

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

<b>CHRISTOPHER KELLY</b>	:	
Plaintiff,	:	CIVIL ACTION
v.	:	
	:	No. 3:22-cv-06406
	:	
	:	
	:	
	:	
<b>MALCOLM BAXTER III</b>	:	
	:	
Defendant;	:	
	:	

Plaintiff Christopher Kelly (“Plaintiff”), by and through its attorneys, Kang Haggerty LLC, files this Complaint against Malcolm “Duke” Baxter (“Defendant”), and alleges, on knowledge as to his own actions, and otherwise upon information and belief, as follows:

**PRELIMINARY STATEMENT**

1. This is an action for declaratory judgment and reverse hijacking arising from Defendant’s unlawful and improper attempt to transfer the domain name www.baseballcoachtraining.com (the “Domain Name”) and for injunctive relief to halt and reverse the order of transfer of the Domain Name.
2. Plaintiff seeks injunctive and monetary relief.

**JURISDICTION**

3. This court has jurisdiction over this action pursuant to 15 U.S.C. § 1121, 28 U.S.C. §§ 1331 and 1338, and pursuant to the principles of supplemental jurisdiction under 28 U.S.C. § 1367. Defendant is a resident of this State and conducts business regularly here.

### **VENUE**

4. Venue is proper in this district under 28 U.S.C. § 1391 in that Defendant resides in this district and a substantial part of the events or omissions giving rise to the claim occurred in this district.

### **PARTIES**

5. Plaintiff is an individual who at the time of registration of the Domain Name had a business address in Edison, NJ.

6. Upon information and belief, Defendant is an individual who resides in Bridgewater, NJ and has a business address of 24 Kearney Street, Bridgewater, NJ 08807.

### **FACTS**

7. Plaintiff is the principal of a company called Agape Development Services (“Agape”) through which Plaintiff provides business development, marketing, and other services and partnerships to and with clients.

8. Plaintiff is the owner of the Domain Name since 2017.

9. Plaintiff has also been the owner of the following domain names for years:

- (a) [www.baseballcoachtraining.org](http://www.baseballcoachtraining.org)
- (b) [www.baseballcoachtraining.net](http://www.baseballcoachtraining.net)
- (c) [www.baseballcoachtraining.info](http://www.baseballcoachtraining.info)
- (d) [www.baseballcoachtraining.co](http://www.baseballcoachtraining.co)
- (e) [www.baseballcoachtraining.us](http://www.baseballcoachtraining.us)

10. Plaintiff properly registered and used the Domain Name.

11. Plaintiff registered the Domain Name with the registrar GoDaddy (the “Registrar”). Defendant is currently the registrant of the Domain Name. Attached hereto as Exhibit A is a true and correct copy of the WHOIS record for the Domain Name identifying Plaintiff as the owner of the Domain Name.

12. Defendant is the principal of a company called Zoned Inc., which entered into a joint venture with Agape. Zoned breached the parties’ agreement by, among other things, preventing Agape’s access, precluding Agape’s performance, and failing to pay Agape its distributions of income.<sup>1</sup>

13. Instead of performing under the parties’ joint venture (or, exercising the mediation/arbitration provision in the parties’ contract), Defendant covertly and based on various misrepresentations, sought to reverse hijack the Domain Name by filing a Uniform Domain Dispute Resolution Policy (“UDRP”) complaint.

14. Defendant made various misrepresentations in the UDRP action, including that Defendant had a trademark on the Domain Name and concealing the joint venture between Plaintiff and Defendant.

15. Plaintiff was unaware of the UDRP action primarily due to Plaintiff being out of the United States for medical care during the pendency of the UDRP action. As such, a default Decision was rendered in Defendant’s favor.

---

<sup>1</sup> Agape intends to exercise its rights under the parties’ joint venture agreement by filing an arbitration action.

16. Plaintiff lawfully registered and used the Domain Name at all times in connection with Plaintiff's business activities and the joint venture between the parties.

