

Multiple Documents

Part	Description
1	9 pages
2	Civil Cover Sheet

Sealed

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

ZULEYKA RIVERA

Plaintiff,

FILED UNDER SEAL

v.

Case No. _____

Internet Corporation for Assigned
Names and Numbers;
Verisign, Inc.;
eName Technology Co. Ltd;
ENOM INC.;
Whoisguard, Inc.;
Purecelebs.net;
Facebook, Inc.;
CELEB GATE d/b/a celeb.gate.cc; and
Michelle Kat a/k/a Michelle Flores.

FILED BY AM D.C.
APR 26 2019
ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S. D. OF FLA. - MIAMI

Defendants.

_____ /

COMPLAINT FOR INJUNCTIVE RELIEF

The Plaintiff, ZULEYKA RIVERA, by and through undersigned counsel, hereby sues Defendants Internet Corporation for Assigned Names and Numbers (“ICANN”); Verisign, Inc. (“Verisign”); eName Technology Co. Ltd (“eName”); ENOM INC. (“ENOM”); Whoisguard, Inc.; Purecelebs.net; CELEB GATE d/b/a celeb.gate.cc; Facebook, Inc. (“Facebook”), and Michelle Kat a/k/a Michelle Flores. In support of her claims, Plaintiff states as follows:

JURISDICTION AND VENUE

1. Plaintiff is an individual who resides in Miami-Dade County, Florida. Defendants are citizens of Puerto Rico (Defendant Michelle Kat), California (Defendants ICANN and Facebook, Inc.), Virginia (Defendant Verisign), Panama (Defendants Purecelebs.net, as

listed on their public proxy agent for purposes of official contact, Whoisguard, Inc.), Washington State (Defendant ENOM, INC), and Australia (Celeb Gate); further, the matter in controversy exceeds the sum of or value of \$75,000, exclusive of interest and costs. This Court has subject matter jurisdiction over this action under 28 U.S.C. § 1332.

2. In addition, this action arises out of violations of the United States Trademark Act of 1946, as amended (the “Lanham Act”), 15 U.S.C. §§ 1051 ff, and the United States Copyright Act of 1976, Title 17 U.S.C. chapters 1 through 8 and 10 through 12. Thus, this Court also has subject matter jurisdiction under 28 U.S.C. § 1331.
3. Venue is proper in this District under 28 U.S.C. § 1391(b), as a substantial part of the events or omissions giving rise to these claims occurred in this District, including the unauthorized posting of the images on the internet, publication so they could be viewed in Miami-Dade County, Florida, their repeated viewing in Miami-Dade County, Florida, and the damages to Plaintiff occurred and continue to occur in Miami-Dade County, Florida.
4. Defendants are subject to personal jurisdiction in this district because they direct business activities toward and conduct business with consumers throughout the United States, including within the State of Florida and this district through the unauthorized posting of the images on the internet.

THE PARTIES

5. Plaintiff ZULEYKA RIVERA (“ZULEYKA”) is a resident of Miami-Dade County, Florida. She is a well-known actress, TV host, dancer, model, beauty queen, and mother of a young child.

6. ZULEYKA began her career in the entertainment industry around 2006 and has since acquired significant fame and public notoriety.
7. As a public figure, the ability to control and authorize the use of her name, likeness, image, and visual representation are of utmost importance to the success of her professional career and represents the source and essence of her livelihood.
8. Defendants CELEB GATE d/b/a celeb.gate.cc (“Celeb Gate”) and Purecelebs.net are pornographic websites that seek to portray nude celebrities through real or fake photographs regardless of whether such photographs are authorized or unauthorized. Defendant Michelle Kat a/k/a Michelle Flores is a self-proclaimed model and actress who seeks to gain followers on social media for self-promotion purposes, including through engaging in recent aggressive cyber bullying actions against the Plaintiff.
9. Defendants Internet Corporation for Assigned Names and Numbers (herein “ICANN”), Verisign, Inc. (“Verisign”), Whoisguard, Inc., (“Whoisguard”), Facebook, and ENOM, INC. (“ENOM”), (collectively, the “Additional Defendants”) are top level domain name registrars, domain name administrators, and internet portals, respectively, that provide the means and online facilities through which the Violating Defendants are publishing the unlawfully obtained and unauthorized images.

STATEMENT OF FACTS

10. Plaintiff is the owner of all rights in and to her name, likeness, image, and visual representation. Additionally, Plaintiff is the author of the photographs that are the subject of this action, and therefore, she is the copyright owner of the same. Accordingly, Plaintiff has complete authority to control, lend out, license, and otherwise authorize the use and public display of her image.

