

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

AFILIAS, PLC,

Plaintiff,

v.

ARCHITELOS, INC. AND ALEXA RAAD,

Defendants.

Case No. 1:15-cv-00014-LMB-JFA

**DEFENDANTS' ANSWER, AFFIRMATIVE DEFENSES,
AND COUNTERCLAIMS TO AFILIAS, PLC'S COMPLAINT**

Defendants Architelos, Inc. and Alexa Raad, by and through their undersigned counsel, respectfully submit their Answer, Affirmative Defenses, and Counterclaims in response to Plaintiff Afilias, PLC ("Afilias")'s Complaint ("Complaint") as follows:

NATURE OF THE ACTION

1. Although not an allegation, Defendants deny the statement in paragraph 1 of the Complaint that there is a conspiracy by Defendants and others to misappropriate trade secrets and other confidential information of Afilias.

THE PARTIES

2. Defendants lack information to admit or deny whether Afilias is incorporated under the laws of the Republic of Ireland or has its head office in Dublin, Ireland, and also lack information to admit or deny whether Afilias Canada, Corp. and Afilias USA, Inc. are wholly owned subsidiaries of Plaintiff. On information and belief, Defendants admit that Afilias is a registry operator for several internet domains and provides domain name registry services for

several countries, but lack information to admit or deny whether Afilias is the world's second largest Internet domain name registry with more than 20 million names under management, and therefore deny the same. Defendants deny that Afilias has identified any trade secrets or proprietary information in the Complaint that are owned either directly or indirectly by or through Afilias Canada, Corp. and Afilias USA, Inc.

3. Defendants admit that Architelos is a Delaware corporation headquartered in Leesburg, Virginia. Defendants further admit that Architelos' website offers consulting and managed services for new and existing generic top-level domains, that it was founded in January 2011, and that it has over 30 years of combined experience in building, launching, and managing generic top-level domains. Defendants deny that Architelos is a direct competitor of Afilias.

4. Admitted.

5. Defendants admit that Michael Young was Afilias Canada's Vice-President of Product Development Technology from mid-2008 until he left Afilias. Defendants admit that Michael Young is Architelos' Chief Technology Officer. Defendants admit that Young's biography page on the Architelos website states that he was "a founding member of the management team at Afilias". Defendants deny the remainder of paragraph 5 of the Complaint.

6. On information and belief, Defendants admit that Stephen Van Egmond worked as a consultant to Afilias from August 1, 2006 until January 2010, when worked ceased, resuming only for the month of December 2010. The consulting agreement pursuant to which Van Egmond worked for Afilias was officially terminated in March 2011. Defendants deny the remainder of paragraph 6 of the Complaint.

7. On information and belief, Defendants admit that Tiny Planet Consulting, Inc. is incorporated under the laws of Canada with its head office in Toronto, Ontario, and that Van Egmond is a Director. Defendants deny the remainder of paragraph 7 of the Complaint.

8. On information and belief, Defendants admit that Greg Aaron lives in Pennsylvania, worked as a consultant to and an employee of Afiliias at different time periods, and that his title at Afiliias was Director, Key Account Management and Domain Security. Defendants deny the remainder of paragraph 8 of the Complaint.

9. On information and belief, Defendants admit that Illumintel Inc. is a Pennsylvania corporation and Greg Aaron is its President. Defendants deny the remainder of paragraph 9 of the Complaint.

JURISDICTION AND VENUE

10. Defendants admit that this Court has jurisdiction over this action pursuant to 28 U.S.C. §1332. Defendants admit that Architelos is a Delaware corporation with its principal place of business in this judicial district, and that Defendant Raad is a resident of this judicial district. Defendants lack information sufficient to admit or deny the remaining allegations in paragraph 10 of the Complaint and therefore deny the same.

11. Defendants admit that this Court has personal jurisdiction over Defendants but otherwise deny the allegations in paragraph 11 of the Complaint.

12. Defendants do not contest that venue is proper in this district but otherwise deny the allegations in paragraph 12 of the Complaint.

13. On information and belief, Defendants admit that Michael Young was an employee of Afiliias Canada from approximately October 2002 to February 2011. Defendants

lack information sufficient to admit or deny the remaining allegations in paragraph 13 of the Complaint and therefore deny the same.

14. Defendants admit that Van Egmond worked as a consultant to Afilias from August 1, 2006 until January 2010, when worked ceased, resuming only for the month of December 2010. Defendants lack information sufficient to admit or deny the remaining allegations in paragraph 14 of the Complaint and therefore deny the same.

