

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BMADDOX ENTERPRISES LLC,

Plaintiff,

v.

MILAD OSKOUIE, OSKO M LTD, and
PLATINUM AVENUE HOLDINGS PTY, LTD,

Defendants.

Case No. 1:17-cv-01889-RA

**DECLARATION OF MILAD
OSKOUIE IN OPPOSITION TO
PLAINTIFF'S APPLICATION FOR
A PRELIMINARY INJUNCTION**

I, Milad Oskouie, declare under penalty of perjury under the laws of the United States of America that the following is true and correct:

1. I am over 18 years of age and make this Declaration based upon personal knowledge of the facts set forth below. If called upon to testify, I could and would testify competently as to the matters set forth herein

2. I am a Director of Osko M Ltd ("OML") and a Director of Platinum Avenue Holdings Pty, Ltd. ("Platinum," collectively with Mr. Oskouie and OML, "Defendants").

Together we are the defendants in this action I make this declaration upon personal knowledge and/or the business records of OML and Platinum.

3. I am an Australian businessman and former lawyer residing in the UK, focusing my current work on developing web properties. I am a Director of Defendant Platinum Avenue Holdings Pty, Ltd. ("Platinum"), which until June 2017, operated a website at <FFLTrust.com> which sold educational materials for securing FFLs or federal firearms licenses ("Platinum's Website"). Defendant OML is a British limited company, of which I am a Director, but which has no material involvement in the operation of Platinum's Website.

4. Prior to starting Platinum, from 2013 until early 2015, I was involved with another web property, <infiniteconversions.com>, which was run by Infinite Conversions Pty Ltd (“Infinite Conversions”) and of which Mr. Sandip Banerjee was a Director. Infinite Conversions was an Internet marketing firm which specialized in conversion rate optimization (“CRO”), focusing on third party website design and content variations to determine which layouts, copy, offers and images perform best.

5. Upon information and belief, before commencing work with Infinite Conversions, Mr. Banerjee performed CRO services in his personal capacity for Mr. Maddox and Plaintiff’s FFL business, FFL123.com. That said, Mr. Maddox agreed to provide a glowing endorsement of Infinite Conversions—and even reviewed, edited and approved for publication a case study about FFL123.com to appear on Infinite Conversions Website.

6. Through these interactions with Mr. Banerjee and Infinite Conversions, I became familiar with FFLs. At no point in time did I ever have access to any information about Plaintiff or FFL123.com other than what was publically available on their website.

