

1 Daniel C. Cotman (SBN 218315)  
2 [dcotman@cotmanip.com](mailto:dcotman@cotmanip.com)  
3 Rasheed McWilliams (SBN 281832)  
4 [Rasheed@cotmanip.com](mailto:Rasheed@cotmanip.com)  
5 Obi I. Iloputaife (SBN 192271)  
6 [obi@cotmanip.com](mailto:obi@cotmanip.com)  
7 COTMAN IP LAW GROUP, PLC  
8 35 Hugus Alley, Suite 210  
9 Pasadena, CA 91103  
10 (626) 405-1413/FAX: (626) 628-0404

11 *Attorneys for Plaintiff*  
12 *Cotman IP Law Group, PLC*

13  
14 **UNITED STATES DISTRICT COURT**  
15  
16 **CENTRAL DISTRICT OF CALIFORNIA**

17 COTMAN IP LAW GROUP PLC, a )  
18 California Professional law corporation )

19 Plaintiff, )

20 v. )

21 ARCHITELOS, INC., a Delaware )  
22 Corporation )

23 Defendants. )

24 Case No. 2:15-CV-00511

25 **COMPLAINT FOR:**

- 26 1) **DECLARATORY JUDGMENT**
- 27 **OF NON-INFRINGEMENT**
- 28 **OF TRADEMARK RIGHTS**
- 1) **FALSE DESIGNATION OF**
- ORIGIN AND UNFAIR**
- COMPETITION**
- 3) **CANCELLATION OF**
- TRADEMARK**
- REGISTRATION**
- 4) **COMMON LAW**
- TRADEMARK**
- INFRINGEMENT**
- 5) **UNFAIR COMPETITION**
- PURSUANT TO §17200**
- 6) **COMMON LAW UNFAIR**
- COMPETITION**

1 Plaintiff Cotman IP Law Group, PLC, (“Cotman IP” or “Plaintiff”), by and  
2 through its undersigned counsel, for its Complaint against Defendant Architelos, Inc.,  
3 (“Architelos” or “Defendants”), makes the following allegations. These allegations  
4 are made upon information and belief.

5 **JURISDICTION AND VENUE**

6 1. This is a declaratory judgment action seeking a determination that  
7 Cotman IP, as a senior user of the mark NAMESENTRY™, does not infringe any  
8 valid trademark rights of Defendant in the mark NAMESENTRY.

9 2. This is also an action for false designation of origin and unfair  
10 competition pursuant to 35 U.S.C. §1125(a) and common law trademark infringement  
11 under California law.

12 3. This Court has subject matter jurisdiction over this action pursuant to 28  
13 U.S.C. § § 1331 and 1338(a) because it arises under United States Trademark law and  
14 the Declaratory Judgment Act. This Court has jurisdiction over the state law claims  
15 based on 28 U.S.C. § 1367 because the state law claims form part of the same case or  
16 controversy.

17 4. Defendants are subject to the personal jurisdiction of this Court and  
18 venue in this District is proper under 28 U.S.C. §1391(b) and (d), in that the acts and  
19 transactions complained of herein are initiated nationwide over the Internet, through  
20 Defendants’ website, www.architelos.com, including offering services over the  
21 internet accessible and targeting customers in the State of California and this judicial  
22 district. In addition, Defendant conducted business directed at California regarding its  
23 alleged trademark, including the service of a cease and desist letter on Plaintiff, which  
24 is a California corporation headquartered in this judicial district, alleging a likelihood  
25 of confusion of between Defendant’s registered mark for NAMESENTRY® and  
26 Plaintiff’s mark for NAMESENTRY™, threatening to pursue any and all remedies  
27 available to it, thereby creating an actual controversy between the parties and causing  
28 harm in this District.

1 **THE PARTIES**

2 5. Plaintiff, Cotman IP Law Group, PLC is a California Professional law  
3 corporation organized under the laws of the State of California and has an office and  
4 principal place of business at 35 Hugus Alley, Suite 210, Pasadena, California 91103.

5 6. Upon information and belief, Defendant is a corporation organized under  
6 the laws of the State of Delaware having a place of business at 43622 Merchant Mill  
7 Terrace, Leesburg, Virginia 20176.

8 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

9 7. Cotman IP is the common law owner of the service mark,  
10 NAMESENTRY™, which it has been using in commerce for both Computer Services,  
11 namely computerized trademark and domain name monitoring services and Legal  
12 Services, namely trademark and domain name monitoring services, since at least since  
13 November 6, 2010. See **Exhibit A**.

