

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

FRANCE.COM, INC., a California corporation,
Plaintiff,

v.

Civil Action No. 1:18-cv-00460

THE FRENCH REPUBLIC, ATOUT FRANCE,
THE MINISTRY FOR EUROPE AND FOREIGN
AFFAIRS, JEAN-YVES LE DRIAN, in his
official capacity as the French Republic's Minister
for Europe and Foreign Affairs, <france.com>, a
domain name, and VERISIGN, INC.,
Defendants.

**DEFENDANTS' ANSWER TO PLAINTIFF'S
FIRST AMENDED COMPLAINT**

Defendants the French Republic, Atout France, the Ministry for Europe and Foreign Affairs, and <france.com> (collectively the "Defendants"), by their attorneys, answer the First Amended Complaint (the "Complaint") as follows:

1. Defendants admit the allegations in paragraph 1 of the Complaint, except deny that the facts alleged in the Complaint establish claims for Cybersquatting, Reverse Domain Name Hijacking, Expropriation, Trademark Infringement, and Federal Unfair Corruption.
2. Paragraph 2 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.
3. Paragraph 3 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.
4. Defendants deny the allegations in paragraph 4 of the Complaint, except admit that the trademark FRANCE.COM is registered with the United States Patent and Trademark Office, which is located at the address stated.

5. Paragraph 5 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

6. Paragraph 6 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

7. Defendants deny the allegations in paragraph 7 of the Complaint.

8. Defendants deny the allegations in paragraph 8 of the Complaint, except admit that the website <france.fr> contains links to websites that may be of interest to people visiting France.

9. Defendants deny the allegations in paragraph 9 of the Complaint.

10. Defendants deny the allegations in paragraph 10 of the Complaint.

11. Defendants deny the allegations in paragraph 11 of the Complaint.

12. Defendants deny the allegations in paragraph 12 of the Complaint.

13. Defendants deny the allegations in paragraph 13 of the Complaint.

14. Paragraph 14 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

15. Paragraph 15 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

16. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of the Complaint and therefore deny the same.

17. Defendants deny the allegations in paragraph 17 of the Complaint.

18. Defendants deny the allegations in paragraph 18 of the Complaint.

19. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 19 of the Complaint and therefore deny the same.

20. Defendants admit the allegations in paragraph 20 of the Complaint.

21. Defendants admit the allegations in paragraph 21 of the Complaint.

22. Defendants admit the allegations in paragraph 22 of the Complaint.

23. Defendants admit the allegations in paragraph 23 of the Complaint, except deny that Minister Jean-Yves Le Drian's registered ownership of the domain name <france.com>, in his official capacity and on behalf of the French Republic, is the result of an unlawful taking.

24. Defendants admit the allegations in paragraph 24 of the Complaint.

25. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 25 regarding VeriSign, Inc.'s state of incorporation and principal place of business and thus deny those allegations and that VeriSign is the administrator and operator of all .com domain names.

26. Defendants deny the allegations in paragraph 26 of the Complaint.

27. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 27 of the Complaint and therefore deny the same.

28. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 28 of the Complaint and therefore deny the same.

29. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 29 of the Complaint and therefore deny the same.

30. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 30 of the Complaint and therefore deny the same.

31. Defendants deny the allegations in paragraph 31 of the Complaint that plaintiff is the current lawful owner of the domain name <france.com>. Defendants deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in the

aforementioned paragraph and therefore deny the same.

32. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 32 of the Complaint and therefore deny the same.

33. Defendants admit the allegations in paragraph 33 of the Complaint.

34. Defendants admit the allegations in paragraph 34 of the Complaint.

35. Defendants admit the allegations in paragraph 35 of the Complaint.

36. Defendants admit the allegations in paragraph 36 of the Complaint.

37. Defendants deny the allegations in paragraph 37 of the Complaint, except admit that the mark FRANCE.COM was registered to Jean-Noel Frydman with the United States Patent and Trademark Office.

38. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 38 of the Complaint and therefore deny the same.

39. Defendants deny the allegations in paragraph 39 of the Complaint.

40. Defendants deny the allegations in paragraph 40 of the Complaint.

41. Defendants deny the allegations in paragraph 41 of the Complaint and refer to the document cited to therein for its contents.

42. Defendants deny the allegations in paragraph 42 of the Complaint and refer to the document cited to therein for its contents.