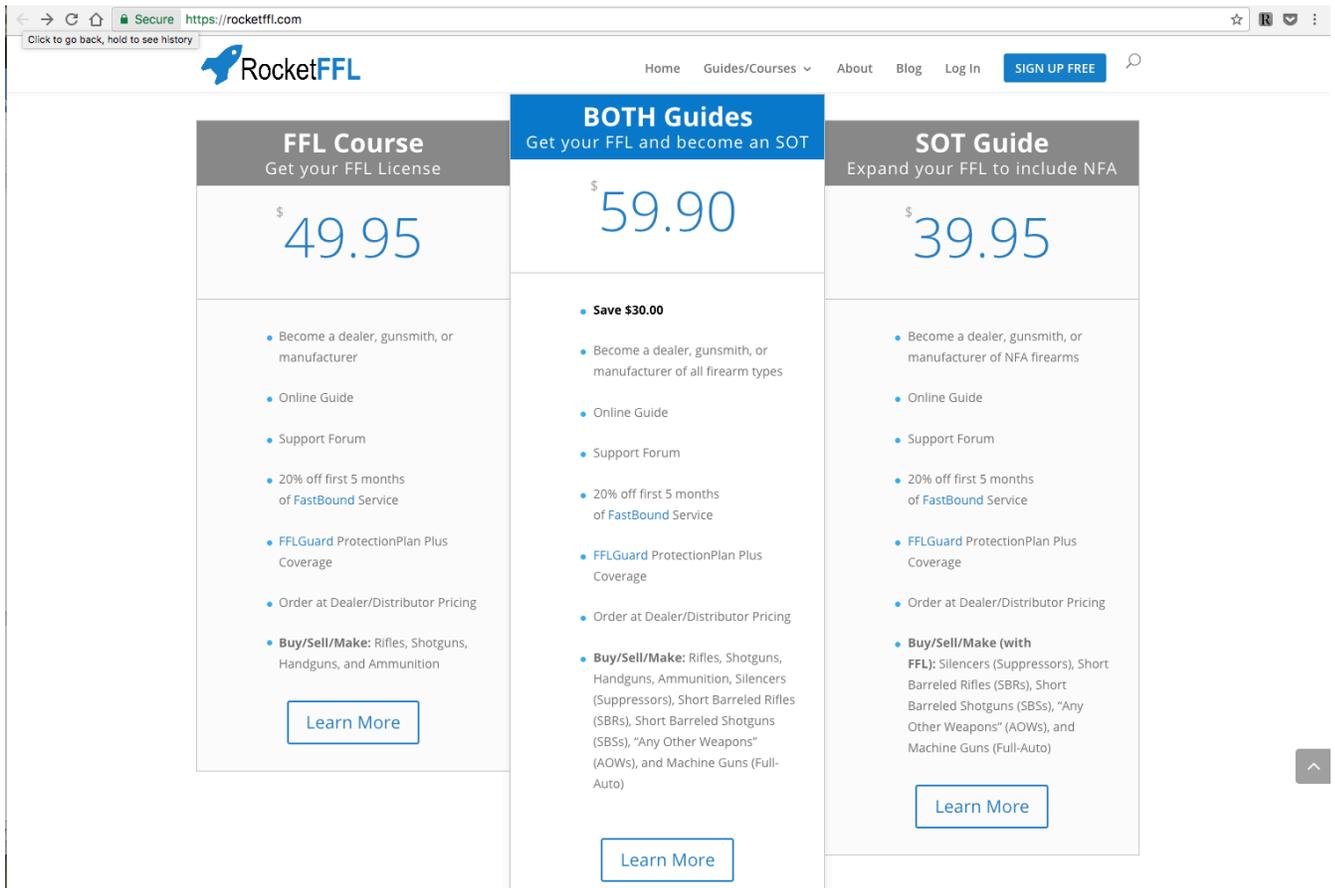
7. However, given the revenue potential for educational materials about FFLs at that time, I later decided to pursue an online business to compete with Plaintiff.

8. I first registered the domain <FFLTrust.com> (the “Domain”) on behalf of Platinum in December 2015. Despite my familiarity with web domains, CRO and basic web publishing, I have limited experience with website development. Thus, to create the <FFLTrust.com> website, Platinum engaged a freelance web developer, Mr. Stefan Ciobanu. Given my familiarity with Mr. Maddox via his former business relationship with Infinite Conversions, I understood what worked content-wise and knew that simplicity for websites is key; so, I instructed Mr. Ciobanu to create a WordPress™-based website for <FFLTrust.com> that

Platinum could easily edit and manage. I am also aware that FFL123.com used a simple Wordpress™ theme.

9. Since I wanted Platinum’s Website to be on par with, compete with and outrank Plaintiff’s website on Internet search engines for consumers searching for “FFLs”—I instructed Mr. Ciobanu to design <FFLTrust.com> to improve upon <FFL123.com> in layout, offers and images. Thereafter, Mr. Ciobanu created a custom WordPress™ theme for Platinum’s Website with a blue and orange color scheme and original “software box” images.

10. Indeed, while this simple website design was successful, it was in no way unique. Hundreds of websites use a similar WordPress™ layout, including other competitors in the same industry, such as <www.RocketFFL.com>.



11. Leveraging my legal research skills, through many months of research, reviewing the ATF Website, and reading blog posts about FFLs, I drafted and created a FFL e-book (“Platinum’s FFL Guidebook”)—which I supplied to Mr. Ciobanu for inclusion on Platinum’s Website in late December 2015 and early January 2016.

12. Platinum also engaged freelance writers, several of whom are FFL holders (including one who advised Platinum that he held a license since 1995), to fact-check, edit and draft other portions of Platinum’s FFL Guidebook.

13. Platinum also purchased print books and subscriptions to various FFL e-books on the Internet, including FFL123.com.

14. However, Platinum realized that the overwhelming majority of information in these FFL print books and e-books were culled directly from the National Firearms Act (“NFA”) and/or the ATF’s Website.

15. On or around January 2016, Platinum launched <FFLTrust.com>.

16. In order to access Platinum’s FFL Guidebook, users must register and purchase subscriptions to access the password-protected e-book online. Excerpts of Platinum’s FFL Guidebook are annexed hereto as **Exhibit A**.

