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7 UNITED STATES DISTRICT COURT
8 DISTRICT OF NEVADA

9 Two Plus Two Publishing, LLC a Nevada
limited liability company;

10 Plaintiff,

11 v.

13 Anthony Scocozza, an individual.

14 Defendant.

Case No.

COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF

- (1) Cybersquatting under
15 U.S.C. § 1125(d)
- (2) Trademark Infringement under
15 U.S.C. § 1114
- (3) Unfair Competition under
15 U.S.C. § 125(a)
- (4) Copyright Infringement under 17 U.S.C.
§ 101, et seq.
- (5) State Trademark Infringement Under
N.R.S. 600.420
- (6) Common Law Trademark Infringement
- (7) Deceptive Trade Practices under N.R.S.
598.0903, et seq.
- (8) Intentional Interference with Prospective
Economic Advantage

22 For its complaint against Defendant, Two Plus Two Publishing, LLC (“Two Plus Two”)
23 complains and alleges as follows:

24 NATURE OF ACTION

25 This is an action for cybersquatting, trademark infringement, copyright infringement and
26 unfair competition under federal statutes, with pendent claims for common law trademark
27 infringement, state trademark infringement, state deceptive trade practices, and intentional
28

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1 interference with prospective economic advantage. Two Plus Two seeks damages, attorneys’
2 fees, costs, and preliminary and permanent injunctive relief.

3 JURISDICTION

4 1. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C.
5 §§1331 and 1338(a). This Court has supplemental jurisdiction over Two Plus Two’s state law
6 claims pursuant to 28 U.S.C. § 1367(a).

7 2. This Court has personal jurisdiction over Defendant based upon the following:
8 (a) he operates an interactive web site on the Internet that is both accessible and specifically
9 addressed to various residents of the State of Nevada; (b) the domain name and web site at issue
10 contain information and material that directly infringe the intellectual property of Two Plus
11 Two, a Nevada limited liability company with a principal place of business within this District;
12 and (c) Defendant was a member of Two Plus Two’s Nevada-based website and
13 communication forums (the “Forums”) and maintained continuous and systematic contact
14 with Two Plus Two and its members via electronic communication occurring within this
15 District; and (d) Defendant committed tortious acts that he knew or should have known would
16 cause injury to Two Plus Two within the State of Nevada.

17 3. Venue is proper in the United States District Court for the District of Nevada
18 under 28 U.S.C. § 1391(b) and (c). Venue lies in the unofficial Southern Division of this Court.

19 PARTIES

20 4. Two Plus Two is a Nevada limited liability company with its principal place of
21 business in Henderson, Nevada.

22 5. Defendant Anthony Scocozza (“Defendant”) is an individual who, upon
23 information and belief, resides in Scranton, Pennsylvania.

24 ALLEGATIONS COMMON TO ALL COUNTS

25 6. Two Plus Two, a Nevada limited liability company with its principal place of
26 business in Henderson, Nevada, is the owner of the Two Plus Two publishing company and the
27 sole member of Two Plus Two Interactive, LLC (“Two Plus Two Interactive”), the owner and
28 operator of the Two Plus Two Forums online forums and poker information community (the

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1 “Forums”). Two Plus Two published its first book in 1987. The Forums first went online in
2 1997.

3 7. Since Two Plus Two published its first book in 1987, Two Plus Two has
4 continuously used the trademarks TWO PLUS TWO, 2+2, 2+2=4, TWO PLUS TWO
5 PUBLISHING, and TWO PLUS TWO FORUMS (the “TWO PLUS TWO Marks”) in
6 connection with advertising and promoting its Forums and publications throughout the world.
7 The TWO PLUS TWO Marks are among the most recognized and respected names in poker
8 theory and gaming related publishing and internet communities.

9 8. Two Plus Two and its founder, Mason S. Malmuth, have become leading
10 authorities on poker and gaming strategy in the United States and internationally. Throughout
11 its existence, Two Plus Two has sold over two million books worldwide in over thirty-four
12 different titles and in many different languages and countries. Similarly, Two Plus Two’s
13 Forums maintain hundreds of thousands of individual members and poker theory customers
14 throughout the world.