11. Plaintiff has expended substantial time, money and other resources developing, advertising, promoting and otherwise supporting her reputation and the value of her name, image and likeness. Indeed, Plaintiff's business and livelihood are dependent on the reputation and value of such intellectual property. As of the filing of this action, Plaintiff is already facing the loss of business contracts involving her name and likeness as a proximate and direct result of the Violating Defendants' actions.
12. On or about April 24, 2019, the Plaintiff discovered that the Violating Defendants have unlawfully obtained nude images of her and have published the photographs on the following internet websites:
 - a. celeb.gate.cc;
 - b. Purecelebs.net;
 - c. Michelle Kat's Facebook page (<https://www.facebook.com/michelle.flores.338>);
 - d. Further, the above referenced photographs are appearing on google search results.
13. Defendants CELEB GATE d/b/a celeb.gate.cc ("Celeb Gate"), Purecelebs.net and Michelle Kat a/k/a Michelle Flores (the "Violating Defendants") have obtained private nude images of ZULEYKA through unknown means, and are knowingly, intentionally, and maliciously publishing the images on their websites with personal information reasonably identifying them as relating to ZULEYKA with the purpose of promoting the Violating Defendants' interests, while simultaneously damaging ZULEYKA's brand, misappropriating her image, portraying her in a negative light, publicly shaming her, and otherwise infringing upon her intellectual property rights.
14. The publication of the images by the Violating Defendants, and the resulting actions and impressions gained by the people in ZULEYKA's community, have been devastating to

her, her reputation, her family and family relationships, and her professional career, and have caused her irreparable pain and suffering, which is ongoing.

15. The Violating Defendants' unlawful activities and the Additional Defendants' facilitation thereof have deprived Plaintiff of her right to determine the manner in which her name, likeness and image are portrayed to the public. Indeed, Violating Defendants continue to wrongfully trade and capitalize on publishing the images without authorization. By their activities, Violating Defendants are defrauding the Plaintiff and the public for their own benefit. Violating Defendants should not be permitted to continue their unlawful activities, which are causing the Plaintiff ongoing irreparable harm. Accordingly, Plaintiff is seeking entry of a temporary restraining order prohibiting the Violating Defendants' further wrongful use of ZULEYKA's image, and the Additional Defendants' facilitation of such wrongful activity.

COUNT I

Unauthorized Publication of Name or Likeness, Pursuant to Section 540.08(1), Florida Statutes.

16. Plaintiff hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 15 above as if fully set forth herein.

17. Section 540.08(1), *Florida Statutes*, provides, in pertinent part, as follows:

No person shall publish, print, display or otherwise publicly use for purposes of trade or for any commercial or advertising purpose the name, portrait, photograph, or other likeness of any natural person without the express written or oral consent to such use given by: (a) Such person; or (b) Any other person, firm or corporation authorized in writing by such person to license the commercial use of her or his name or likeness.

18. Further, Section 540.08(2), *Florida Statutes*, provides:

In the event the consent required in subsection (1) is not obtained, the person whose name, portrait, photograph, or other likeness is so used, or any person,

firm, or corporation authorized by such person in writing to license the commercial use of her or his name or likeness, or, if the person whose likeness is used is deceased, any person, firm, or corporation having the right to give such consent, as provided hereinabove, may bring an action to enjoin such unauthorized publication, printing, display or other public use, and to recover damages for any loss or injury sustained by reason thereof, including an amount which would have been a reasonable royalty, and punitive or exemplary damages.

19. As set forth in this petition, the Defendants have published, displayed, and publicly used the images of Plaintiff on their internet websites.
20. The Defendants' use of the Plaintiff's images is for the Defendants' own commercial purposes, to drive traffic to their websites and otherwise promote their own services, as well as to intentionally and maliciously damage the reputation of the Plaintiff.
21. By publishing the photographs without the Plaintiff's consent, the Defendants are publicly disclosing private facts relating to her, giving her publicity which placed her in a false light in the public eye, and are otherwise appropriating her name, likeness and image for their own benefit.
22. Neither the Plaintiff, nor any other person or firm with the authority to license the Plaintiff's name or likeness for commercial purposes, have consented to the publication or display of the images in question.
23. Accordingly, Plaintiff is entitled to enjoin the Defendants from publishing and displaying the harmful images to the public.

COUNT II

Copyright Infringement 17 U.S.C. §501

24. Plaintiff hereby adopts and re-alleges the allegations set forth in Paragraphs 1 through 15 above as if fully set forth herein.