17. Platinum wanted to grow <FFLTrust.com> organically, so it relied heavily on Google AdWords advertising to promote the website. That notwithstanding, the first <FFLTrust.com> user purchased a subscription to Platinum’s FFL Guidebook on February 14, 2016.

18. Platinum website did appear as reflected on pages 15 and 16 of the Complaint, but no other exhibit accurately depicts the website as it existed from January 2016 until June 2017—when the website was shut down again by Mr. Maddox’s actions.

19. Nearly immediately after launch but before <FFLTrust.com> had any active users, between February 11, 2016 and March 1, 2016, Platinum received no less than 7 cryptic, DMCA notices forwarded from various third party service providers wherein Mr. Maddox and/or Plaintiff claimed, *inter alia*, that “FFLTrust.com is a 100% copy of my website [FFL123.com],” and falsely accused Platinum of being a “thief” and “hackers.”

20. On February 11, 2016, Mr. Maddox falsely alleged to Platinum’s domain name registrar that the content on <FFLTrust.com> had been stolen in violation of the DMCA.

21. On February 12, 2016, Mr. Maddox falsely alleged to Platinum’s domain name security proxy, Cloudflare, that the content on <FFLTrust.com> was “stolen” in violation of the DMCA and the Website was a “phishing website.”

22. On February 12, 2016, Mr. Maddox falsely alleged to Google that Platinum were “hackers” that “stole 100% of the content from my website” and were violating the DMCA.

23. On February 13, 2016, Mr. Maddox made another false DMCA allegation to Cloudflare that “www.FFLtrust.com, they hacked my company's website (FFL123.com) on 12/30/15 and stole 100% of our digital content.”

24. While Platinum’s Website was live between February 11-13, 2016, the only “users” on the website that could view Platinum’s FFL Guidebook were myself and Mr. Ciobanu.

25. Thus, not only are Plaintiff’s allegations as to what was on Platinum’s Website on or around February 11-13, 2016 demonstrably false, there was no way Plaintiff could have known what Platinum’s FFL Guidebook contained at the time it issued those false DMCA notices.

26. I believe Mr. Maddox only wanted to stifle competition because Platinum’s Website used a similar, generic WordPress™ theme as <FFL123.com>—a similar layout used by hundreds of others.

27. On February 16, 2016, Mr. Maddox issued a third false DMCA notice to Cloudflare.

28. On March 1, 2016, Mr. Maddox issued another false DMCA notice to Google.

29. Much like the Complaint, none of the DMCA notices particularized what content from <FFL123.com> was copied or appeared on <FFLTrust.com>, other than blanket statements that the “entire website” was copied.

30. Notwithstanding same, Platinum’s various service providers took down <FFLTrust.com> on various occasions, causing serious disruptions to Platinum’s business. Platinum responded to each of these notices and denied that any content was copied from <FFL123.com>.

31. In each of Platinum’s responses, it identified who it was, and that it was the owner of the website and content in question. Plaintiff’s claims that Platinum somehow hid its identity to “avoid detection” are false.

32. From on or around March 1, 2016 until March 30, 2016, <FFLTrust.com>’s hosting provider, Root, S.A. informed Platinum that it was receiving various DDoS attacks on the server hosting <FFLTrust.com>, which caused the website to go down for days at a time. During these attacks, Platinum was also unable to send, receive or access its @ffltrust.com email hosted on the MX server at <FFLTrust.com>. See **Exhibit B** (emails with root.lu).

33. Plaintiff claims that Platinum responded to a DMCA notice on March 3, 2016 and falsely identified itself as a “Jerome Kohlberg” from Russia. See ECF Doc No. 24-5. We did not send this email message or counter-notice, as we did not have access to our @ffltrust.com email account on March 3, 2016. Further, I have no knowledge who “Jerome Kohlberg” is, and I have never gone by the name “Jerome Kohlberg,” and was never in Russia, nor used a computer located

in Russia.

34. On or around March 24, 2016, I received a letter from Australian counsel for Plaintiff, which repeated many of these false allegations of copying, hacking, website alteration alleged in the DMCA notices, and claimed that we had stolen a customer list. As with DMCA notices, none of the allegations in Plaintiff's Australian counsel's letter particularized what content was infringing nor provided any evidence of the alleged hacking.

35. Neither I nor Platinum stole, used, or otherwise came in contact with any of Plaintiff's customer lists or accounts.

36. On or around the same time, Mr. Maddox's false DMCA notice efforts intensified. On March 29, 2016, Mr. Maddox issued a *fourth* false DMCA notice to Cloudflare, this time falsely claiming that the FBI were about to arrest me.