15. On information and belief, Defendants admit that Greg Aaron worked as a consultant to and employee of Afilias during different time periods. Defendants lack information sufficient to either admit or deny the remaining allegations in paragraph 15 of the Complaint and therefore deny the same.

16. Defendants lack information sufficient to admit or deny each and every allegation contained in paragraph 16 of the Complaint and therefore deny the same.

17. Defendants admit that Young, Van Egmond, and Aaron were hired as employees or contractors by Architelos following their respective departures from Afilias. Defendants admit that Architelos filed European patent application number EP 20130158369, now published as publication No. EP 2,637,387 A1 naming Young, Van Egmond, and Aaron as inventors and entitled "Managing Domain Name Abuse". Defendants admit that Young, Van Egmond, and Aaron filed U.S. Patent application number 13/416,688, entitled "Managing Domain Name Abuse" which issued on January 20, 2015 as U.S. Patent No. 8,938,801, which is assigned to Architelos. Defendants admit that Defendant Raad obtained U.S. Patent No. 8,800,044, entitled "Storing And Accessing Threat Information For Use In Predictive Modeling In A Network Security Service", which is assigned to Architelos. Defendants admit that Raad is also listed as an inventor on European patent application number EP 20120760627, which was published as

publication number 2,689,331 A1, and PCT application number PCT/US2012/028508, entitled “System and Method for Predictive Modeling in a Network Security Service.” Defendants deny all remaining allegations in paragraph 17 of the Complaint.

18. Defendants deny each and every allegation contained in paragraph 18 of the Complaint.

19. Defendants deny each and every allegation contained in paragraph 19 of the Complaint.

COUNT ONE
(ALLEGED MISAPPROPRIATION OF TRADE SECRETS)

20. Defendants hereby incorporate by reference all of their responses to paragraphs 1-19 of the Complaint as if fully set forth herein.

21. Defendants deny each and every allegation contained in paragraph 21 of the Complaint.

22. Defendants deny each and every allegation contained in paragraph 22 of the Complaint.

23. Defendants deny each and every allegation contained in paragraph 23 of the Complaint.

24. Defendants deny each and every allegation contained in paragraph 24 of the Complaint.

25. Defendants deny each and every allegation contained in paragraph 25 of the Complaint.

COUNT TWO
(ALLEGED CONSPIRACY TO INJURE ANOTHER IN TRADE, BUSINESS,
REPUTATION)

26. Defendants hereby incorporate by reference all of their responses to paragraphs 1-25 of the Complaint as if fully set forth herein.

27. Defendants deny each and every allegation contained in paragraph 27 of the Complaint.

28. Defendants deny each and every allegation contained in paragraph 28 of the Complaint.

COUNT THREE

(ALLEGED TORTIOUS INTERFERENCE WITH CONTRACTS)

29. Defendants hereby incorporate by reference all of their responses to paragraphs 1-28 of the Complaint as if fully set forth herein.

30. Defendants lack sufficient information to admit or deny each and every allegation contained in paragraph 30 of the Complaint and therefore deny the same.

31. Defendants deny each and every allegation contained in paragraph 31 of the Complaint.

32. Defendants deny each and every allegation contained in paragraph 32 of the Complaint.

33. Defendants lack sufficient information to admit or deny each and every allegation contained in paragraph 33 of the Complaint and therefore deny the same.

34. Defendants deny each and every allegation contained in paragraph 34 of the Complaint.

35. Defendants deny each and every allegation contained in paragraph 35 of the Complaint.

36. Defendants lack sufficient information to admit or deny each and every allegation contained in paragraph 36 of the Complaint and therefore deny the same.

37. Defendants deny each and every allegation contained in paragraph 37 of the Complaint.

38. Defendants deny each and every allegation contained in paragraph 38 of the Complaint.

39. Defendants lack sufficient information to admit or deny each and every allegation contained in paragraph 39 of the Complaint and therefore deny the same.

40. Defendants deny each and every allegation contained in paragraph 40 of the Complaint.

41. Defendants deny each and every allegation contained in paragraph 41 of the Complaint.

42. Defendants deny each and every allegation contained in paragraph 42 of the Complaint.

COUNT FOUR

(ALLEGED DECLARATORY JUDGMENT – RIGHTS TO PATENT NO. 8,800,044)

43. Defendants hereby incorporate by reference all of their responses to paragraphs 1-42 of the Complaint as if fully set forth herein.

44. Admitted.

45. Defendants deny each and every allegation contained in paragraph 45 of the Complaint.

46. Defendants admit that Defendant Raad invented and subsequently assigned ownership of the '044 patent to Architelos. Defendants deny all remaining allegations contained in paragraph 46 of the Complaint.