25. The images that the Plaintiff seeks to have removed from the Defendants' websites by way of this lawsuit were taken by the Plaintiff. Accordingly, Plaintiff owns the copyright in such images. Indeed, it is evident on the face of the images that the photographs were taken by the Plaintiff herself.
26. As owner of the copyright in the photographs that are the subject of this action, Plaintiff has the right to reproduce, distribute, and otherwise display the work to the public.
27. By publishing and displaying the photographs on their internet websites, the Defendants have violated the Plaintiff's copyright in the photographs.
28. Accordingly, the Plaintiff is entitled to enjoin the Defendants from further publishing and displaying the images without the Plaintiff's consent.

COUNT III

Intentional and/or Reckless Infliction of Emotional Distress

29. Defendants acted recklessly and/or intentionally in connection with the posting, publishing, and public display of the damaging photographs of the Plaintiff without her consent, and with the purpose of obtaining commercial and pecuniary gain, and to publicly humiliate and damage the Plaintiff's reputation.
30. Defendants' acts were extreme and outrageous, with malicious disregard for the Plaintiff's privacy and intellectual property rights to her name, image and likeness.
31. Defendants' acts have caused Plaintiff to suffer severe emotional distress as well as resulting damage to her professional career.
32. Accordingly, Plaintiff is entitled to the relief requested herein.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff respectfully requests this Honorable Court enter judgment on all Counts of this Complaint and an award of equitable relief against the Defendants as follows:


- a. Entry of temporary restraining order, as well as preliminary and permanent injunctions pursuant to 15 U.S.C. § 1116 and Federal Rule of Civil Procedure 65 enjoining Defendants, their agents, representatives, servants, employees, and all those acting in concert or participation therewith, from publishing the unlawfully obtained and unauthorized private nude images of the Plaintiff, and requiring that Defendants Purecelebs.net, Celeb Gate, and Michelle Kat a/k/a Michelle Flores immediately remove any and all nude or otherwise unauthorized photographs of the Plaintiff from websites and portals under their control; and that,
- b. Entry of an order that, upon Plaintiff's request, the various top level domain name registrars, domain name administrators, and internet portals who are provided with notice of the injunction, including but not limited to the Additional Defendants named herein, immediately cease facilitating access to any or all of the Violating Defendants named herein publishing or otherwise displaying the unauthorized photographs, to the extent that the said Violating Defendants do not comply with the injunction within 24 hours of entry thereof.
- c. Entry of an order that Defendants ICANN, Verisign, Whoisguard, and ENOM shall, within one business day of receipt of this Order, immediately suspend

the accounts or registrations of the Violating Defendants, including the domains purecelebs.net and celeb.gate.cc, as may be under the control of each of the Additional Defendants, to the extent that said Violating Defendants fail to comply with the injunction within 24 hours of receiving notice of the same, until further Order of the Court authorizing the release of such account suspension;

- d. Such other and further relief as this Court deems just and appropriate under the circumstances.

Dated: April 25, 2019

Respectfully submitted,

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CIVIL COVER SHEET

JS 44 (Rev. 06/17) FLSD Revised 06/01/2017

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS

Zuleyka Rivera

(b) County of Residence of First Listed Plaintiff

Miami-Dade County

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

Internet Corporation for Assigned Names and Numbers; Verisign; eName Technology Co. LTD; ENOM, INC; whoisguard, inc; purecelebs.net; facebook, inc; caleb gate; and michelle kat

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY) Los Angeles County, CA

FILED BY [Signature] D.C. APR 26 2019 ANGELA E. NOBLE S. D. OF FLA. - MIAMI

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

(d) Check County Where Action Arose:

- MIAMI-DADE, MONTELEONE, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE, HIGHLANDS

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions

Grid of categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES

V. ORIGIN

(Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Re-filed, 4 Reinstated or Reopened, 5 Transferred from another district, 6 Multidistrict Litigation Transfer, 7 Appeal to District Judge from Magistrate Judgment, 8 Multidistrict Litigation - Direct File, 9 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S)

(See instructions): a) Re-filed Case YES NO

b) Related Cases YES NO

JUDGE:

DOCKET NUMBER:

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):

17 USC 501; Copyright infringement and 28 USC 1332

LENGTH OF TRIAL via days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: YES NO

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE SIGNATURE OF ATTORNEY OF RECORD

4/26/2019

[Signature]

FOR OFFICE USE ONLY RECEIPT #

AMOUNT

IFP

JUDGE

MAG JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked. Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

VI. Related/Refiled Cases. This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

VII. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VIII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

Date and Attorney Signature. Date and sign the civil cover sheet.

General Information

Court	United States District Court for the Southern District of Florida; United States District Court for the Southern District of Florida
Federal Nature of Suit	Property Rights - Copyrights[820]
Docket Number	1:19-cv-21634