37. On March 30, 2016, Mr. Maddox issued a false DMCA notice to MailChimp, which resulting in MailChimp deactivating Platinum's MailChimp account.

38. Then, on the same March 30, 2016, Mr. Maddox made another false DMCA notice to Root, S.A., Plaintiff's website host, again claiming that the FBI were involved and that Platinum and I were wanted criminals.

39. As a result of Mr. Maddox's successive defamatory and false DMCA notice campaign, Platinum's website was shut down by its host and it was forced to move to another provider: VentraIP. From March 30, 2016 to around April 13, 2016, <FFLTrust.com>'s website was down, and Platinum had no way to send or receive emails from its customers and vendors.

40. Because we took Plaintiff's allegations of copyright infringement seriously, I engaged legal counsel in Australia, Yves Hazan of Hazan Hollander.

41. On April 5, 2016, Mr. Hazan responded on behalf of Platinum to the March 24,

2016 letter from Australian counsel for Plaintiff, admitting that Platinum was the owner of <FFLTrust.com> but denying the allegations of copyright infringement and criminality. See **Exhibit C** (April 5, 2016 Letter, Hazan to Plaintiff).

42. Upon information and belief, on or around April 15, 2016, Mr. Maddox sent another false DMCA notice to Platinum's new hosting provider, VentrailP.

43. Plaintiff then hired another Australian law firm, who emailed Platinum's attorney another letter on April 21, 2016, again claiming copyright infringement, threatening to file a lawsuit but this time with accompanying screenshots of what they purported to be Platinum's website dated April 9, 2016 and April 13, 2016 respectively. The April 21, 2016 letter accused Platinum of "chang[ing]" the <FFLTrust.com> website since it had received the March 24, 2016 letter—but it had not changed anything, and could not change anything as the website was shut down. The April 21, 2016 letter also claimed that Platinum "changed" the website to remove references to and images of "Henry Jackson" and falsely accused Platinum of sending email blasts via MailChimp during this same period. See **Exhibit D** (April 21, 2016 Letter, Spurson to Hazan).

44. Upon information and belief, Plaintiff annexed these same suspect "screenshots" to the Complaint as Exhibit C.

45. By letter dated May 23, 2016, Mr. Hazan responded on behalf of Platinum to the April 21, 2016 letter from Australian counsel for Plaintiff, immediately calling into question the authenticity of the "screenshots" of Platinum's website and "email blasts" as they were allegedly taken when the <FFLTrust.com> website was down and when it did not have a MailChimp account. See **Exhibit E** (May 23, 2016 Letter, Hazan to Spurson).

46. Between May 26, 2016 and June 4, 2016, the parties' Australian counsel exchanged various letters via email, however no resolution was reached.

47. Apparently dissatisfied that the parties' attorneys would resolve the matter, on or around June 2016, Mr. Maddox again took matters into his own hands by issuing more false DMCA notices. Then, on July 8, 2016, Mr. Maddox authored a defamatory and harassing letter to Mr. Oskouie's parents, repeating the false allegations of hacking and copyright infringement, claiming that law enforcement authorities in the US and Australia were involved, and threatening Mr. Oskouie's parents' businesses. See **Exhibit F** (July 8, 2016 Letter, Maddox to Mr. Oskouie's parents).

48. Upon information and belief, Mr. Maddox sent various email blasts to his customer list (of allegedly 100,000 persons), repeating these false allegations of criminal and fraudulent activity.

49. Platinum and Mr. Oskouie then engaged another attorney in Australia, Mr. Robert Haralovic of HAL Lawyers. On or about September 28, 2016, Mr. Haralovic sent a cease and desist letter to Mr. Maddox concerning his July 8, 2016 defamatory missive to Mr. Oskouie's parents and again denying the allegations of copyright infringement. See **Exhibit G** (September 28, 2016 Letter, Haralovic to Maddox). Mr. Haralovic did not receive a reply to the September 28, 2016 letter.

50. However, on or around December 27, 2016, Mr. Haralovic received an email from a police detective in Australia, Mr. Alexander Moffat, claiming to be conducting an investigation into the allegations by the owner of <FFL123.com>, i.e. Plaintiff, and seeking response to several questions.