15 9. Two Plus Two and its affiliates and subsidiaries have spent substantial sums of
16 money to develop, advertise and promote the TWO PLUS TWO Marks in print, broadcast
17 media and on the Internet through the Two Plus Two website and the Forums, accessible
18 throughout the United States and around the world at <twoplustwo.com>. In addition,
19 consumers of Two Plus Two’s publications buy substantial numbers of books through the Two
20 Plus Two website and Forums.

21 10. Two Plus Two has made extensive use of the TWO PLUS TWO Marks on,
22 among other things, signage, wearing apparel, publications, internet communities, online
23 forums, magazines, and sales and promotional materials, and has obtained (or applied for)
24 federal registration for the TWO PLUS TWO Marks for various goods and services, including
25 but not limited to:

- 26 (a) 2+2=4 for publication of books (U.S. Reg. No. 1,779,281);
27 (b) 2+2=4 (& design) for books, publishing, and materials on gaming and
28 gambling, namely, poker and card play. (U.S. Ser. No. 77013529);

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- 1 (c) TWO PLUS TWO for a series of books on the topics of gaming, poker and
- 2 card games. (U.S. Ser. No. 77824666);
- 3 (d) TWO PLUS TWO for entertainment and education services, namely,
- 4 providing an Internet website in the field of entertainment, gaming, poker
- 5 and card games; Providing instructional information on gaming, poker and
- 6 card games via an Internet website; Publishing services, namely, book
- 7 publishing and publishing of electronic publication. (U.S. Ser. No.
- 8 77824916);
- 9 (e) TWO PLUS TWO for providing on-line forums for transmission of
- 10 messages among computer users; Internet broadcasting services. (U.S. Ser.
- 11 No. 77824872).

12 None of these federal trademark applications has been abandoned, withdrawn or denied.

13 11. Two Plus Two has also applied for and received Nevada state trademark
14 registrations, including but not limited to:

- 15 (a) TWO PLUS TWO PUBLISHING for publication of books.
- 16 (NV Reg. No. SM00260475-001);

17 12. Based on its federal and state trademark registrations, applications and extensive
18 use, Two Plus Two has the exclusive right to use its TWO PLUS TWO Marks in connection
19 with a variety of goods and services.

20 13. The prominence and marketing of Two Plus Two as the leading gambling and
21 poker theory publisher in the world has resulted in the TWO PLUS TWO names and marks
22 being distinctive for publishing, entertainment, education, and online forum services.

23 14. Two Plus Two also owns the following books and publications (the "Copyrighted
24 Works") and has obtained copyright registrations with the U.S. Copyright Office, including but
25 not limited to:

- 26 (a) U.S. Federal Copyright Registration TX0003888126/TX0003483701
- 27 entitled "High-Low-Split Poker: Seven-Card Stud and Omaha Eight-or-
- 28 Better: For Advanced Players/by Ray Zee;"
- (b) U.S. Federal Copyright Registration TX0004773210 entitled "Poker
- Tournament Strategies/by Sylvester Suzuki;"
- (c) U.S. Federal Copyright Registration TX0005258327 entitled "Psychology
- of Poker/by Alan N. Schoonmaker;"

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- 1 (d) U.S. Federal Copyright Registration TX 0006860097 entitled “Tournament
- 2 Poker for Advanced Players Expanded Edition;”
- 3 (e) U.S. Federal Copyright Registration TX0006170543 entitled “Getting
- 4 started in Hold ‘Em;”
- 5 (f) U.S. Federal Copyright Registration TX0006410586 entitled “Harrington
- 6 on Hold ‘EM: Vol. 3, the Workbook;”
- 7 (g) U.S. Federal Copyright Registration TX0006109562 entitled “Harrington
- 8 on Hold ‘Em: Expert Strategy for No-Limit Tournaments: Vol. 1, Strategic
- 9 Play;”
- 10 (h) U.S. Federal Copyright Registration TX0006414878 entitled “Professional
- 11 Poker Dealer’s Handbook/Dan Paymar, Donna Harris, and Mason
- 12 Malmuth;”
- 13 (i) U.S. Federal Copyright Registration TX0006016021 entitled “Small Stakes
- 14 Hold ‘Em: Winning Big with Expert Play/by Ed Miller, David Sklansky,
- 15 and Mason Malmuth.