47. Defendants deny each and every allegation contained in paragraph 47 of the Complaint.

48. Defendants deny the relief sought in paragraph 48 of the Complaint is proper.

COUNT FIVE

(ALLEGED DECLARATORY JUDGMENT – RIGHTS TO PATENT APPLICATION NO. EP 20130158369)

49. Defendants hereby incorporate by reference all of their responses to paragraphs 1-48 of the Complaint as if fully set forth herein.

50. Admitted.

51. Defendants deny each and every allegation contained in paragraph 51 of the Complaint.

52. Defendants admit that Architelos owns the rights to European patent application number EP 20130158369. Defendants deny all remaining allegations contained in paragraph 52 of the Complaint.

53. Defendants deny each and every allegation contained in paragraph 53 of the Complaint.

54. Defendants deny the relief sought in paragraph 54 of the Complaint is proper.

COUNT SIX

(ALLEGED DECLARATORY JUDGMENT – RIGHTS TO PATENT APPLICATION NO. EP 20120760627)

55. Defendants hereby incorporate by reference all of their responses to paragraphs 1-54 of the Complaint as if fully set forth herein.

56. Defendants admit that Defendant Raad is an inventor of European patent application number EP 20120760627, entitled “System and Method for Predictive Modeling in a Network Security Service” and that she is properly listed as an inventor on that application.

57. Defendants deny each and every allegation contained in paragraph 57 of the Complaint.

58. Defendants deny each and every allegation contained in paragraph 58 of the Complaint.

59. Defendants deny each and every allegation contained in paragraph 59 of the Complaint.

60. Defendants deny the relief sought in paragraph 60 of the Complaint is proper.

COUNT SEVEN

(ALLEGED DECLARATORY JUDGMENT – RIGHTS TO PATENT APPLICATION CA 2866822)

61. Defendants hereby incorporate by reference all of their responses to paragraphs 1-60 of the Complaint as if fully set forth herein.

62. Defendants admit that Defendant Raad is the inventor of Canadian patent application number CA 2866822, entitled “System and Method for Predictive Modeling in a Network Security Service” and that she is properly listed as an inventor on that application.

63. Defendants deny each and every allegation contained in paragraph 63 of the Complaint.

64. Defendants deny each and every allegation contained in paragraph 64 of the Complaint.

65. Defendants deny each and every allegation contained in paragraph 65 of the Complaint.

66. Defendants deny the relief sought in paragraph 66 of the Complaint is proper.

COUNT EIGHT

(ALLEGED DECLARATORY JUDGMENT – RIGHTS TO PATENT APPLICATION 13/416,688)

67. Defendants hereby incorporate by reference all of their responses to paragraphs 1-66 of the Complaint as if fully set forth herein.

68. Defendants admit that it is the owner by assignment of the subject matter of U.S. Patent Application No. 13/416,688, which issued on January 20, 2015, entitled “Managing Domain Name Abuse” and showing Architelos as assignee.

69. Defendants deny each and every allegation contained in paragraph 69 of the Complaint.

70. Defendants deny each and every allegation contained in paragraph 70 of the Complaint.

71. Defendants deny each and every allegation contained in paragraph 71 of the Complaint.

72. Defendants deny the relief sought in paragraph 72 of the Complaint is proper.

COUNT NINE
(ALLEGED CONVERSION)

73. Defendants hereby incorporate by reference all of their responses to paragraphs 1-72 of the Complaint as if fully set forth herein.

74. Defendants deny each and every allegation contained in paragraph 74 of the Complaint.

75. Defendants deny each and every allegation contained in paragraph 75 of the Complaint.

COUNT TEN
(ALLEGED CIVIL CONSPIRACY)

76. Defendants hereby incorporate by reference all of their responses to paragraphs 1-75 of the Complaint as if fully set forth herein.

77. Defendants deny each and every allegation contained in paragraph 77 of the Complaint.

78. Defendants deny each and every allegation contained in paragraph 78 of the Complaint.

79. Defendants deny each and every allegation contained in paragraph 79 of the Complaint.

80. Defendants deny each and every allegation contained in paragraph 80 of the Complaint.

81. Defendants deny each and every allegation contained in paragraph 81 of the Complaint.

82. Defendants deny each and every allegation contained in paragraph 82 of the Complaint.

RESPONSE TO PRAYER FOR RELIEF

Defendants deny that Plaintiff is entitled to any of the relief it seeks. Plaintiff's prayer for relief therefore should be denied in its entirety and with prejudice.