51. By email dated December 30, 2016, Mr. Haralovic, on behalf of Platinum and Mr. Oskouie, responded to Mr. Moffat's inquires, again denying copyright infringement by Defendants and requesting the detective forward any evidence supporting the alleged hacking claims. See

Exhibit H (December 30, 2016 Letter, Haralovic to Moffat). Mr. Haralovic did not receive a reply to the December 30, 2016 email.

52. Once again dissatisfied that law enforcement would pursue the matter, on or around February 15, 2017, Mr. Maddox took matters into his own hands again by registering the domain name <MiladOskouie.com>. The domain name precisely tracks the spelling of Mr. Oskouie's legal name. Mr. Maddox then created a website on the domain name to further defame and disparage Mr. Oskouie and Platinum. See **Exhibit I** (WHOIS record for <MiladOskouie.com>).

53. The Website at <MiladOskouie.com> continues Mr. Maddox online campaign to disparage and defame Mr. Oskouie on the Internet, claiming that Mr. Oskouie was an "Islamic hacker" and falsely associating Mr. Oskouie with Islamic extremism in an attempt to stifle competition and harass Mr. Oskouie personally. See **Exhibit J** (Screenshot of <MiladOskouie.com> as of June 27, 2017).

54. On March 7, 2017, Mr. Haralovic received an email from police detective in Australia confirming that no criminal charges would be pursued against Mr. Oskouie.

55. On or about April 2, 2017, Mr. Haralovic, on behalf of Platinum and Mr. Oskouie, sent a letter to Mr. Maddox's and Plaintiff's US counsel, notifying him of the disparaging website and various false, public comments regarding Defendants circulated by Mr. Maddox. See **Exhibit K** (April 2, 2017 Letter, Haralovic to Plaintiff). Mr. Haralovic did not receive a reply to the April 2, 2017 letter.

56. On or about May 19, 2017, Mr. Maddox sent another harassing and defamatory letter to Mr. Oskouie's parents. See **Exhibit L** (May 19, 2017 Letter, Maddox to Mr. Oskouie's parents).

57. Unbeknownst to Defendants, on or about March 15, 2017, nearly 13 months after

Mr. Maddox began asserting his false claims of copyright infringement in February 2016, Plaintiff filed the instant action under seal against Defendants sounding, *inter alia*, in copyright infringement, false advertising and claims under the Computer Fraud and Abuse Act.

58. Contrary to the allegations in the Complaint, Platinum's *actual* FFL Guidebook contains little to no resemblance to Plaintiff's Guidebook. The chapter structure is not the same and the text content is different. Admittedly, because both Guidebooks explain the procedure to procure an FFL license, there is some overlap in content, however those procedures, methods and facts are all information in the public domain, and readily available of the ATF's Website. The respective guides are not novels or works of fiction. They both take you through the steps of filling out paperwork.

59. The passages that Plaintiff references in the Complaint (¶¶ 67 and 69) and attached thereto as exhibits are **not** Platinum's Website. At no point in time did <FFLTrust.com> appear like that, nor did it include the text that Plaintiff claims it did. Indeed, the doctored and/or forged photos presented to the Court have at no time been live on the website.

60. Defendants have no knowledge as to the origin of those screenshots that Plaintiff created.

61. Further, two of the exhibits show that the user allegedly logged in to the Platinum's Website was "Stefan Ciobanu"—the same web developer that Platinum hired to create its website and had administrative access and privileges to Platinum's backend. Given Plaintiff's history of altering information to support Mr. Maddox's false DMCA notices, it is possible that Mr. Maddox coordinated with Mr. Ciobanu and/or others to create forged screenshots of Platinum's Website which did not reflect the actual content that was live to the public.

62. For instance, first, Plaintiff claims that the Introduction chapters to the parties' Class 3 guidebooks are identical. As a threshold matter, Platinum "published" its Class 3 Introduction to its WordPress site on December 29, 2015—two days *before* Plaintiff claims Defendants "hacked" into its <FFL123.com> website and "stole" the very Class 3 guide it claims was reproduced on <FFLTrust.com>. See **Exhibit M** (Screenshot of WordPress console).

