend if at all possible. [Recordings](#) from these events are available.

As the new translations, which will include virtually all of the surviving Hellenistic astrological texts, will take several years for the entire series to be published, we are preparing a selection of key texts covering the entire system of Hellenistic natal astrology. They will be released in June 2009 as [Hellenistic Natal Astrology: A Sourcebook](#).

From the Archives — We have very limited quantities of translations remaining from our earlier research phase. All of the [Greek/Hellenistic](#) translations will continue to be available as reprints until they are replaced by the new and revised translations of *TARES*. You can still see a record of what we accomplished in the archives. We do still have some [Medieval](#) translations available. These will not be reprinted in their present form, or revised any time soon, so buy them while they last.

Still Thought-Provoking — If you have a philosophical bent, consider our [PHASE Lectures](#), which have been digitally remastered and are now available in Mp3 format CDs. These unique workshops were explorations into the broader “problem of astrology” from a variety perspectives: philosophical, historical, scientific, and epistemological. They are also where we first began to see the value of Hellenistic astrological concepts for providing access points to some of the thornier issues connected with this problem.

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1 18. Mr. Schmidt passed away in 2018, leaving Ms. Black as the sole owner of
2 “PROJECT HINDSIGHT” and the continued conduct of business there under was carried
3 on by Ms. Black, including continued operation of the website designated by the
4 corresponding Domain Name.

5 19. In May 2023, Ms. Black passed away. Plaintiff has continued to carry on
6 the business of “PROJECT HINDSIGHT”.

7 20. On or about September 2, 2023, Plaintiff became aware that the
8 ProjectHindsight.com domain name had been removed from its registration account by an
9 unknown person, John Doe, from its account and transferred to GoDaddy.com LLC in
10 this judicial district. Plaintiff had not authorized any person to access the domain
11 registration account for the purpose of carrying out such a transfer, and hence such access
12 was unauthorized.

13 21. Upon inquiry with the original registrar of the domain name, Plaintiff was
14 informed that a person unidentified to Plaintiff by the registrar, and herein referred to as
15 “John Doe” had accessed the registration account and altered records maintained by the
16 registrar, including records used by the registrar to communicate with the Plaintiff, thus
17 allowing the unidentified person to carry out a transfer of the domain name to
18 GoDaddy.com LLC.

19 22. Plaintiff did not authorize any person to access the protected computer
20 system of the original registrar in order to render the domain name in a condition for
21 transfer. Any access to Plaintiff’s account for that purpose was unauthorized or exceeded
22 the authorization granted to any person by Plaintiff for access to the account.

23 23. Plaintiff did not authorize any person to access the protected computer
24 system of GoDaddy.com LLC for the purpose of effecting transfer of Plaintiff’s Domain
25 Name to GoDaddy.com LLC.

26 24. Shortly after learning of the theft of the domain name, Plaintiff was
27 informed that the domain name had been trafficked and sold by John Doe through the
28 domain brokerage of GoDaddy.com LLC to a competitor of the Plaintiff.

1 25. The competitor of the Plaintiff to whom the Domain Name was sold by
2 John Doe has demanded compensation from the Plaintiff for return of the Plaintiff’s
3 stolen Domain Name, then refused to return the Plaintiff’s stolen Domain Name, and has
4 further threatened to tarnish the reputation of Plaintiff’s decedent.

5 26. Plaintiff’s stolen Domain Name embodies Plaintiff’s valuable trademark.
6 Absent restoration of Plaintiff’s stolen Domain Name to Plaintiff, the value of Plaintiff’s
7 mark and the goodwill accrued in “PROJECT HINDSIGHT” by operation of the website
8 denominated thereby will be permanently lost.

9 27. The Plaintiff has suffered and continues to suffer damages and irreparable
10 harm from theft of the Domain Name, and will incur further damages and irreparable
11 harm absent restoration of possession of the Domain name to the Plaintiff
12

13 **FIRST CAUSE OF ACTION**
14 **CONVERSION**

15 28. Plaintiff incorporates all allegations set forth prior to this paragraph.

16 29. The Domain Name ProjectHindsight.com was, and is, the lawful personal
17 property of Plaintiff. *See Office Depot, Inc. v. Zuccarini*, 596 F.3d 696, 702 (9th Cir.
18 2010) (holding, “domain names are intangible [personal] property subject to a writ of
19 execution.”)

20 30. In order to traffic and sell the Domain Name, John Doe obtained unlawful
21 possession of the Domain Name from the registration account belonging to the
22 Complainant, with the intent to deprive Plaintiff of it.

23 31. John Doe’s unlawful and unauthorized acquisition of the Domain Name,
24 and subsequent sale thereof to another, has deprived Plaintiff of possession and control of
25 the Domain Name of which Plaintiff is the sole lawful owner.

26 32. As a result of Defendant Doe’s actions, Plaintiff has been damaged in an
27 amount to be proven at trial.
28

1 **SECOND CAUSE OF ACTION**
2 **QUIET TITLE; 28 U.S.C. § 1655**

3 33. Plaintiff incorporates all allegations set forth prior to this paragraph

4 34. Plaintiff has valid title to the Defendant Domain Name as a consequence of
5 exclusive registration, use and ownership by the Plaintiff's predecessors in title since
6 1999.

