

E-FILED
7/27/2022 9:38 AM
Clerk of Court
Superior Court of CA,
County of Santa Clara
22CV402129
Reviewed By: P. Newton

1 JOHN F. DOMINGUE (SBN 193570)
GREGORY S. GERSON (SBN 318795)
2 ROSSI DOMINGUE LLP
1570 The Alameda, Suite 316
3 San Jose, CA 95050
4 Tel: (408) 495-3900
Email: john@rdlaw.net
5 Email: greg@rdlaw.net
6 Attorneys for Plaintiff

7
8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF SANTA CLARA**
10 **UNLIMITED JURISDICTION**

11 ONLINE LEARNING LLC, dba
ONE CLICK TRAFFIC SCHOOL,
12 a California Limited Liability
Company

14 Plaintiff,

15 vs.

16 MIZUNETWORK, LLC, a
California limited liability company
17 and dba TRAFFIC SCHOOL 4
18 BUSY PEOPLE, and DOES 1
through 25, inclusive,

19 Defendants.
20

CASE NO: 22CV402129

COMPLAINT FOR:

- 1. VIOLATION OF CAL. BUS. & PROF. CODE, §§ 14200 *et seq.*
- 2. TRADE NAME INFRINGEMENT
- 3. VIOLATION OF CALIFORNIA'S ANTI-PHISHING ACT OF 2005 [CAL. BUS. & PROF. CODE, §§ 22948 *et seq.*]
- 4. UNFAIR COMPETITION

21
22 Plaintiff, ONLINE LEARNING LLC, dba ONE CLICK TRAFFIC SCHOOL, a California
23 Limited Liability Company (“Plaintiff” or “One Click”) is informed and believes and alleges as
24 follows:

25 **I. INTRODUCTION**

26 One Click is the owner of the business name and webpage for oneclicktrafficschool.com.
27 One Click devoted substantial time and resources to build a name for itself and create business
28 through its premier services and easy access to those services through its website. Defendant has

1 pirated One Click's online traffic by using Google ad words and likely other means to
2 misappropriate One Click's name, goodwill, and customers. For example, at various times the
3 following would come up in a Google search result when doing a search for One Click:

4 Ad · https://www.trafficschool4busypeople.com/quickest_online/dmv_co... (800) 287-9841

5 **One Click Traffic School - CA DMV & Court Approved**

6 Instant Certificate, No Timers, Open Book Test, Finish As Fast As You Read! Court Approved

7 As is readily apparent from this search result, Defendant openly manipulated its Google
8 account and ad words to cause One Click's name to appear prominently next to Defendant's own
9 website. The One Click name is shown in bright, large font, and users could easily believe, when
10 clicking on Defendant's website, that they were selecting One Click. Despite One Click's demand
11 that Defendant stop, it refused and kept misappropriating One Click's mark and customers.

12 **II. THE PARTIES**

13 **A. PLAINTIFF**

14 1. Plaintiff, One Click, is a California limited liability company with its main offices
15 in Santa Clara County is and was at all times mentioned herein, a California limited liability
16 company having its principal place of business in San Jose, California, County of Santa Clara.
17 One Click is a company engaged in the business of providing online driver's training in
18 California, including Santa Clara County. One Click is the owner and registrant of the "One Click
19 TRAFFIC SCHOOL" service mark under both federal and California state law. One Click is also
20 the owner of the web page: <https://www.oneclicktrafficschool.com/>.

21 **B. DEFENDANT**

22 2. Defendant, MIZUNETWORK, LLC, a California limited liability company doing
23 business as TRAFFIC SCHOOL 4 BUSY PEOPLE ("Traffic School") doing business in various
24 counties including Santa Clara County. On information and belief, Kevin J. Mizuhara is the
25 managing member and chief executive officer of Mizunetwork, LLC. Traffic School holds itself
26 out as an online traffic violator school licensed by the California Department of Motor Vehicles.
27 Traffic School does business through the website www.trafficschool4busypeople.com and solicits
28 and/or conducts traffic-school-related business online.

1 **C. OTHER DEFENDANTS**

2 3. Plaintiff is ignorant of the true names and capacities of defendants sued herein as
3 Does 1 through 25, inclusive, and therefore sues these defendants by such fictitious names under
4 California Code of Civil Procedure section 474. Plaintiff will amend this Complaint to allege their
5 true names and capacities when the same are ascertained. Plaintiff is informed and believes and
6 thereon alleges that each of the fictitiously named Defendants are legally responsible in some
7 manner for the occurrences herein alleged and the injuries of Plaintiff as herein alleged have been
8 proximately caused by the aforementioned defendants, and each of them.

9 **D. ROLE OF DEFENDANTS**

10 4. At all times mentioned herein, and on information and belief, Plaintiff alleges that
11 Defendants, and each of them were the agents, servants, employees, or alter egos of their co-
12 Defendants, and each of them, and were joint venturers with, or co-partners with, or sureties for
13 the co-Defendants, and each of them, and were at all times mentioned herein acting within the
14 course and scope of said agency, employment, and/or other relationship.