16 15. On or about January 28, 2009, Defendant registered the <twoplustwo.me>
17 Internet domain name (the “Infringing Domain Name”) with GoDaddy.com, a registrar for
18 domain names. This domain name contains the entirety of Plaintiff’s TWO PLUS TWO
19 trademark.

20 16. Some time after registration, Defendant linked the Infringing Domain Name to
21 an active internet site providing information and links to poker strategy and various online
22 gaming services that compete with those provided by Plaintiff.

23 17. By registering and/or using a domain name containing the entirety of Two Plus
24 Two’s trademarks, Defendant was and is attempting to trade on the goodwill of Two Plus Two.

25 18. By registering and/or using a domain name containing Two Plus Two’s
26 trademarks, Defendant was and is attempting to create an association between the Infringing
27 Domain Name and the TWO PLUS TWO Marks.

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1 19. The TWO PLUS TWO Marks at issue in this case were distinctive at the time
2 Defendant registered the Infringing Domain Name.

3 20. Upon information and belief, the Defendant registered the Infringing Domain
4 Name with the bad faith intent to profit from the TWO PLUS TWO Marks.

5 21. Upon information and belief, the Defendant has no trademark or other
6 intellectual property rights in the Infringing Domain Name.

7 22. Upon information and belief, the Defendant had no prior use of the Infringing
8 Domain Name in connection with the bona fide offering of any goods or services.

9 23. Upon information and belief, the Defendant intended to divert customers from
10 the Two Plus Two website and Forums, to web sites accessible under the Infringing Domain
11 Name in a manner that could harm the goodwill represented by the TWO PLUS TWO Marks.

12 24. The TWO PLUS TWO Marks incorporated in Defendant's domain name are
13 distinctive and famous.

14 25. Upon information and belief, the Defendant did not believe or have reasonable
15 grounds to believe that the use of the domain name was a fair use or otherwise lawful.

16 26. The Defendant's website also contains Plaintiff's copyrighted books and material
17 exclusively owned and controlled by Two Plus Two, including but not limited to the Theory of
18 Poker, Harrington on Hold 'Em and Tournament Poker for Advanced Players in violation of
19 The Copyright Act of 1976, 17 U.S.C. § 101 et seq.

20 27. By copying Two Plus Two's copyrighted poker books and related poker content
21 without Two Plus Two's authorization or permission, Defendant was and is infringing upon
22 Two Plus Two's exclusive rights in its Copyrighted Works.

23 28. Upon information and belief, Defendant was a registered member of Two Plus
24 Two's Forums for several years. Defendant used his membership on Two Plus Two's forums to
25 make repeated offensive, improper, and disruptive posts and messages that were prohibited
26 under the terms of conditions of the Two Plus Two Forums.

27 29. Upon information and belief, Defendant owns numerous other websites and/or
28 domain names that infringe Two Plus Two's intellectual property and/or cause economic harm

1 to Two Plus Two. Defendant has repeatedly made offensive and improper posts and messages
2 on such websites that harm the reputation of Two Plus Two and interfere with the economic
3 advantages of Two Plus Two.

4 FIRST CLAIM FOR RELIEF
5 (Cybersquatting under the
Lanham Act, 15 U.S.C. § 1125(d))

6 30. Two Plus Two incorporates the allegations in the preceding paragraphs as if fully
7 set forth herein.

8 31. Defendant has registered, trafficked in, and/or used a domain name that is
9 identical or confusingly similar to and/or dilutive of Two Plus Two's trademarks, which were
10 distinctive and/or famous at the time of registration of the Infringing Domain Name.

