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8 Attorneys for Plaintiff, ENGAGE BDR, LLC and Plaintiff, KENNETH KWAN

9 **UNITED STATES DISTRICT COURT**

10 **CENTRAL DISTRICT OF CALIFORNIA**

11 **WESTERN DIVISION - SPRING STREET COURTHOUSE**

12 ENGAGE BDR, LLC, a California
13 limited liability company; KENNETH
14 KWAN, an individual;

15 Plaintiff,

16 v.

17 GODADDY INC., a Delaware
18 corporation; DOES 1 through 10,
19 inclusive;

20 Defendants.

Case No. 2:21-cv-2014

Assigned to:

COMPLAINT FOR:

1. **NEGLIGENCE**
2. **NEGLIGENT INTERFERENCE
WITH PROSPECTIVE
ECONOMIC ADVANTAGE**
3. **UNFAIR AND FRAUDULENT
BUSINESS PRACTICES**
4. **BREACH OF IMPLIED
COVENANT OF GOOD FAITH
AND FAIR DEALING**

[DEMAND FOR JURY TRIAL]

21 Plaintiff, ENGAGE BDR, LLC (hereinafter referred to as “Engage”) and Plaintiff,
22 KENNETH KWAN, on behalf of Engage (hereinafter referred to as “Mr. Kwan”)
23 (hereinafter collectively referred to as the “Plaintiffs”), by and through its undersigned
24 attorney, alleges on knowledge as to its own acts and otherwise on information and belief
25 as follows:

1 **THE PARTIES**

2 1. Engage is a California limited liability company with a principal place of
3 business located at 8581 Santa Monica Blvd., #12, West Hollywood, CA 90069.

4 2. Mr. Kwan is an individual who is a citizen of the United States and resides
5 in Bangkok, Thailand.

6 3. GODADDY INC. (hereinafter referred to as “Defendant” or “GoDaddy”), is
7 a Delaware corporation with a principal place of business located at 14455 N. Hayden Rd
8 #219, Scottsdale, AZ 85260, and is doing business in and with the state of California.

9 4. The true names and capacities, whether individual, corporate, or otherwise of
10 the defendants named in this complaint as Does 1 through 10, inclusive, are unknown to
11 Plaintiffs. Plaintiffs are informed and believe, and on that basis allege, that each of said
12 fictitiously named defendants is liable to Plaintiffs on the causes of action herein alleged
13 and/or asserts some interests, legal or equitable, in the subject matter of this action, and
14 therefore Plaintiffs sues said defendants by said fictitious names. Plaintiffs will move to
15 amend this complaint when the true names and capacities of said fictitiously named
16 defendants have been ascertained.

17 5. Defendant and Does 1 through 10 are collectively referred to as “Defendant”
18 herein.

19 **JURISDICTION**

20 6. This Court has jurisdiction under 28 U.S.C. § 1332(a)(1) as the matter in
21 controversy is between citizens of different states.

22 7. This Court has jurisdiction under 28 U.S.C. § 1332(a) as the matter in
23 controversy exceeds the sum or value of \$75,000 exclusive of interest and costs.

24 8. Engage is a limited liability company duly organized under the laws of
25 California and is a citizen of California.

26 9. The sole member of Engage is Engage BDR, Ltd. Engage BDR, Ltd. is
27 organized under the laws of Australia and accordingly, is a citizen of Australia.

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1 10. Mr. Kwan is an individual who is a citizen of the United States and resides
2 in Bangkok, Thailand.

3 11. Defendant is a corporation organized and existing under the laws of Delaware
4 and accordingly, is a citizen of Delaware.

5 **VENUE**

6 12. As the Central District of California is the district in which substantial part
7 of the events or omissions giving rise to the claim occurred, venue is proper with this
8 District pursuant to 28 U.S.C. § 1391(b)(2).

9 13. Venue is also proper with this District pursuant to 28 U.S.C. § 1391(d).

10 **FACTUAL ALLEGATIONS**

11 14. Defendant is an American Internet domain registrar and web hosting
12 company that is publicly traded on the New York Stock Exchange.

13 15. On July 2, 2009, Mr. Kwan, on behalf of Engage, purchased the domain name
14 “hahajk.com” (hereinafter referred to as the “Domain Name”) through Defendant for a
15 period of five (5) years. Attached hereto as Exhibit A is a true and correct copy of the
16 email receipt from Defendant acknowledging such purchase.