AFFIRMATIVE DEFENSES

In addition to the defenses described below, Defendants expressly reserve the right to allege additional defenses as they become known through the course of discovery.

First Defense

(No Misappropriation of Trade Secrets)

83. Afilias has failed to identify with reasonable particularity any purported trade secrets or confidential information allegedly misappropriated by Defendants. Afilias has also failed to identify with reasonable particularity when, where, and how the purported trade secrets or confidential information were misappropriated, and by whom. Afilias also has failed to show

that any purported trade secrets or confidential information were protected from public disclosure, or not otherwise known publicly.

Second Defense

(No Conspiracy to Injure Another in Trade, Business, Reputation)

84. Afilias has failed to identify how Defendants conspired with anyone with the specific intent to injure Afilias in any way. Afilias does not identify any trade secrets or confidential information that was purportedly misappropriated as set forth in paragraph 83 of this Answer.

85. Afilias cannot show actions of Defendants caused any lost profits, loss of trade, loss of goodwill, or any damage to its business or reputation. As Afilias failed to plead with reasonable particularity any purported trade secrets or confidential information that was allegedly misappropriated, as set forth above in paragraph 83, there can be no damages as alleged in Count Two of the Complaint.

Third Defense

(No Tortious Interference with Contracts)

86. Afilias has failed to identify with reasonable particularity any purported trade secrets or confidential information it alleges were misappropriated by Defendants. Afilias has also failed to identify with reasonable particularity when, where, and how the purported trade secrets or confidential information were misappropriated, and by whom, as set forth above in paragraph 83.

87. Defendants maintains that even if they were aware of any purported agreements between Afilias and Young, Van Egmond, Aaron, Tiny Planet, and/or Illumintel, Count Three is unupportable because Defendants did not have the specific intent to interfere with any such

agreements because Afilias has not identified with reasonable particularity any purported trade secrets or confidential information that Defendants allegedly induced anyone to disclose in violation of said agreements.

Fourth Defense

(The Claims for Declaratory Relief are Improper)

88. Because Afilias has failed to identify with reasonable particularity any purported trade secrets or confidential information it alleges were misappropriated by Defendants, and because it has also failed to identify with reasonable particularity when, where, and how the purported trade secrets or confidential information were misappropriated, and by whom, as set forth above in paragraph 83, any demand for declaratory relief such as found in Counts Four, Five, Six, Seven, and Eight is improper. The Court cannot declare any ownership rights over unidentified trade secrets and confidential information.

Fifth Defense

(No Conversion)

89. Afilias has failed to identify with reasonable particularity any purported trade secrets or confidential information it alleges were misappropriated by Defendants. Afilias has also failed to identify with reasonable particularity when, where and how the purported trade secrets or confidential information were misappropriated, and by whom, as set forth above in paragraph 83. Afilias cannot show that Architelos converted any such trade secrets and confidential information because it could not wrongfully acquire something that does not exist.

Sixth Defense

(No Civil Conspiracy)

90. Afilias has failed to identify any purported trade secrets or confidential information it alleges were misappropriated by Defendants. Afilias has also failed to identify with reasonable particularity when, where, and how the purported trade secrets or confidential information were misappropriated, and by whom, as set forth above in paragraph 83. Afilias cannot show that Defendants conspired with anyone, including Young, Van Egmond, Aaron, Tiny Planet, Illumintel, with the specific intent to misappropriate such purported trade secrets or confidential information of Afilias.

91. Afilias cannot show that Defendants undertook or combined with others with the specific intent to injure Afilias, to intentionally or purposefully interfere with any contracts, to violate the Virginia Uniform Trade Secrets Act, or to maliciously injure Afilias in its trade or profession. As such, there are also no damages including lost profits, loss of trade, loss of goodwill, or business reputation.

Seventh Defense

(Preemption)

92. Afilias' claim of misappropriation of trade secrets and confidential information is preempted by the Virginia Uniform Trade Secrets Act.

Eighth Defense

(Unclean Hands)

93. Afilias' claims should be barred and dismissed under the doctrine of unclean hands based on Afilias' purposeful attempt to prevent issuance of U.S. Patent No. 8,938,801 through willful misrepresentations to the U.S. Patent and Trademark Office regarding Afilias' purported ownership of the subject matter of that patent.