15 **III. JURISDICTION**

16 5. Jurisdiction and venue are proper in Santa Clara County because Plaintiff's
17 business is located within Santa Clara County and it is believed, based upon the online activity of
18 Traffic School, it also conducts business within Santa Clara County.

19 6. The amount in controversy exceeds the minimum jurisdiction of this Court.

20 **IV. GENERAL ALLEGATIONS**

21 **CAUSES OF ACTION**

22 **FIRST CAUSE OF ACTION**

23 Violation of California Bus. & Prof. Code, §14200 *et seq.*
24 (Against Traffic School, and DOES 1-25)

25 7. Plaintiff hereby incorporates by reference each of the paragraphs set forth above as
26 though fully set forth hereinafter.

27 8. Plaintiff adopted the standard character mark "One Click Traffic School"
28 (hereinafter "Mark") and has used it in California in commerce for more than seven years in

1 relation to traffic school. Within the last six years, Plaintiff has successfully registered said Mark
2 in the State of California (and also with the United States Patent and Trademark Office) covering
3 the use of said Mark on traffic school services. Said registrations are valid and current.

4 9. Plaintiff has used the Mark to identify its services and to distinguish them from
5 those sold by others, by, among other things, prominently displaying the Mark on the internet,
6 advertising materials, social media, building signage, letterheads, and other advertising throughout
7 California. Plaintiff has devoted substantial resources each year in advertising the Mark.

8 10. As explained above, at all times relevant hereto, Plaintiff has owned the webpage
9 located at oneclicktrafficschool.com. Accordingly, if a consumer using an internet web browser
10 types in the company's URL—for example, by typing www.oneclicktrafficschool.com in his or her
11 web browser address bar—the consumer is directed to Plaintiff's website where he or she can
12 view its offering of services.

13 11. A significant and critical amount of Plaintiff's solicitations are conducted via the
14 internet. Plaintiff estimates that, each day, it receives many visits by customers or potential
15 customers to its internet website and said website currently generates hundreds of confirmed new
16 clients annually.

17 12. Plaintiff has devoted substantial resources in developing, maintaining, enhancing,
18 and updating its website. Plaintiff's services, provided under the Mark, have acquired a fine
19 reputation, and are famous among prospective clients in the State of California, particularly in
20 Santa Clara County.

21 13. Within the last two years and continuing, Defendant has infringed Plaintiff's Mark
22 by various acts, including, among other things, advertising traffic school services online using the
23 Mark. For instance, upon information and belief, Defendant has purchased, through a common
24 search engine or engines (such as "Google" "Yahoo!" and "Bing"), keywords which are
25 comprised, in whole or in part, of the Mark. In an attempt to illegally capitalize on the Mark,
26 Defendant, who is Plaintiff's competitor, purchased and intentionally used these advertising
27 keywords (*i.e.* the Mark) so that its website would be listed in a position above or next to
28 Plaintiff's website link when a consumer types a search query identical or substantially similar to

1 Plaintiff's Mark.

2 14. To further illustrate, at various times within the past two years a consumer could
3 run a search on Google's main search engine for "One Click Traffic School"—Plaintiff's
4 registered Mark—with the obvious intent of locating and visiting Plaintiff's website. Nonetheless,
5 one of the first links shown on the Google search results page would be one or more of the
6 Defendant's URL. As a result thereof, Defendant will have obtained a customer, or potential
7 customer, solely as a result of the goodwill and reputation associated with Plaintiff and its
8 products and services.

9 15. Defendant has also used the Mark as a heading to link to, or within, Defendant
10 and/or its affiliate websites, which are in direct competition with Plaintiff by, inter alia, offering
11 traffic school or traffic school related services via those websites.

12 16. Defendant's conduct, including the use and purchase of the keywords, is deceptive
13 and misleads consumers into believing falsely that the website links to which they are directed via
14 manipulated search "results" links actually belong to Plaintiff or are sponsored/authorized
15 originating by it, the trademark owner for which the user was searching.

16 17. The manipulated search "results" engineered by the Defendant fail to inform the
17 consumers that the companies listed therein may have no relationship with, and may directly
18 compete with Plaintiff, the trademark/webpage owner for which the user was searching.

19 18. Said use of the Mark by Defendant is without permission or authority of Plaintiff
20 and said use by Defendant is likely to cause confusion, to cause mistake, and to deceive
21 consumers.

22 19. On or about December 17, 2021, Plaintiff placed Defendant on notice that Plaintiff
23 is the Mark owner and Defendant should cease its conduct alleged herein. Defendant continued to
24 use the Mark.

25 20. Defendant has diluted the distinctive quality of Plaintiff's Mark by various acts,
26 including the manipulation of search engine results, discussed above, which are in fact,
27 advertisements purchased by Defendant based on the utilization of Plaintiff's Mark, and also by, at
28 times, the displaying of Plaintiff's Mark on their web pages.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.