17. The Domain Name is not the same as or even similar to any trademark of Defendant.

18. To the contrary, the Domain Name is generic in nature.

19. Upon information and belief, Defendant's acts alleged herein are improper and in bad faith, intending to take property of Plaintiff and preclude Plaintiff from receiving the benefit of his business' bargain in the joint venture between the parties' companies.

20. Defendant's acts are causing, and unless restrained, will continue to cause damage and immediate irreparable harm to Plaintiff for which Plaintiff has no adequate remedy at law.

21. The Defendant and Registrar have been notified of Plaintiff's intent to file this claim prior to the transfer of the Domain to Defendant.

### **COUNT ONE**

#### **Declaratory Judgment**

22. Plaintiff repeats and realleges the foregoing paragraphs as if fully set forth herein.

23. Plaintiff owns all rights in and to the Domain Name, which was registered and used in compliance with law.

24. Defendant has caused, or attempted to cause, the transfer of the Domain Name despite:

- (a) Plaintiff's lawful registration and use; and
- (b) Defendant's misrepresentations in the UDRP matter.

25. There is a justiciable controversy between Plaintiff and Defendant.

26. To resolve this actual controversy, Plaintiff seeks a declaration and judgment that its registration and use of the Domain Names is a good faith use, and a cancellation of any transfer of the Domain Name pursuant to the UDRP matter.

27. A determination under the UDRP may be reviewed by a court of competent jurisdiction *de novo*.

28. Defendant's conduct is directly and proximately causing substantial, immediate, and irreparable harm and injury to Plaintiff, and to its goodwill and reputation, and will continue to damage Plaintiff unless enjoined by this court. Plaintiff has no adequate remedy at law.

29. Plaintiff is entitled to injunctive relief pursuant to 15 U.S.C. §§ 1116, 15 U.S.C. § 1114, and 1125(d)(1)(C), including, among other injunctive relief, enjoining any transfer of the Domain Name to Defendant or transferring the Domain Name back to Plaintiff.

30. Plaintiff is further entitled to recover its damages based on Defendant's misrepresentations that led to the UDRP decision and covert "run around" of the parties' businesses' agreement.

**COUNT TWO**

**Reverse Hijacking**

15 U.S.C. § 1114

31. Plaintiff repeats and realleges the foregoing paragraphs as if fully set forth herein.

32. Plaintiff owns all rights in and to the Domain Name, which was registered and used in compliance with law.

33. Defendant has caused, or intended to cause, the transfer of the Domain Name despite:

- (a) Plaintiff's lawful registration and use; and
- (b) Defendant's misrepresentations in the UDRP matter.

34. Significantly, Defendant sought to obtain transfer of the Domain by misrepresenting his ownership of the domain and the nature of the joint venture between the parties.

35. These representations were material, as they misled the administrator and Registrar into initiating a transfer of the Domain.

36. Defendant's conduct is directly and proximately causing substantial, immediate, and irreparable harm and injury to Plaintiff, and to its goodwill and reputation, and will continue to damage Plaintiff unless enjoined by this court. Plaintiff has no adequate remedy at law.

37. Plaintiff is entitled to injunctive relief pursuant to 15 U.S.C. §§ 1116 and 1125(d)(1)(C), including the transfer of the Domain Name to Plaintiff.

38. Plaintiff is further entitled to recover its damages based on Defendant's misrepresentations that led to the UDRP decision and covert "run around" of the parties' businesses' agreement.

WHEREFORE, Plaintiff requests judgment against Defendant as follows:

- A. That Defendant has violated 15 U.S.C. § 1125 and 15 U.S.C. § 1114.