94. On March 9, 2012, U.S. patent application serial number 13/416,688 (“the ‘688 application”) was filed in the U.S. Patent and Trademark Office (“PTO”). On July 27, 2012, a combined declaration and power of attorney was submitted to the PTO naming Young, Van Egmond, and Aaron as inventors, and appointed power of attorney to prosecute the patent application to customer number 27,623, which is associated with the law firm of Ohlandt, Greely, Ruggiero & Perle, L.L.P. Since that filing, the prosecution of the ‘688 application was handled exclusively by Ohlandt, Greely, Ruggiero & Perle, L.L.P on behalf of the inventors. A notice of Allowance was issued by the PTO for the ‘688 application on September 26, 2014.

95. On September 25, 2014, counsel for Afilias filed a series of unauthorized documents with the PTO without any notice to Architelos, the inventors, or Ohlandt, Greely, Ruggiero & Perle, L.L.P. Among those documents were a Patent Assignment Cover Sheet listing the inventors as the conveying party, and Afilias USA, Inc., Afilias Canada Corp., and Afilias Ltd. as the receiving party, and an Affidavit of Scott Hemphill, General Counsel for Afilias, which asserted that upon information and belief the inventors were under an obligation to assign the ‘688 application to Afilias USA, Inc. and/or its member companies in view of appended agreements, found in the U.S. Patent and Trademark Assignment Database at reel 033819, frame 0001 through 0071. However, there was no executed assignment from any of the three inventors Young, Van Egmond, and Aaron to Afilias. This September 25, 2014 filing by Afilias failed to demonstrate that Afilias has any ownership interest in the ‘688 application.

96. Following the PTO’s issuance of the Notice of Allowance, a search of the PTO assignment database revealed the unauthorized filing by Afilias, and on December 4, 2014, in order to ensure that the improper assignee would not be included on the patent when it issued from the ‘688 application, an assignment document assigning the ‘688 application from the

inventors to Architelos was filed and recorded at the PTO, and is found on the PTO Assignment Database at reel 034380, frame 0171.

97. On December 8, 2014, another assignment document executed by Scott Hemphill on behalf of Afilias USA, Inc., Afilias Canada Corp. and Afilias PLC was recorded, and can be found on the PTO Patent Assignment Database at reel 034436, frame 0243. However, as before, Afilias did not show any ownership interest in the '688 application.

98. The next day, on December 9, 2014, two further sets of unauthorized documents were filed by counsel for Afilias in the prosecution file of the '688 application. The first was a "Power of Attorney" and the second was an "Issue Fee Payment." In addition, on December 9, 2014, two Electronic Acknowledgement Receipts were generated following the unauthorized submissions and entered into the formal prosecution history file wrapper of the '688 application. The Electronic Acknowledgement Receipts indicated that the filer of these unauthorized documents was Jeffrey A. Wolfson. Mr. Wolfson is an attorney with the law firm of Haynes & Boone in Washington, D.C. Mr. Wolfson is not, and has never been, an attorney for the inventors or assignee Architelos.

99. Mr. Wolfson's attempts to commandeer prosecution and assignment of the '688 application, and payment of the issue fee for the '688 application, improperly interfered with the authorized prosecution and issuance of the '688 application. Mr. Wolfson's actions were undertaken without notice to the inventors, assignee Architelos, or the authorized representatives of the law firm of Ohlandt, Greely, Ruggiero & Perle, L.L.P.

100. On December 10, 2014, a Letter was filed by Ohlandt, Greely, Ruggiero & Perle, L.L.P, along with a Power of Attorney from the assignee, Architelos, again making clear that customer number 27,623 was authorized to prosecute the '688 application. The Letter also

contained a Statement under pre-AIA (“America Invents Act”), 37 C.F.R. §3.73(b), from assignee Architelos. The Statement set forth the conflicting 37 C.F.R. §3.73(b) statements from Architelos and Afilias regarding the ‘688 application pursuant to the Manual of Patent Examining Procedure (“MPEP”) §324 IX, required due to the unauthorized interference from Mr. Wolfson and Afilias.

101. The PTO’s Office of Patent Legal Administration (“OPLA”) was then tasked to consider the facts, and on December 30, 2014, issued its decision establishing that the proper power of attorney for the ‘688 application was vested in customer number 27,623 (the Ohlandt, Greely, Ruggiero & Perle, L.L.P. law firm) and stating that no other powers of attorney would be accepted in the ‘688 application. The OPLA decision also revoked any power of attorney to any Afilias-appointed attorneys, and returned the payment that Afilias made toward the issue fee for the ‘688 application.

102. An Issue Notification was issued by the PTO on December 30, 2014, indicating that the ‘688 application would issue on January 20, 2015.