17 16. On May 19, 2014, Mr. Kwan, on behalf of Engage, renewed the Domain
18 Name with Defendant for a period of two (2) years. Attached hereto as Exhibit B is a true
19 and correct copy of the email receipt from Defendant acknowledging such renewal.

20 17. On July 2, 2016, Mr. Kwan, on behalf of Engage, renewed the Domain Name
21 with Defendant for a period of five (5) years. Attached hereto as Exhibit C is a true and
22 correct copy of the email receipt from Defendant acknowledging such renewal.

23 18. On or about October 19, 2019, Defendant experienced a security breach that
24 affected approximately 28,000 customer's hosting accounts including Mr. Kwan’s account
25 in which he purchased and held the Domain Name.

26 19. The aforesaid security breach lasted for a period of approximately six (6)
27 months before detection by Defendant’s security team on April 23, 2020.

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1 20. On or about December 2019, GoDaddy transferred the Domain name out of
2 Mr. Kwan's account to a third party without his authorization or approval.

3 21. Upon information and belief, DOES 1 – 10, and each of them,
4 breached/hacked Defendant's system and got into Mr. Kwan's account and transferred
5 multiple domain names off under that account, including but not limited to the Domain
6 Name.

7 **FIRST CAUSE OF ACTION**

8 **(Negligence)**

9 22. Plaintiffs re-allege and incorporate herein by this reference, each and every
10 allegation contained in paragraphs 1 through 21 of this Complaint as though fully set forth
11 herein.

12 23. At all relevant times herein alleged, Defendant was and is an American
13 Internet domain registrar and web hosting company that is publicly traded on the New
14 York Stock Exchange.

15 24. At all relevant times herein alleged, Defendant registered and maintained the
16 Domain Name.

17 25. On or about October 19, 2019, Defendant experienced a security breach that
18 affected approximately 28,000 customer's hosting accounts including Mr. Kwan's account
19 in which he purchased and held the Domain Name.

20 26. The aforesaid security breach lasted for a period of approximately six (6)
21 months before detection by the Defendant's security team on April 23, 2020.

22 27. On or about December 2019, Defendant transferred the Domain name out of
23 Mr. Kwan's account to a third party without his authorization or approval.

24 28. Upon information and belief, DOES 1 – 10, and each of them,
25 breached/hacked Defendant's system and got into Mr. Kwan's account and transferred
26 multiple domain names off under that account, including but not limited to the Domain
27 Name.

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1 29. Defendant, as registrar of the Domain Name, had the duties to Mr. Kwan to:
2 a. provide adequate security for Mr. Kwan's hosting account and the
3 Domain Name;
4 b. provide adequate security mechanisms to protect the Domain Name from
5 an unauthorized transfer to a third party;
6 c. to contact Mr. Kwan to obtain authorization to transfer the Domain Name
7 to a third party;
8 d. to contact Mr. Kwan to verify any request to transfer the Domain Name
9 to a third party;
10 e. to adequately warn Mr. Kwan of the possibility of an unauthorized
11 transfer of the Domain Name to a third party;
12 f. to otherwise exercise due care with respect to the matters alleged in this
13 Complaint.

14 30. Defendant, as registrar of the Domain Name, failed to meet the aforesaid
15 duties that it owed to Mr. Kwan.

16 31. As a direct and proximate result of the negligence and carelessness of
17 Defendant as set forth above, the Domain name was transferred out of Mr. Kwan's account
18 to a third party without his authorization or approval.

19 32. As a direct and proximate result of the negligence and carelessness of
20 Defendant as set forth above, Plaintiffs' economic relationships with their various partners
21 with regard to the use of the Domain Name were, and continues to be, disrupted.

22 33. As a direct and proximate result of the negligence and carelessness of
23 Defendant as set forth above, Plaintiffs were damaged in a sum in excess of \$75,000.

24 **SECOND CAUSE OF ACTION**

25 **(Negligent Interference with Prospective Economic Advantage)**

26 34. Plaintiffs re-allege and incorporate herein by this reference, each and every
27 allegation contained in paragraphs 1 through 33 of this Complaint as though fully set forth
28 herein.

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