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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91197739
Party	Defendant Daniel R. Castro
Correspondence Address	DANI8EL R. CASTRO CASTRO & BAKER, LLP 10509 POINTEVIEW DR AUSTIN, TX 78738-5522 UNITED STATES dcastro@teknolaw.com
Submission	Motion to Suspend for Civil Action
Filer's Name	Daniel R. Castro
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Signature	/DRC/
Date	12/21/2010
Attachments	Dan Castro Motion to Suspend EMI.pdf (2 pages)(64339 bytes) First Amended Original Complaint 9 28 10 (2).pdf (35 pages)(895003 bytes) Castro_v_Entrepreneur_Mag[1].pdf (33 pages)(1539022 bytes)

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing **MOTION TO SUSPEND THIS PROCEEDING** was mailed by first class mail, postage prepaid, and a copy was sent via electronic mail to counsel for Opposer, Deborah A. Gubernick, Esq., LATHAM & WATKINS LLP, 650 Town Center Drive, 20th Floor, Costa Mesa, CA 92626-1925, on this 21st day of December, 2010.

/Daniel R. Castro/

Daniel R. Castro

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

Daniel R. Castro
Plaintiff

v.

ENTREPRENEUR MEDIA, INC.
Defendant

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CIVIL ACTION NO: 10CA695

FIRST AMENDED ORIGINAL COMPLAINT

Pursuant to FRCP 15, Daniel R. Castro, comes forth and files this First Amended Original Complaint against entrepreneur Media, Inc., and for cause of action, would show unto the Court as follows:

**I. THIS AMENDMENT CAN BE MADE FREE AT ANY TIME
BEFORE A RESPONSIVE PLEADING IS FILED.**

1.1 Rule 15 allows Castro to file this First Amended Original Complaint without leave of Court because it is being filed before any responsive pleading is filed, and within twenty days after it was served. Defendant was served on September 16, 2010.

1.2 Accordingly, Castro hereby files this First Amended Complaint.

II. SUBJECT MATTER JURISDICTION AND VENUE

2.1 Plaintiff is seeking a declaration of rights with respect to federal trademark laws, the First Amendment of the United States Constitution and the Anticybersquatting Consumer Protection Act.

2.2 This Court's jurisdiction over this matter is proper pursuant to 28 USC §§ 1331, 1332 and 1338(a)(b), and pursuant to 15 U.S.C. § 1121(a)(Trademarks), 28 U.S.C. 2201 (Declaratory Judgment Act), 15 U.S.C. §2 (Sherman Antitrust Act).

2.3 Venue is proper in this judicial district pursuant to 28 USC §1391 (b)(c), and 28 U.S.C. § 1392, in that Defendant is a corporation that is subject to personal jurisdiction in this district, and because a substantial part of the events or omissions giving rise to the claims occurred in this district, and the property that is the subject of this action is located in this district.

III. PERSONAL JURISDICTION

3.1 This Court has personal jurisdiction over the defendant because: (a) the defendant's contacts with the State of Texas are continuous and systematic; and (b) the defendant purposefully directs its activities to the residents of the State of Texas and plaintiff's cause of action arises out of, or is related to the defendant's contacts with the State of Texas.

3.2 Defendant markets and sells magazines in bookstores and news stands throughout Texas, including this District.

3.3 Defendant does business over the internet by entering into contracts with Texas residents, which contracts involve the knowing and repeated transmission of computer files over the internet.

3.4 Moreover, defendant's website is sufficiently interactive and commercial in nature to justify personal jurisdiction in that it processes credit cards, sells monthly subscriptions to its Texas users, allows subscribers to download articles, and provides e-mail addresses and links for customer service problems.

IV. THE PARTIES

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