103. On January 8, 2015, Afilias filed a Petition under 37 C.F.R. § 1.182 and MPEP §1002.02(b)(8), again without notice to the inventors, Architelos, or Ohlandt, Greely, Ruggiero & Perle, L.L.P., Architelos only became aware of the Afilias Petition by monitoring the PTO’s PAIR system following the institution of the present lawsuit. Afilias’ Petition was deficient in several respects as set forth in Architelos’ Response to the Afilias Petition filed January 13, 2015.

104. In its Response to the Afilias Petition, Architelos noted that a product had been marketed by Architelos for approximately two years, as well as the fact that the ‘688 application was published over a year before Afilias made its unauthorized attempts to interfere with the

'688 application's issuance. By its own admission, Afilias was aware of the '688 application at least as early as May of 2014. Further, while Afilias filed a lawsuit in Canada against all of the inventors in September 2014, it did not serve that Complaint until December 2014, at about the same time Afilias first attempted to commandeer prosecution of the '688 application through payment of the issue fee. Architelos further explained that any irreparable harm would be to Architelos, not Afilias, should the '688 application not be permitted to issue on January 20, 2015, as the Architelos product that is the subject of the '688 application is its primary product, and that Afilias has no such product and is at least thirty times the size of Architelos.

105. Ultimately the PTO agreed that Afilias was not authorized to submit papers in the '688 Application, and issued U.S. Patent No. 8,938,801, on January 20, 2015, naming Architelos as the assignee.

106. Afilias' repeated efforts to hinder issuance of the '688 application, coupled with its misrepresentations before the PTO, were designed to improperly deny Architelos of its patent rights, and should bar Afilias from using this lawsuit and this Court for the improper purpose of further interfering with and disrupting Architelos' lawful business operations.

107. Afilias has also filed U.S. Patent Application Serial No. 14/566,351, claiming priority to Architelos' '801 patent. The application was filed on December 10, 2014, claiming that Afilias is the proper assignee, but without submitting any executed assignment agreements from inventors Young, Van Egmond and Aaron in support, which documents do not in any case exist. Further, the application was filed without notice to the inventors, Architelos, or its prosecution counsel.

Ninth Defense

(Statute of Limitations)

108. Afilias' claims are barred by the statute of limitations.

Tenth Defense

(Laches)

109. Afilias' claims are barred under the equitable defense of laches.

Eleventh Defense

(Equitable Estoppel)

110. Afilias' claims are barred by the equitable defense of equitable estoppel.

COUNTERCLAIMS OF DEFENDANTS

Counterclaimants Architelos, Inc. and Alexa Raad allege as follows for their

Counterclaims against Plaintiff:

THE PARTIES

111. Counterclaimant Architelos Inc. is a Delaware corporation having its principal place of business in Leesburg, Virginia.

112. Counterclaimant Alexa Raad is a resident of Leesburg, Virginia.

113. Counterclaim-Defendant Afilias PLC, a/k/a Afilias Limited, is incorporated under the laws of the Republic of Ireland, with its head office in Dublin, Ireland as noted in paragraph 2 of the Complaint.

JURISDICTION AND VENUE

114. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1332 because there is complete diversity among the parties and the amount in controversy exceeds \$75,000 as noted in paragraph 10 of the Complaint, and because Plaintiff brought this action here. This Court has jurisdiction over the Declaratory Judgment Counterclaims pursuant to 28 U.S.C. § 2201.

115. Venue is proper in this district pursuant to 28 U.S.C. §1391.

FACTUAL BACKGROUND

116. Architelos and Raad hereby incorporate by reference all of their responses to paragraphs 1-115 of the Complaint as if fully set forth herein.

117. Defendant Architelos was co-founded in January 2011, by Defendant Alexa Raad. The company now employs three people and approximately 6 independent contractors that primarily provide management consulting services with respect to the building, launching, and management of top-level domain names (“TLDs”) and provide various services to domain name owners, such as its Name Sentry anti-abuse service.

118. On March 23, 2011, Alexa Raad filed U.S. Patent Application Serial No. 13/069,929 with the U.S. Patent and Trademark Office entitled “Storing and Accessing Threat Information for Use in Predictive Modeling in a Network Security Service” which was first published on September 27, 2012, and later issued as U.S. Patent No. 8,800,044 on August 5, 2014, listing Ms. Raad as the sole inventor.

119. Architelos provides its clients with various services including competitive market analysis and strategies, assessment of potential market entrants, review of client financial systems including forecasting and revenue calculations, and domain name abuse prevention and security.

120. Architelos’ NameSentry anti-abuse service is a commercial service that Architelos offers that tracks and indexes various data to identify abuse domains that engage in fraudulent, illegal or harmful activity such as phishing and malware.

