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11 UNITED STATES DISTRICT COURT

12 DISTRICT OF ARIZONA

13 David Dent, an Individual,

14 Plaintiff,

15 vs.

16 Lotto Sport Italia S.p.A, an Italian
17 Corporation,

18 Defendant.

Case No.

**COMPLAINT UNDER 15 USC 1114
FOR REVERSE DOMAIN HI-
JACKING, DECLARATORY RELIEF
UNDER THE LANHAM ACT, AND
TORTIOUS INTERFERENCE WITH
CONTRACT**

DEMAND FOR JURY TRIAL

19 Plaintiff David Dent (hereinafter “Dent” or Plaintiff) hereby complains
20 against defendant Lotto Sport Italia S.p.A, an Italian Corporation (hereinafter “Lotto
21 Sport”), and for its causes of action alleges as follows:

22 **NATURE OF THE ACTION**

23 1. This is an action brought by Plaintiff Dent against Defendant Lotto Sport
24 pursuant to 15 U.S.C. 1114(2)(D)(iv)-(v) and for declaratory relief pursuant to 28
25 U.S.C. 2201 to establish that Dent’s registration and use of the internet domain names

1 <lottoworks.com> and <lottostore.com> (the "Domain Names") is not unlawful under
2 the Anticybersquatting Consumer Protection Act (15 U.S.C. § 1125(d) ("ACPA"), or
3 otherwise under the Lanham Act (15 U.S.C. § 1051 et. seq.), and to prevent the transfer
4 of the Domain Names to Defendant, which were ordered in an administrative panel
5 decision notified on February 21, 2017 under the Uniform Domain Name Dispute
6 Policy ("UDRP") in a proceeding captioned: *Lotto Sport Italia S.p.A. v. David Dent*,
7 WIPO Case No. D2016-2532.

8 **PARTIES**

9
10 2. Plaintiff David Dent is a citizen and resident of Canada, having an address
11 of 4467 Harris Place, North Vancouver, British Columbia V7G 1E9, Canada.

12 3. On information and belief, Defendant Lotto Sport s.p.A is a corporation of
13 Italy having a principal address of Via Montebelluna, 5/7 31040 Trevignano (Treviso),
14 Italy.

15 **JURISDICTION AND VENUE**

16 4. This Court has subject matter jurisdiction over this action because it
17 involves a federal question, and because it requires a declaration of rights and other
18 legal relations. More specifically, this Court has jurisdiction pursuant to 28 U.S.C.
19 1331 (because this cause arises under 15 U.S.C. 1114 in that Plaintiff is the registrant of
20 a domain name which has been suspended, disabled, or transferred under a policy
21 provided by the registrar thereof relating to alleged conflict with a trade or service mark
22 claimed by the Defendant), and under 28 U.S.C. 2201(a) ("In a case of actual
23 controversy within its jurisdiction, . . . any court of the United States, upon the filing of
24 an appropriate pleading, may declare the rights and other legal relations of any
25

1 interested party seeking such declaration, whether or not further relief is or could be
2 sought.”).

3 5. This Court has personal jurisdiction over Defendant Lotto Sport because
4 Defendant agreed to submit to the jurisdiction of this Court when it initiated an
5 administrative proceeding pursuant to the Uniform Domain Name Dispute Resolution
6 Policy (the "UDRP") concerning the Domain Name. Specifically, Defendant Lotto
7 Sport agreed in its UDRP complaint to submit to jurisdiction of the registrar in
8 connection with a challenge of a UDRP decision ordering a transfer of the Domain
9 Names.

10 6. The registrar for the Domain Names is GoDaddy LLC, having its
11 principal office at 14455 N Hayden Rd Suite 219, Scottsdale, Arizona 85260, in this
12 judicial district.

13 7. Defendant Lotto Sport has directed activity into this judicial district with
14 the intent to deprive Plaintiff Dent of rights under a contract having a situs in this
15 judicial district.