11 32. Upon information and belief, Defendant has or had bad-faith intent to profit from
12 Two Plus Two's trademarks.

13 33. As a direct and proximate result of such conduct, Two Plus Two has suffered,
14 and will continue to suffer, monetary loss and irreparable injury to its business, reputation, and
15 goodwill.

16 SECOND CLAIM FOR RELIEF
17 (Trademark Infringement under
the Lanham Act, 15 U.S.C. § 1114)

18 34. Two Plus Two incorporates the allegations in the preceding paragraphs as if fully
19 set forth herein.

20 35. Defendant has used and/or is using in commerce a domain name which contains
21 Two Plus Two's trademarks, and, thus is confusingly similar to Two Plus Two's names and
22 trademarks.

23 36. Defendant's use in commerce of the TWO PLUS TWO Marks and/or a mark
24 confusingly similar to Two Plus Two's trademarks for Defendant's services constitutes a
25 reproduction, copying, counterfeiting, and colorable imitation of Two Plus Two's trademarks in
26 a manner that is likely to cause confusion or mistake or is likely to deceive consumers.

27 37. By using the TWO PLUS TWO Marks and/or marks confusingly similar to Two
28 Plus Two's trademarks with the knowledge that Two Plus Two owns and has used, and

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1 continues to use, its trademarks in Las Vegas, across the United States, and around the world,
2 Defendant has intended to cause confusion, cause mistake, or deceive consumers.

3 38. Defendant is using a mark identical and/or confusingly similar to Two Plus
4 Two's trademarks in connection with the sale, offering for sale or advertising of services in a
5 manner that is likely to cause confusion, or to cause mistake, or to deceive consumers as to
6 affiliation, connection, or association with Two Plus Two or as to the origin, sponsorship, or
7 approval of Defendant's services or commercial activities by Two Plus Two.

8 39. Defendant's use of the TWO PLUS TWO Marks and/or marks confusingly
9 similar to Two Plus Two's trademarks has created a likelihood of confusion among consumers
10 who may falsely believe that Defendant's business or web site is associated with Two Plus
11 Two's publications or online services and Forums, or that Two Plus Two sponsors or approves
12 of Defendant's services or commercial activities.

13 40. As a direct and proximate result of Defendant's infringement, Two Plus Two has
14 suffered, and will continue to suffer, monetary loss and irreparable injury to its business,
15 reputation, and goodwill.

16 THIRD CLAIM FOR RELIEF
17 (Unfair Competition under the
Lanham Act, 15 U.S.C. § 1125(a))

18 41. Two Plus Two incorporates the allegations in the preceding paragraphs as if fully
19 set forth herein.

20 42. Defendant's use in commerce of marks identical and/or confusingly similar to
21 Two Plus Two's trademarks in connection with Defendant's services, web site, and Internet
22 domain name, constitutes a false designation of origin and/or a false or misleading description
23 or representation of fact, which is likely to cause confusion, cause mistake, or deceive as to
24 affiliation, connection, or association with Two Plus Two, or as to the origin, sponsorship, or
25 approval of Defendant's services or commercial activities.

26 43. Defendant's use in commerce of the TWO PLUS TWO marks and/or marks
27 confusingly similar to Two Plus Two's trademarks with the knowledge that Two Plus Two
28 owns and has used, and continues to use, its trademarks constitutes intentional conduct by

1 Defendant to make false designations of origin and false descriptions about Defendant's
2 services and commercial activities.

3 44. As a direct and proximate result of such unfair competition, Two Plus Two has
4 suffered, and will continue to suffer, monetary loss and irreparable injury to its business,
5 reputation, and goodwill.

6 FOURTH CLAIM FOR RELIEF

7 (Copyright Infringement under 17 U.S.C. § 101 et seq.)

8 45. Two Plus Two incorporates the allegations in the preceding paragraphs as if fully
9 set forth herein.