7 35. John Doe's theft and sale of the Domain Name has interfered with Plaintiffs
8 ownership of the Domain Name and created a cloud on the title to the Domain Name.

9 36. Plaintiff is entitled to a declaration from the Court that it is the lawful
10 owner and registrant of the Defendant Domain Name and that there are no other valid
11 claims against the title to the Defendant Domain Name.

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13 **THIRD CAUSE OF ACTION**
14 **Computer Fraud & Abuse Act; 18 U.S.C. § 1030**

15 37. Plaintiff incorporates all allegations set forth prior to this paragraph.

16 38. John Doe, without authorization, intentionally and with intent to defraud
17 the Plaintiff, accessed Plaintiff's domain management account at the original registrar for
18 the purpose of altering records therein and allowing John Doe to transfer the Domain
19 Name to his possession.

20 39. John Doe, without authorization, intentionally and with intent to defraud
21 the Plaintiff, established an unauthorized registration account on a protected computer
22 run by GoDaddy.com LLC in this Judicial District, in order to initiate a transfer of the
23 Plaintiff's Domain Name to the unauthorized registration account.

24 40. John Doe further accessed the registration account on a protected computer
25 run by GoDaddy.com LLC in order to conduct communications with the GoDaddy
26 domain brokerage in order to engage in an unauthorized sale of the Domain Name.

27 41. John Doe's unauthorized access to protected computer systems has caused
28 loss of Plaintiff's Domain Name and has disrupted Plaintiff's business, causing loss of

1 business and expenses incurred to recover the name in excess of \$5000 and irreparable
2 harm to the Plaintiff as a consequence of Plaintiff's loss of the Domain Name.

3 **FOURTH CAUSE OF ACTION**
4 **Cybersquatting; 15 U.S.C. § 1125(d)**

5 42. Plaintiff incorporates all allegations set forth prior to this paragraph.

6 43. Plaintiff's "PROJECT HINDSIGHT" mark is distinctive and was
7 distinctive prior to John Doe's acquisition of the Defendant Domain Name.

8 44. John Doe was aware of Plaintiff's rights in "PROJECT HINDSIGHT" at
9 the time of John Doe's acquisition of the Defendant Domain Name.

10 45. John Doe has registered and trafficked in the Defendant Domain Name
11 with a bad faith intent to profit from Plaintiff's "PROJECT HINDSIGHT" mark.

12 **FIFTH CAUSE OF ACTION**
13 **Electronic Communications Privacy Act; 18 USC §§ 2701, 2707**

14 46. Plaintiff incorporates all allegations set forth prior to this paragraph.

15 47. Domain Name registrars are required by the relevant accreditation body
16 (the Internet Corporation for Assigned Names and Numbers, or ICANN) to conduct
17 communications with the authorized registrant of a domain name to confirm changes to
18 the domain name registration, and during the course of transfers of domain names from
19 one registrar to another registrar.

20 48. Plaintiff did not receive any communications from the original registrar or
21 from GoDaddy.com LLC concerning changes made to records maintained in association
22 with the Domain Name or its transfer to another registrar.

23 49. On information and belief, during the course of conducting unauthorized
24 access or exceeding any authorized access granted by Plaintiff to protected computer
25 systems at the original registrar and at GoDaddy.com LLC, John Doe altered records
26 prevented Plaintiff from receiving communications intended for Plaintiff, and by which
27 Plaintiff would have been made aware of theft of the Domain Name in progress.
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WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

A. That judgment be entered in favor of the Plaintiff on the claim to quiet title, and that the Court declare Plaintiff to be the rightful owner of the Domain Name.

B. That judgment be entered in favor of the Plaintiff and against John Doe on the claims of conversion, Computer Fraud and Abuse, and Electronics Communication Privacy.

C. That judgment be entered in favor of Plaintiff and against John Doe on the claim of Cybersquatting, and that judgment further be entered in favor of Plaintiff on the in rem claim of Cybersquatting.

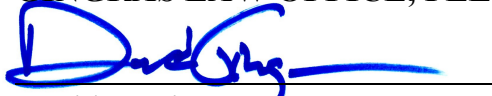
D. That the Court order the Defendant Domain Name restored to Plaintiff by GoDaddy.com LLC.

E. That the Court order an award of actual, statutory and punitive damages, along with costs and reasonable attorneys' fees; and

F. That the Court order such further relief as the Court may deem appropriate.

DATED: November 28, 2023.

GINGRAS LAW OFFICE, PLLC



David S. Gingras, Esq.
Attorney for Plaintiff

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JURY DEMAND

Demand for Jury Trial Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure,
Plaintiff respectfully requests a trial by jury of all issues so triable.

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VERIFICATION

I, Kathryn Higson, Administrator of the Estate of Ellen Black declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the facts contained in the foregoing verified complaint are true and correct to the best of my knowledge, information and belief.

Executed On: November 28, 2023

/s/ Kathryn Higson
Kathryn Higson

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