43. Defendants deny the allegations in paragraph 43 of the Complaint.

44. Defendants deny the allegations in paragraph 44 of the Complaint.

45. Defendants deny the allegations in paragraph 45 of the Complaint.

46. Paragraph 46 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

47. Defendants deny the allegations in paragraph 47 of the Complaint.

48. Defendants admit the allegations in paragraph 48 of the Complaint, except the statement that the French court's decision was in contravention of and hostile to United States law is a legal conclusion as to which no response is required. To the extent a response is deemed required, that allegation is denied.

49. Defendants admit the allegations in paragraph 49 of the Complaint.

50. Paragraph 50 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

51. Defendants deny the allegations in paragraph 51 of the Complaint, except admit that the French Republic informed Web.com of the orders issued by the French courts ordering the transfer of the domain name <france.com>.

52. Paragraph 50 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

footnote 3 and therefore deny the same.

53. Defendants deny the allegations in paragraph 53 of the Complaint.

54. Defendants deny the allegations in paragraph 54 of the Complaint.

55. Defendants deny the allegations in paragraph 55 of the Complaint, except admit that transfer of the domain name <france.com> would have disrupted Plaintiff's use of the domain name.

56. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 56 of the Complaint and therefore deny the same.

57. Defendants deny the allegations in paragraph 57 of the Complaint.

58. Defendants deny the allegations in paragraph 58 of the Complaint and refer to the

document cited therein for its contents.

59. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 59 of the Complaint and therefore deny the same.

60. Defendants admit the allegations in paragraph 60 of the Complaint only insofar as it describes the type of relief Plaintiff seeks in this lawsuit, but deny that Plaintiff is entitled to any of the relief stated therein, that the French Republic engaged in a taking, or that the French Republic harmed Plaintiff in any respect whatsoever.

CAUSES OF ACTION

COUNT I: CYBERSQUATTING

61. Defendants repeat and incorporate by reference each of the answers in paragraphs 1 through 60 above as if fully set forth herein in their entirety.

62. Defendants admit the allegations in Paragraph 62 of the Complaint that Congress passed the Anticybersquatting Protection Act in 1999 and provide no response to the remaining statement which is a legal conclusion as to which no response is required.

63. Paragraph 63 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

64. Defendants deny the allegations in paragraph 64 of the Complaint.

65. Defendants deny the allegations in paragraph 65 of the Complaint.

66. Defendants deny the allegations in paragraph 66 of the Complaint.

67. Defendants deny the allegations in paragraph 67 of the Complaint.

68. Defendants deny the allegations in paragraph 68 of the Complaint.

69. Defendants deny the allegations in paragraph 69 of the Complaint.

70. Defendants deny the allegations in paragraph 70 of the Complaint.

71. Defendants deny the allegations in paragraph 71 of the Complaint.

COUNT II: REVERSE DOMAIN NAME HIJACKING

72. Defendants repeat and incorporate by reference each of the answers in paragraphs 1 through 71 above as if fully set forth herein in their entirety.

73. Paragraph 73 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

74. Defendants deny the allegations in paragraph 74 of the Complaint.

75. Defendants deny the allegations in paragraph 75 of the Complaint.

76. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 76 of the Complaint and therefore deny the same.

77. Defendants deny the allegations in paragraph 77 of the Complaint.

78. Defendants deny the allegations in paragraph 78 of the Complaint.

79. Defendants deny the allegations in paragraph 79 of the Complaint.

80. Defendants deny the allegations in paragraph 80 of the Complaint.

81. Defendants deny the allegations in paragraph 81 of the Complaint.

82. Paragraph 82 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

83. Paragraph 83 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

84. Defendants deny the allegations in paragraph 84 of the Complaint.

85. Defendants deny the allegations in paragraph 85 of the Complaint.

86. Defendants admit the allegations in paragraph 86 of the Complaint, except deny that Web.com's transfer of the domain name <france.com> to the French Republic was in

response to the French Republic's demands.

87. Defendants deny the allegations in paragraph 87 of the Complaint.

88. Paragraph 88 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

89. Paragraph 89 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

90. Defendants deny the allegations in paragraph 90 of the Complaint.

91. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 91 of the Complaint and therefore deny the same.

92. Paragraph 92 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

93. Defendants deny the allegations in paragraph 93 of the Complaint.

94. Defendants deny the allegations in paragraph 94 of the Complaint.

COUNT III: EXPROPRIATION

95. Defendants repeat and incorporate by reference each of the answers in paragraphs 1 through 94 above as if fully set forth herein in their entirety.