10 46. Two Plus Two's Copyrighted Works constitute copyrightable subject matter
11 within the meaning of Section 102(a)(1) of The Copyright Act of 1976 ("The Copyright Act").

12 47. Two Plus Two's Copyrighted Works are fixed in a tangible medium of expression
13 from which they can be perceived. Two Plus Two has taken all reasonable steps necessary to
14 secure its copyrights including obtaining United States copyright registrations from the United
15 States Copyright Office.

16 48. Two Plus Two owns valid copyright registrations in the Copyrighted Works is
17 the owner of all rights, title and interest in and to the Copyrighted Works, and has done nothing
18 to abandon those rights or place the Copyrighted Works in the public domain.

19 49. Upon information and belief and without knowledge, approval or consent of
20 Two Plus Two, Defendant willfully infringed Two Plus Two's copyrights by copying,
21 reproducing, duplicating and using the Copyrighted Works for Defendant's own commercial
22 purposes with full knowledge that such acts were an infringement of Two Plus Two copyrights,
23 and such acts being in violation of Two Plus Two's exclusive rights under The Copyright Act.

24 50. Defendant's past acts violate Two Plus Two's exclusive rights under section 106
25 of The Copyright Act, 17 U.S.C. § 106, and constitute willful and intentional infringement of
26 the Copyrighted Works.

27 51. Defendant has realized unjust profits, gains and advantages as a proximate result
28 of his infringement.

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1 52. As evidenced by Defendant's exact copying and prominent use of Two Plus
2 Two's Copyrighted Works to further his business activities, Defendant has infringed upon Two
3 Plus Two's copyrights.

4 53. As a direct and proximate result of such copyright infringement, Two Plus Two
5 has suffered, and will continue to suffer, monetary loss and irreparable injury to its business,
6 reputation, and goodwill.

7 54. Two Plus Two has complied in all respects with the statutory requirements for
8 the creation and enforcement of the Copyrighted Works; therefore Two Plus Two is entitled to
9 an award of statutory damages for Defendant's infringement, or in the alternative, Plaintiff's
10 actual damages and Defendant's profits.

11 55. Defendant's conduct has made it necessary for Two Plus Two to engage the
12 services of legal counsel to file this lawsuit and therefore, Two Plus Two is entitled to an award
13 of reasonable attorneys and costs incurred in connection with this action.

14 FIFTH CLAIM FOR RELIEF

15 (Nevada State Trademark Infringement – N.R.S. § 600.420)

16 56. Two Plus Two incorporates the allegations in the preceding paragraphs as if fully
17 set forth herein.

18 57. Two Plus Two has mark registrations in the State of Nevada for the TWO PLUS
19 TWO Marks.

20 58. Defendant used, without Two Plus Two's consent, reproductions, counterfeits,
21 copies and/or colorful imitations of the TWO PLUS TWO Marks in connection with the sale,
22 offering for sale and/or advertising of Defendant's services.

23 59. Defendant willfully reproduced, counterfeited, copied and/or colorfully imitated
24 the TWO PLUS TWO Marks and applied or caused to be applied that reproduction,
25 counterfeit, copy or colorable imitation to Defendant's services and advertisements for those
26 services.

27
28

1 60. Defendant's use of the TWO PLUS TWO Marks (or reproductions, counterfeits,
2 copies or colorful imitations thereof) is likely to cause confusion or mistake among consumers
3 or result in deception as to the source or origin of such goods and services.

4 61. Unless the Defendant is enjoined and prohibited from continuing to engage in his
5 infringements upon the TWO PLUS TWO Marks, Defendant will continue to infringe upon
6 the TWO PLUS TWO marks.

7 62. As a direct and proximate result of Defendant's trademark infringement, Two
8 Plus Two has suffered, and will continue to suffer, monetary loss and irreparable injury to its
9 business, reputation and goodwill.

10 SIXTH CLAIM FOR RELIEF
11 (Common Law Trademark Infringement)

12 63. Two Plus Two incorporates the allegations in the preceding paragraphs as if fully
13 set forth herein.