16 8. Venue is proper in this Court pursuant to 28 U.S.C. 1391(b)(1) and (2). In
17 addition, the relevant sponsoring registrar, GoDaddy.com, Inc. (“GoDaddy”), is located
18 within this Judicial District, and the registration contract for domain names with
19 GoDaddy provides that jurisdiction and venue over disputes in relation to the contract is
20 Arizona, stating that “(N) Exclusive Venue for Other Controversies. GoDaddy and you
21 agree that any controversy excluded from the dispute resolution procedure and class
22 action waiver provisions in this Section (other than an individual action filed in small
23 claims court) shall be filed only in the Superior Court of Maricopa County, Arizona, or
24 the United States District Court for the District of Arizona, and each party hereby
25

1 irrevocably and unconditionally consents and submits to the exclusive jurisdiction of
2 such courts for any such controversy. You also agree to waive the right to trial by jury
3 in any such action or proceeding."

4 9. Pursuant to the Uniform Domain Name Dispute Resolution Policy
5 ("UDRP") Paragraph 3(b)(xiii), the Complainant (in this case, now Defendant) is
6 required to explicitly consent to a "mutual jurisdiction," in which challenges to a
7 decision under the UDRP may be brought by the Respondent (in this case, now
8 Plaintiff). As discussed below, Defendant expressly consented to jurisdiction in this
9 District for actions such as this one.

10 FACTS

11 10. Plaintiff Dent is a co-founder, majority owner and principal of Trimark
12 Ltd., a Gibraltar corporation engaged in the development and licensing of software and
13 technical services for online gambling operators in jurisdictions where such operations
14 are licensed for operation. Through his company Trimark Ltd. and predecessor
15 organizations, the Dent has been involved in the development and licensing of software
16 relevant to the conduct of lottery, bingo and casino games for over ten years prior to this
17 action.
18

19 11. In 2016, a company which had contracted to distribute Plaintiff's software
20 discontinued operations, and the Plaintiff decided to continue the development of his
21 operations into providing direct online lottery gambling services to the public in such
22 jurisdictions where online lottery gambling can be licensed.

23 12. Pursuant to the Plaintiff's decision to expand into direct lottery gambling
24 services, the Plaintiff expended substantial resources for software and user interface
25 development, and other operation planning and preparations. Plaintiff additionally

1 sought to find two domain names to establish an online presence for the eventual launch
2 of the expanded services, such that one domain name would be used for corporate
3 operations and licensing matters, and the other domain name would be the Plaintiff's
4 online presence for lottery gaming services.

5 13. The term "lotto" is a generic word long defined as, for example, "a game
6 resembling bingo" by Webster's New World Dictionary, Third College Edition, 1988
7 (Simon & Schuster), and is commonly used in reference to lotteries.

8 14. The term "lotto" is generic in relation to gambling software services long
9 provided by the Plaintiff through the companies of which Plaintiff is a principal, and is
10 directly generic of the services which the Plaintiff has been preparing to launch.

11 15. The United States Patent and Trademark Office has repeatedly and
12 consistently recognized that "lotto" is a generic term in connection with services
13 essentially identical to Plaintiff's services, and has required specific disclaimers of
14 exclusive rights in the word "lotto" in relation to gaming services in a large number of
15 marks registered or pending on the Principal Register under the Lanham Act. For
16 example, as recently as May 7, 2015, in relation to an application to register "CLOVER
17 LOTTO" and design, US TM Reg. No. 4,965,712, the United States Patent Office
18 issued an Office Action referring to the dictionary definition of the word "lotto" and
19 stating:
20

21 "Applicant must disclaim the word "LOTTO" because it merely describes an
22 ingredient, quality, characteristic, function, feature, purpose, or use of applicant's
23 goods and/or services, and thus is an unregistrable component of the mark. See
24 15 U.S.C. §§1052(e)(1), 1056(a); DuoProSS Meditech Corp. v. Inviro Med.
25 Devices, Ltd., 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012)

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