121. The NameSentry service is an important and valuable revenue stream for Architelos, and Architelos spent considerable time and money to build this service and bring it to market.

122. The NameSentry service is protected by U.S. Patent No. 8,938,801 (“the ‘801 patent”).

123. The ‘801 patent issued on January 20, 2015, assigned to Architelos and naming Young, Van Egmond and Aaron as inventors. The ‘801 patent matured from U.S. Patent Application Serial Number 13/416,688 filed on March 9, 2012, and was first published on September 12, 2013.

124. Counterclaim-Defendant Afilias is a top-level domain name registry that upon information and belief employs approximately one hundred people of people and has annual revenues in 2013 of approximately \$77 million.

125. Concerned that Architelos was making advances in its security services business, Afilias concocted a scheme to commandeer the work of Architelos’ inventors by claiming that the Architelos patents contained Afilias trade secrets and other proprietary information.

126. As part of its scheme, Afilias engaged the Canadian law firm Gowlings to file an assignment document with the U.S. Patent and Trademark Office in which Afilias claimed ownership of the subject matter of the ‘688 application based only on unsigned employment agreements of Young, Van Egmond, and Aaron, and the Declaration of Afilias’ General Counsel, Scott Hemphill. Gowlings, with approval of Afilias’ general counsel, represented Young, Van Egmond, and Aaron on the original filing of the ‘688 application for Architelos, but are now representing Afilias and were involved in Afilias’ attempt to commandeer ownership of the ‘688 application before the U.S. Patent & Trademark Office.

127. In furtherance of this scheme, Afilias engaged the Washington, D.C. office of Texas-based law firm Haynes & Boone, the same counsel representing Afilias in this lawsuit, to file a series of unauthorized documents in the USPTO without notice to Architelos, the inventors, or Architelos' prosecution counsel as set forth in paragraphs 94-107 above, in order to commandeer the prosecution and ownership of the '688 application and deprive Architelos of ownership of its patent rights and interfere with and damage Architelos' business operations.

128. On December 10, 2014, Afilias filed a continuation patent application (No. 14/566,351) claiming priority to the Architelos '801 patent, again without notice to Architelos, the inventors, or Architelos' prosecution counsel. Architelos has filed a protest to the Afilias application in the PTO. Architelos is not yet aware which law firm filed this unauthorized application in the PTO.

129. This scheme to divert Architelos' resources and revenues to defend against Afilias' attempts to deprive Architelos of its patents and cast doubt on its right, title, and interest in that intellectual property has damaged, and continues to damage Architelos' business operations through diversion of resources and time, and well as damage to Defendants' good will, and reputation in the industry.

FIRST COUNTERCLAIM
(TORTIOUS INTERFERENCE WITH CONTRACT)

130. Counterclaimants incorporate by reference paragraphs 1-129 as if fully contained herein.

131. According to the Complaint, Afilias was aware of Architelos' pending '688 patent application by May of 2014.

132. Since at least that time, on information and belief, Afilias was also aware of Architelos' NameSentry service, that Architelos had several subscribers to this service, that

Architelos marketed the NameSentry service in the industry, that Architelos derives important revenues through its NameSentry service, and that security services are an important portion of Architelos' business.

133. Afilias was aware that by instituting this lawsuit, a parallel lawsuit in Canada, and by making unauthorized submissions to the USPTO to attempt to commandeer ownership and prosecution of the '688 patent, Architelos' ownership of this intellectual property would be called into doubt, that it would negatively impact the existing contracts Architelos had with its NameSentry clients, and that it would distract Architelos from its business by diverting resources in defending the vexatious legal proceedings.

134. Afilias' conduct has damaged Architelos by publicly casting doubt on Architelos' ownership of its intellectual property, and therefore impacting the value of Architelos' portfolio, the value of its products and services to its existing customers, and its good will in the market.

SECOND COUNTERCLAIM
(TORTIOUS INTERFERENCE WITH EXISTING CONTRACT, CONTRACT EXPECTANCY, PROSPECTIVE BUSINESS RELATIONSHIP AND ECONOMIC ADVANTAGE)

135. Counterclaimants incorporate by reference paragraphs 1-134 as if contained herein.

136. Afilias is aware of Architelos' NameSentry service, that Architelos has several subscribers to this service, that Architelos markets the service in the industry, and that Architelos derives important revenues through its NameSentry service, and that security services are an important portion of Architelos' business.

137. Afilias knew or reasonably should have known that by instituting this lawsuit, a parallel lawsuit in Canada, and by making unauthorized submissions to the USPTO to attempt to commandeer ownership and prosecution of the '688 patent, Architelos' ownership of this

intellectual property would be called into doubt, that it could negatively impact any future contracts Architelos was seeking to secure for its NameSentry clients, and that it would distract Architelos from its business by diverting resources in defending the vexatious legal proceedings.