14 64. By virtue of having used and continuing to use its trademarks, Two Plus Two has
15 acquired common law rights in those marks.

16 65. Defendant's use of marks identical and/or confusingly similar to Two Plus Two's
17 trademarks infringes Two Plus Two's common law rights in its trademarks, and this use is
18 likely to cause confusion, mistake, or deception among consumers, who will believe that
19 Defendant's services, web site and/or Internet domain name originates from, or is affiliated
20 with, or endorsed by Two Plus Two when, in fact, it is not.

21 66. As a direct and proximate result of Defendant's infringement of Two Plus Two's
22 common law trademark rights under Nevada and other common law, Two Plus Two has
23 suffered, and will continue to suffer, monetary damages and irreparable injury to its business,
24 reputation, and goodwill.

25 SEVENTH CLAIM FOR RELIEF
26 (Deceptive Trade Practices
under N.R.S. § 598.0915)

27 67. Two Plus Two incorporates the allegations in the preceding paragraphs as if fully
28 set forth herein.

1 68. Upon information and belief, in the course of conducting Defendant's business,
2 Defendant knowingly made false representations as to affiliation, connection and/or
3 association with Two Plus Two by using a mark confusingly similar to Two Plus Two's
4 trademarks and otherwise engaged in deceptive trade practices.

5 69. As the direct and proximate result of Defendant's conduct, Two Plus Two has
6 suffered, and will continue to suffer, monetary damages and irreparable injury to its business,
7 reputation, and goodwill.

8 EIGHTH CLAIM FOR RELIEF
9 (Intentional Interference with
Prospective Economic Advantage)

10 70. Two Plus Two incorporates the allegations in the preceding paragraphs as if fully
11 set forth herein.

12 71. Upon information and belief, at the time Defendant adopted and began using
13 Two Plus Two's name and marks and since that time, Defendant knew and has known that
14 Two Plus Two is in the business of providing gaming and poker related publications and online
15 services through its website and Forums.

16 72. Upon information and belief, Defendant committed acts intended or designed to
17 disrupt Two Plus Two's prospective economic advantage arising from advertising and/or
18 providing these services.

19 73. Defendant's actions have disrupted or are intended to disrupt Two Plus Two's
20 business by, among other things, diverting web users away from Two Plus Two's web sites and
21 Forums.

22 74. Defendant has no legal right, privilege or justification for his conduct.

23 75. As a direct and proximate result of Defendant's intentional interference with Two
24 Plus Two's prospective economic advantage, Two Plus Two has suffered, and will continue to
25 suffer, monetary damages and irreparable injury.

26 76. Based on the intentional, willful and malicious nature of Defendant's actions,
27 Two Plus Two is entitled to recover exemplary damages and reasonable attorneys' fees and
28 costs incurred in connection with this action.

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PRAYER FOR RELIEF

WHEREFORE, Two Plus Two respectfully prays that the Court grant the following relief:

A. A preliminary and permanent injunction prohibiting Defendant, his respective officers, agents, servants, employees and/or all persons acting in concert or participation with him, from: (1) using the TWO PLUS TWO Marks or confusingly similar variations thereof, alone or in combination with any other letters, words, letter strings, phrases or designs, in commerce or in connection with any business or for any other purpose (including, but not limited to, on web sites and in domain names); and (2) registering, owning, leasing, selling, or trafficking in any domain names containing the TWO PLUS TWO Marks or confusingly similar variations thereof, alone or in combination with any other letters, words, phrases or designs;

B. A preliminary and permanent injunction requiring the current domain name registrar to transfer the <twoplustwo.me> domain name to Two Plus Two;

C. An award of compensatory, consequential, statutory, and punitive damages to Two Plus Two in an amount to be determined at trial;

D. An award of interest, costs and attorneys' fees incurred by Two Plus Two in prosecuting this action; and

E. All other relief to which Two Plus Two is entitled.

DATED: December 4, 2009.

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