- B. Declaring that Plaintiff is the lawful owner of the Domain and requiring the transfer of the Domain Name to revert to Plaintiff;
- C. Ordering that the Registrar, upon Plaintiff's request, transfer registration of the Domain Name to Plaintiff or cease any transfer of it to Defendant.
- D. Ordering Defendant, if he has unlawfully obtained registration of the Domain, to transfer to Plaintiff registration of the Domain Name within ten (10) days.
- E. Enjoining the Defendant and its agents and affiliates from owning, registering, trafficking in, or otherwise using any of the Domain Names.
- F. Awarding Plaintiff actual damages from Defendant's misuse of the Domain and the UDRP,
- G. Awarding Plaintiff attorney's fees;
- H. Awarding such other and further relief as the Court deems just and proper.

Respectfully submitted,

KANG HAGGERTY LLC

By: /s/ Jacklyn Fetbroyt  
Jacklyn Fetbroyt  
Kyle Garabedian  
123 South Broad Street, Suite 1670  
Philadelphia, PA 19109  
P: (215)-525-5850  
F: (215)-525-5860  
kgarabedian@kanghaggerty.com  
*Attorney for Plaintiff*

Dated: November 1, 2022

**EXHIBIT 1**

**Registration**

**Domain Name WHOIS Record**



# EXHIBIT 1



Enter Domain or IP

WHOIS

- DOMAINS
- WEBSITE
- CLOUD
- HOSTING
- SERVERS
- EMAIL
- SECURITY
- WHOIS
- SUPPORT
- LOGIN
- 0

# baseballcoachtraining.com

Updated 1 day ago

Interested in similar domains?

## Domain Information

Domain:	baseballcoachtraining.com
Registrar:	GoDaddy.com, LLC
Registered On:	2017-07-03
Expires On:	2023-07-03
Updated On:	2022-07-09
Status:	clientDeleteProhibited clientRenewProhibited clientTransferProhibited clientUpdateProhibited
Name Servers:	donald.ns.cloudflare.com vera.ns.cloudflare.com

**basketballcoachtraining.com** Buy Now

**socialbaseballcoachtraining.com** Buy Now

**baseballcoachtrainingacademy.com** Buy Now

**baseballcoachtrainingcenter.com** Buy Now

**basketballcoachtraining.net** Buy Now

**soccercoachtraining.com** Buy Now

## Registrant Contact

Name:	Christopher Kelly
Street:	PO BOX 541
City:	FANWOOD
State:	New Jersey
Postal Code:	07023
Country:	US
Phone:	+1.9083772295
Email:	<b>ckelly</b> @agapeinc.com

### .space

~~\$24.88~~ **\$0.88**

BUY NOW

\*Offer ends 31st October 2022

## Administrative Contact

Name:	Christopher Kelly
Street:	PO BOX 541
City:	FANWOOD
State:	New Jersey
Postal Code:	07023
Country:	US
Phone:	+1.9083772295
Email:	<b>ckelly</b> @agapeinc.com

On Sale!