138. Afilias' conduct has damaged Architelos by casting doubt on Architelos' ownership of its intellectual property, and therefore impacting the value of Architelos' portfolio and the value of its products and services to its prospective customers and investors.

THIRD COUNTERCLAIM
(SLANDER OF TITLE)

139. Counterclaimants incorporate paragraphs 1-138 as if fully set forth herein.

140. By publicly submitting to the U.S. Patent and Trademark Office false assignment documents in an attempt to commandeer ownership of U.S. Patent Application Serial No. 13/416,688, as well as information regarding the initiation of this lawsuit, Afilias slandered Architelos' title to the subject matter of the '688 application.

141. Afilias knew that by submitting to the U.S. Patent and Trademark Office purported assignment documents in an attempt to commandeer ownership of U.S. Patent Application Serial No. 13/416,688, its claims of ownership over the subject matter of that application would be publicly available to those in the industry.

142. Afilias knew that once those in the industry became aware of Afilias' claims of ownership of the subject matter of the '688 application, such would be a disparagement of Architelos' title to the subject matter of the '688 application, and Defendants reputation would be damaged in the industry as a result.

143. Afilias' conduct before the PTO was done maliciously, with the intent to disparage Architelos' title to its intellectual property.

FOURTH COUNTERCLAIM
(CONVERSION)

144. Counterclaimants incorporate paragraphs 1-143 as if fully set forth herein.

145. By directing the December 10, 2014 submission to the U.S. Patent & Trademark Office of U.S. Patent Application Serial No. 14/566,351, claiming priority to Architelos U.S. Patent No. 8,938,801, Afilias has commandeered possession of the prosecution and claim of ownership of subject matter that Architelos owns, and seeks to willfully deprive Architelos of its valuable intellectual property, thereby damaging Architelos by forcing it to defend against the unauthorized submission, incur costs in petitioning the PTO in response to Afilias' unauthorized submissions, calling into doubt Architelos' ownership of this valuable intellectual property, to negatively impacting Architelos' business and good will in the marketplace.

FIFTH COUNTERCLAIM
(DECLARATORY JUDGMENT)

146. Counterclaimants incorporate paragraphs 1-145 as if fully set forth herein.

147. There is an actual and substantial controversy between Afilias and Defendants about the ownership of U.S. Patent Nos. 8,800,044 and 8,938,801, and all related or continuing applications claiming priority thereto, as well as patent application numbers EP 20130158369 and EP 20120760627, Canadian patent application number CA 2866822.

RELIEF

WHEREFORE, Counterclaimants seek an order granting the following relief:

1. A Declaration that Afilias has no right, title or interest in U.S. Patent Nos. 8,800,044 and 8,938,801, and all related or continuing applications claiming priority thereto, as well as patent application numbers EP 20130158369 and EP 20120760627, Canadian patent application number CA 2866822, and that Architelos is the correct owner of that intellectual property;

2. An order granting all appropriate compensatory and punitive damages to compensate Architelos for Afiliás' tortious interference with its existing contracts and prospective business advantages, and common law and statutory conspiracy to damage Architelos through the conversion of its intellectual property, as well as the costs of having to defend against the unauthorized actions of Afiliás before the PTO and this lawsuit and to vindicate its ownership of the Architelos intellectual property, and for the loss of sales and good will in the marketplace due to Afiliás' intentional interference with its customers and potential customers through this vexatious litigation and unauthorized submissions to the PTO, including but not limited to damages pursuant to Virginia Code §§ 59.1-338(B) and 18.2-500;
3. An order granting Defendants their costs in defending this lawsuit;
4. An order requiring Afiliás to pay any pre- and/or post-judgment interest;
5. All appropriate attorneys' fees to compensate for defense against Afiliás' vexatious and baseless litigation misconduct under any applicable rule or statute including but not limited to Virginia Code § 59.1-338.1, Federal Rules of Civil Procedure 11, 28 U.S.C. § 1927, or the court's inherent powers;
6. Any other relief as this Court deems just and proper.

DEMAND FOR JURY TRIAL

Defendants demand trial by jury on all issues so triable.

Dated: March 13, 2015

Respectfully submitted,

/s/ Alan A. Wright

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**COUNSEL FOR DEFENDANTS
ARCHITELOS, INC. AND
ALEXA RAAD**

CERTIFICATE OF SERVICE

I hereby certify that on March 13, 2015, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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