96. Defendants deny the allegations in paragraph 96 of the Complaint.

97. Defendants deny the allegations in paragraph 97 of the Complaint.

98. Paragraph 98 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

99. Defendants deny the allegations in paragraph 99 of the Complaint.

100. Defendants deny the allegations in paragraph 100 of the Complaint, except admit that the domain name <france.com> redirects internet users to <france.fr>.

101. Defendants deny the allegations in paragraph 101 of the Complaint.

102. Defendants deny the allegations in paragraph 102 of the Complaint.

103. Defendants deny the allegations in paragraph 103 of the Complaint.

104. Paragraph 104 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

105. Defendants deny the allegations in paragraph 105 of the Complaint.

COUNT IV: TRADEMARK INFRINGEMENT

106. Defendants repeat and incorporate by reference each of the answers in paragraphs 1 through 105 above as if fully set forth herein in their entireties.

107. Paragraph 107 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

108. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 108 of the Complaint and therefore deny the same.

109. Defendants deny the allegations in paragraph 109 of the Complaint.

110. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 110 of the Complaint and therefore deny the same.

111. Paragraph 111 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

112. Paragraph 112 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

113. Paragraph 113 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

114. Defendants deny the allegations in paragraph 114 of the Complaint.

115. Paragraph 115 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

116. Defendants deny the allegations in paragraph 116 of the Complaint.

COUNT V: FEDERAL UNFAIR COMPETITION

117. Defendants repeat and incorporate by reference each of the answers in paragraphs 1 through 116 above as if fully set forth herein in their entireties.

118. Paragraph 118 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

119. Paragraph 119 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is deemed required, the allegation is denied.

120. Defendants deny the allegations in paragraph 120 of the Complaint.

121. Defendants deny the allegations in paragraph 121 of the Complaint.

AFFIRMATIVE DEFENSES

Plaintiff's claims against Defendants are barred in whole or in part by the following Affirmative Defenses. Defendants reserve the right to add or amend their defenses further as additional information is developed through discovery or otherwise.

FIRST AFFIRMATIVE DEFENSE

1. Plaintiff's claims are barred, in whole or in part, because the Court lacks subject matter jurisdiction under the Foreign Sovereign Immunities Act.

SECOND AFFIRMATIVE DEFENSE

2. Plaintiff's claims are barred, in whole or in part, because the Court lacks in rem jurisdiction over the domain name <france.com>.

THIRD AFFIRMATIVE DEFENSE

3. Plaintiff's claims are barred, in whole or in part, under principles of international comity.

FOURTH AFFIRMATIVE DEFENSE

4. Plaintiff's claims are barred, in whole or in part, because the Complaint fails to state any claim against Defendants upon which relief can be granted.

FIFTH AFFIRMATIVE DEFENSE

5. Plaintiff's claims are barred, in whole or in part, because Defendants did not cause the damages alleged in the Complaint.

SIXTH AFFIRMATIVE DEFENSE

6. Plaintiff's claims are barred, in whole or in part, based on the doctrine of unclean hands.

SEVENTH AFFIRMATIVE DEFENSE

7. Plaintiff's claims are barred, in whole or in part, based on the doctrine of estoppel.

EIGHTH AFFIRMATIVE DEFENSE

8. Plaintiff's claims are barred, in whole or in part, because Defendants' conduct was in good-faith and without any willful intent to infringe, at all times.

NINTH AFFIRMATIVE DEFENSE

9. Plaintiff's claims are barred, in whole or in part, because the trademark FRANCE.COM is descriptive.

TENTH AFFIRMATIVE DEFENSE

10. Plaintiff's claims are barred, in whole or in part, because Plaintiff abandoned the trademark FRANCE.COM.

ELEVENTH AFFIRMATIVE DEFENSE

11. Defendants reserve the right to assert additional defenses based on further discovery in this action.

PRAYER FOR RELIEF

For all of the above reasons, Defendants respectfully pray that:

1. Plaintiff's First Amended Complaint be dismissed with prejudice;
2. The Court award Defendants the costs of the suit; and
3. Defendants be awarded with such other and further relief to which it may be justly entitled.

RESPECTFULLY SUBMITTED,

THE FRENCH REPUBLIC, ATOUT
FRANCE, THE MINISTRY FOR EUROPE
AND FOREIGN AFFAIRS, AND
<FRANCE.COM>, A DOMAIN NAME

/s/John P. O'Herron

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domain name*

CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the following:

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