Class 3 Page · FFL Trust. Your FFL Expert — WordPress

<input type="checkbox"/> Title	Date	Access Restrictions	SEO	Readability
<input type="checkbox"/> An Overview of the Paperwork and Its Requirements	Published <u>2016/05/15</u>	Class 3 Page	●	●
<input type="checkbox"/> Introduction & Preface	Published <u>2015/12/29</u>	Class 3 Page	●	●

63. Beyond congratulating the newly minted FFL holders on securing a license, the introductions have nothing in common. Importantly, Platinum's actual introduction to its Class 3 guide contains no reference to a "Henry Jackson" nor makes claims that Platinum's owners are FFL holders. See **Exhibit A**.

64. Next, second, Plaintiff claims that Platinum copied Plaintiff's "Chapter 6.2" on "Completing Fingerprint Cards," including images thereon. As an initial matter, Platinum's FFL Guidebook has no such Chapter 6.2. Instead, the section regarding FBI fingerprint cards is under Chapter "9.3" and is entitled "Filling Out Fingerprint Cards." See **Exhibit A**.

65. Both Plaintiff's chapter 6.2 and Platinum's Chapter 9.3 are nearly carbon copies of the ATF's Website under the subheading "Sample Fingerprint Cards and Instructions" at <https://www.atf.gov/firearms/instructions-form-7-application-federal-firearms-license>. See **Exhibit N** (Screenshot of ATF's Website).

66. Each of the Plaintiff's Guidebook, Platinum's FFL Guidebook and the ATF's

Website use the same images of the fingerprint card and the same numerical listing of explanations corresponding to numbered sections of the fingerprint card. It is no coincidence that that parties' explanations are similar—it is exactly what the ATF's Website says you should do to fill out the fingerprint card. *Compare Exhibit A with Exhibit N with Plaintiff's Exhibit C.*

67. Third, Plaintiff claims that Platinum copied Plaintiff's "Chapter 9.4" entitled "How Do I Keep Accurate Logs," including images thereon. This again is false. Platinum's FFL Guidebook has no such Chapter 9.4. Instead, the section regarding keeping accurate logs is under Chapter "10.6" and is entitled, not surprisingly, "Keeping Accurate Logs." See **Exhibit A**. A quick glance at the parties' respective chapters on same reveal little similarities other than references to the style of log books the ATF recommends.

68. Finally, fourth, Plaintiff claims that Platinum copied Plaintiff's "Chapter 15" entitled "Additional Resources" which are links to other websites, such as the ATF's Website. Again, Platinum's Class 3 Guide has no such Chapter 15, rather a Chapter "16" which has admittedly similar links, including the ATF's Website, but other different links as well. See **Exhibit A**.

69. Further, Plaintiff's claims that the "backend" of its Wordpress™-based website was illicitly changed to tell Internet search engines to not index its website are belied by public information showing *no changes* to that "backend" during the period in question.

70. According to contemporaneous Google searches, Plaintiff created and published 9 different webpages on its <FFL123.com> website that *were indexed* by Google in January 2016. See **Exhibit O** (Screenshot of contemporaneous Google Search for "site:FFL123.com").

71. There is no competent evidence presented that any settings were changed. WordPress™-based websites do have a setting that a user can check entitled "Discourage search

engines from indexing this site”—which is the functional equivalent of what Plaintiff claims is what happened. A “Discourage search engines” selection changes the “robots.txt” file at the root of a WordPress™ installation on a website (i.e. <mycoolwebsite.com/robots.txt>). *See* <https://wpshout.com/never-check-discourage-search-engines-from-indexing-this-site/>. A website with a “Discourage search engines” selection would have text on its “robots.txt” file that read “Disallow: /”. *See id.*

72. However, according to historical records of Plaintiff’s <FFL123.com/robots.txt> webpage, not only did no such “Disallow: /” language appear thereon in January 2016, there was no change to Plaintiff’s website from December 2013 until sometime in March 2016. *See Exhibit P* (Screenshots of <FFL123.com/robots.txt> on Wayback Archive).

73. Platinum’s entire business will be derailed to the point of complete destruction if a preliminary injunction is granted.

74. Plaintiff’s claims of non-responsiveness to Plaintiff’s allegations as being an indication that Defendants are “above the law” are false. I hired two law firms in Australia to counteract Plaintiff’s specious claims of infringement, and engaged in discourse denying same for over a year. During that time, Defendants did not obfuscate their identity, nor move assets out of any account but for legitimate business purposes.

75. I respectfully request that plaintiff’s application be denied.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated this 28th day of June, 2017.

A handwritten signature in black ink, consisting of a stylized 'M' followed by a large 'O' and a trailing flourish.

MILAD OSKOUIE