

NO. D-1-GN-18-1605

MARCEL FONTAINE,
Plaintiff,

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IN THE DISTRICT COURT OF

V.

TRAVIS COUNTY, T E X A S

ALEX E. JONES, INFOWARS, LLC,
FREE SPEECH SYSTEMS, LLC and
KIT DANIELS,
Defendants.

459th JUDICIAL DISTRICT

DEFENDANTS’ REPLY TO PLAINTIFF’S RESPONSE TO THEIR OBJECTION TO THE SUPPLEMENTAL EXHIBITS AND DECLARATION OF MARCUS TURNINI

Defendants Alex Jones, Infowars, LLC, Free Speech Systems, LLC and Kit Daniels (collectively, the “Defendants”), hereby file this Reply to Plaintiff’s Response to Their Objection to the Supplemental Exhibits and Declaration of Marcus Turnini, and show the Court as follows:

1. Defendants hereby reurge their timing objection to the Court’s consideration of supplemental evidence filed after the conclusion of the August 2, 2018 hearing. Without waiver of the same, to the extent that the Court considers supplemental evidence, Defendants submit the following.

2. Plaintiff has failed to meet its evidentiary burden to provide clear and specific evidence that defendants Alex Jones or Infowars, LLC published the allegedly defamatory statement about Plaintiff or engaged in any other act or omission to support Plaintiff’s legal actions against those entities. By way of further support for this assertion, Defendants hereby submit the attached publicly available “WHOIS” report confirming that defendant Free Speech Systems, LLC (“Free Speech”) is the sole registrant and administrator for the website located at www.inforwars.com (the “Website”). See **Exhibit 1**. This exhibit can be found at <https://whois.icann.org/en/lookup?name=www.inforwars.com>, and the Court can take judicial

notice of the same. This evidence further confirms that the domain name for the Website was registered in 1999. In short, this evidence demonstrates that Free Speech (and only Free Speech -- not Alex Jones or InfoWars, LLC) is the “publisher” of the Website upon which the allegedly defamatory statement was published.

PRAYER FOR RELIEF

With this submission of this Reply, Defendants agree that the record is complete and their Motion is ripe for adjudication. As such, the Court should sustain Defendants’ objection to the admissibility of the Declaration, strike it from the record, and grant Defendants such other and further relief to which they may be justly entitled.

Respectfully submitted,

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the parties listed below via email and the Court's e-filing system on August 9, 2018:

Mark Bankston
mark@fbtrial.com
Kaster, Lynch, Farrar & Ball, LLP
1010 Lamar, Suite 1600
Houston, Texas 77002

/s/ Eric J. Taube _____

Eric J. Taube

EXHIBIT 1

ICANN WHOIS

www.infowars.com

Lookup

By submitting any personal data, I agree that any the personal data will be processed in accordance with the ICANN [Privacy Policy](#), and agree to abide by the website [Terms of Service](#).

Showing results for: INFOWARS.COM

Original Query: www.infowars.com

Contact Information

Registrant Contact

Name: System Administrator

Organization: Free Speech Systems LLC

Mailing Address: PO Box 19549, Austin TX 78760 US

Phone: +1.5122915750

Ext:

Fax:

Fax Ext:

Email:ishare_domains-domainsite@infowars.com

Admin Contact

Name: System Administrator

Organization: Free Speech Systems LLC

Mailing Address: PO Box 19549, Austin TX 78760 US

Phone: +1.5122915750

Ext:

Fax:

Fax Ext:

Email:ishare_domains-domainsite@infowars.com

Tech Contact

Name: System Administrator
Organization: Free Speech Systems LLC
Mailing Address: PO Box 19549, Austin TX 78760 US
Phone: +1.5122915750
Ext:
Fax:
Fax Ext:
Email:ishare_domains-domainsite@infowars.com

Registrar

WHOIS Server: whois.name.com
URL: <http://www.name.com>
Registrar: Name.com, Inc.
IANA ID: 625
Abuse Contact Email: abuse@name.com
Abuse Contact Phone: +1.7203101849