**.ME @ \$8.88** ~~\$34.88~~

### Technical Contact

Name: Christopher Kelly

Street: PO BOX 541

City: FANWOOD

State: New Jersey

Postal Code: 07023

Country: US

Phone: +1.9083772295

Email: **ckelly**@agapeinc.com

Introducing

**WORDPRESS HOSTING**

**\$3.58** /mo

VIEW MORE

### Raw Whois Data

Domain Name: baseballcoachtraining.com  
 Registry Domain ID: 2139721570\_DOMAIN\_COM-VRSN  
 Registrar WHOIS Server: whois.godaddy.com  
 Registrar URL: https://www.godaddy.com  
 Updated Date: 2022-07-04T11:30:13Z  
 Creation Date: 2017-07-03T15:58:22Z  
 Registrar Registration Expiration Date: 2023-07-03T15:58:22Z  
 Registrar: GoDaddy.com, LLC  
 Registrar IANA ID: 146  
 Registrar Abuse Contact Email: **abuse**@godaddy.com  
 Registrar Abuse Contact Phone: +1.4806242505  
 Domain Status: clientTransferProhibited https://icann.org/epp#clientTransferProhibited  
 Domain Status: clientUpdateProhibited https://icann.org/epp#clientUpdateProhibited  
 Domain Status: clientRenewProhibited https://icann.org/epp#clientRenewProhibited  
 Domain Status: clientDeleteProhibited https://icann.org/epp#clientDeleteProhibited  
 Registry Registrant ID: Not Available From Registry  
 Registrant Name: Christopher Kelly  
 Registrant Organization:  
 Registrant Street: PO BOX 541  
 Registrant City: FANWOOD  
 Registrant State/Province: New Jersey  
 Registrant Postal Code: 07023  
 Registrant Country: US  
 Registrant Phone: +1.9083772295  
 Registrant Phone Ext:  
 Registrant Fax:  
 Registrant Fax Ext:  
 Registrant Email: **ckelly**@agapeinc.com  
 Registry Admin ID: Not Available From Registry  
 Admin Name: Christopher Kelly  
 Admin Organization:  
 Admin Street: PO BOX 541  
 Admin City: FANWOOD  
 Admin State/Province: New Jersey  
 Admin Postal Code: 07023  
 Admin Country: US  
 Admin Phone: +1.9083772295  
 Admin Phone Ext:  
 Admin Fax:  
 Admin Fax Ext:  
 Admin Email: **ckelly**@agapeinc.com  
 Registry Tech ID: Not Available From Registry  
 Tech Name: Christopher Kelly  
 Tech Organization:  
 Tech Street: PO BOX 541  
 Tech City: FANWOOD  
 Tech State/Province: New Jersey  
 Tech Postal Code: 07023  
 Tech Country: US  
 Tech Phone: +1.9083772295  
 Tech Phone Ext:  
 Tech Fax:  
 Tech Fax Ext:

Tech Email: ckelly@agapeinc.com  
Name Server: DONALD.NS.CLOUDFLARE.COM  
Name Server: VERA.NS.CLOUDFLARE.COM  
DNSSEC: unsigned  
URL of the ICANN WHOIS Data Problem Reporting System: http://wdprs.internic.net/  
>>> Last update of WHOIS database: 2022-10-31T15:24:54Z <<<  
For more information on Whois status codes, please visit https://icann.org/epp

TERMS OF USE: The data contained in this registrar's Whois database, while believed registrar to be reliable, is provided "as is" with no guarantee or warranties regar accuracy. This information is provided for the sole purpose of assisting you in obt information about domain name registration records. Any use of this data for any ot is expressly forbidden without the prior written permission of this registrar. By s an inquiry, you agree to these terms and limitations of warranty. In particular, yo to use this data to allow, enable, or otherwise support the dissemination or collec data, in part or in its entirety, for any purpose, such as transmission by e-mail, postal mail, facsimile or other means of mass unsolicited, commercial advertising o of any kind, including spam. You further agree not to use this data to enable high or robotic electronic processes designed to collect or compile this data for any pu mining this data for your own personal or commercial purposes. Failure to comply wi may result in termination of access to the Whois database. These terms may be subje at any time without notice.

related domain names

godaddy.com icann.org cloudflare.com agapeinc.com internic.net



Leading provider of web presence solutions that empower you to establish and grow your online presence.

Learn more About Us

Login or Create an Account

Follow Us

Domains

- Register Domain Name
- Transfer Domain Name
- View Domain Pricing
- Whois Lookup
- Name Suggestion Tool
- Free with Every Domain
- Domain Offers

Hosting & Products

- Linux Hosting
- Windows Hosting
- WordPress Hosting
- Linux Reseller Hosting
- Windows Reseller Hosting
- Dedicated Servers
- Cloud Hosting
- Website Builder
- Business Email
- Enterprise Email
- Google Workspace
- SSL Certificates
- Sitelock
- CodeGuard

Infrastructure

- Datacenter Details
- Hosting Security
- 24 x 7 Servers Monitoring
- Backup and Recovery

Support

- View Knowledge Base
- Contact Support
- Report Abuse
- About Whois