Status

Domain Status:clientTransferProhibited
<https://www.icann.org/epp#clientTransferProhibited>

Important Dates

Updated Date: 2018-02-26
Created Date: 1999-03-07
Registrar Expiration Date: 2024-03-07

Name Servers

robin.ns.cloudflare.com
merlin.ns.cloudflare.com

Raw WHOIS Record

Domain Name: INFOWARS.COM
Registry Domain ID: 4148646_DOMAIN_COM-VRSN
Registrar WHOIS Server: whois.name.com
Registrar URL: http://www.name.com
Updated Date: 2018-02-26T23:00:24Z
Creation Date: 1999-03-07T05:00:00Z
Registrar Registration Expiration Date: 2024-03-07T05:00:00Z
Registrar: Name.com, Inc.
Registrar IANA ID: 625
Reseller:
Domain Status: clientTransferProhibited
<https://www.icann.org/epp#clientTransferProhibited>
Registry Registrant ID: Not Available From Registry
Registrant Name: System Administrator
Registrant Organization: Free Speech Systems LLC
Registrant Street: PO Box 19549
Registrant City: Austin
Registrant State/Province: TX
Registrant Postal Code: 78760
Registrant Country: US
Registrant Phone: +1.5122915750
Registrant Email: ishare_domains-domainsite@infowars.com
Registry Admin ID: Not Available From Registry
Admin Name: System Administrator
Admin Organization: Free Speech Systems LLC
Admin Street: PO Box 19549
Admin City: Austin
Admin State/Province: TX
Admin Postal Code: 78760
Admin Country: US
Admin Phone: +1.5122915750
Admin Email: ishare_domains-domainsite@infowars.com
Registry Tech ID: Not Available From Registry
Tech Name: System Administrator
Tech Organization: Free Speech Systems LLC
Tech Street: PO Box 19549
Tech City: Austin
Tech State/Province: TX
Tech Postal Code: 78760
Tech Country: US
Tech Phone: +1.5122915750
Tech Email: ishare_domains-domainsite@infowars.com
Name Server: robin.ns.cloudflare.com
Name Server: merlin.ns.cloudflare.com
DNSSEC: unSigned
Registrar Abuse Contact Email: abuse@name.com

Registrar Abuse Contact Phone: +1.7203101849
URL of the ICANN WHOIS Data Problem Reporting System:
<http://wdprs.internic.net/>
>>> Last update of WHOIS database: 2018-08-08T15:38:49Z <<<

For more information on Whois status codes, please visit
<https://icann.org/epp>

The data in the Name.com, Inc. WHOIS database is provided by Name.com, Inc. for information purposes, and to assist persons in obtaining information about or related to a domain name registration record. Name.com, Inc. does not guarantee its accuracy. Users accessing the Name.com, Inc. WHOIS service agree to use the data only for lawful purposes, and under no circumstances may this data be used to: a) allow, enable, or otherwise support the transmission by e-mail, telephone, or facsimile of mass unsolicited, commercial advertising or solicitations to entities other than the registrar's own existing customers and b) enable high volume, automated, electronic processes that send queries or data to the systems of Name.com, Inc., except as reasonably necessary to register domain names or modify existing registrations. When using the Name.com, Inc. WHOIS service, please consider the following: the WHOIS service is not a replacement for standard EPP commands to the SRS service. WHOIS is not considered authoritative for registered domain objects. The WHOIS service may be scheduled for downtime during production or OT&E maintenance periods. Where applicable, the presence of a [Non-Public Data] tag indicates that such data is not made publicly available due to applicable data privacy laws or requirements. Access to non-public data may be provided, upon request, where it can be reasonably confirmed that the requester holds a specific legitimate interest and a proper legal basis, for accessing the withheld data. Access to this data can be requested by submitting a request via the form found at <https://www.name.com/layered-access-request> . Name.com, Inc. reserves the right to modify these terms at any time. By submitting this query, you agree to abide by this policy.

Submit a Complaint for WHOIS

[WHOIS Inaccuracy Complaint Form](#)

[WHOIS Service Complaint Form](#)

[WHOIS Compliance FAQs](#)

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