14 8. Defendant filed for and registered an *identical* mark NAMESENTRY®  
15 on October 4, 2012 in class 41 for Computer services, namely, designing and  
16 implementing domain-name abuse detection, diagnosis, mitigation and analysis  
17 services for others. A copy of the Trademark Electronic Search System page for U.S.  
18 Trademark No. 4,342,396 is attached to this complaint as **Exhibit B**.

19 9. In their trademark registration application, Defendant admits it first used  
20 the NAMESENTRY® mark in commerce on March 1, 2012.

21 10. On information and belief, Defendant first used the mark  
22 NAMESENTRY® on its webpage on or after November 2013.

23 11. On January 12, 2015, Plaintiff received a cease and desist letter from  
24 Defendant, through their counsel DeSantis Law Firm, alleging willful trademark  
25 infringement, unfair competition and trademark dilution of Defendant's registered  
26 mark for NAMESENTRY® and threatening further action. A copy of the letter is  
27 attached to this complaint as **Exhibit C**.

28 ///

**COUNT I**

**DECLARATORY JUDGEMENT FOR NON-INFRINGEMENT OF  
FEDERAL TRADEMARK UNDER 28 U.S.C. §§ 2201 and 2202**

12. Plaintiff hereby incorporates by reference the allegations of paragraphs 1 through 11 of this Complaint as if fully set forth herein.

13. Plaintiff has used their common law NAMESENTRY® mark and advertised the availability of their trademark monitoring service, both nationally and internationally, on their website, [www.cotmanip.com](http://www.cotmanip.com), since November 6, 2010.

14. Through its website, [www.cotmanip.com](http://www.cotmanip.com), Plaintiff offers and transacts business with customers nationally. Clients, potential clients and the general public visit the domain to utilize the services and to obtain information about Plaintiff's services, including trademark monitoring services.

15. Plaintiff as the senior user of the NAMESENTRY™ mark is entitled to all rights of use granted to a senior user, including the unrestricted right to use the NAMESENTRY™ mark for Computer Services, namely computerized trademark and domain name monitoring services and Legal Services, namely trademark and domain name monitoring services.

16. As a result of the acts described in the foregoing paragraphs, there exists a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

17. A judicial declaration is necessary and appropriate so that Plaintiff may ascertain its rights regarding the NAMESENTRY™ mark.

18. Plaintiff is entitled to a declaratory judgment that it has not infringed and does not infringe Defendant's registered NAMESENTRY® mark.

///

///

///

///

**COUNT II**

**CLAIM FOR FALSE DESIGNATION OF ORIGIN OR  
SPONSORSHIP, FALSE ADVERTISING, TRADEMARK  
INFRINGEMENT AND UNFAIR COMPETITION**

**UNDER 15 U.S.C. § 1125(a)**

1  
2  
3  
4  
5  
6 19. Plaintiff hereby incorporates by reference the allegations of paragraph 1  
7 through 18 of this Complaint as if fully set forth herein.

8 20. Defendant has knowingly used and continues to use in commerce a mark  
9 that is confusingly similar to and/or identical to Plaintiff's NAMESENTRY™ service  
10 mark, in connection with services and/or goods that Defendant is attempting to  
11 advertise, promote and sell. Defendant has used an identical mark knowing that said  
12 mark will cause confusion with Plaintiff's services.

13 21. Defendant's use of the NAMESENTRY® mark confuses, misleads  
14 and/or deceives Plaintiff's clients, potential clients and members of the general public  
15 as to the origin, source, sponsorship or affiliation of Defendant's services and/or  
16 goods, and is likely to cause such people to believe in error that Defendant's services  
17 and/or goods have been authorized, sponsored, approved, endorsed or licensed by  
18 Plaintiff or that Defendant is in some way affiliated with Plaintiff.

19 22. By misappropriating and using Plaintiff's NAMESENTRY™ mark,  
20 Defendant misrepresents and falsely describes to the general public the origin and  
21 source of its services and creates a likelihood of confusion by ultimate purchasers as  
22 to both the source and sponsorship of such services.

23 23. Defendant's acts constitute false and misleading descriptions, false  
24 advertising, and false designations of the origin and/or sponsorship of Defendant's  
25 services, and constitute trademark infringement and unfair competition in violation of  
26 15 U.S.C. § 1125(a).

27 24. By reason of Defendant's actions, Plaintiff has suffered irreparable harm  
28 to its valuable NAMESENTRY™ mark.

1 25. Plaintiff has no adequate remedy at law. If Defendants' activities are not  
2 enjoined, Plaintiff will continue to suffer irreparable harm and injury to its goodwill  
3 and reputation.

4 26. As a result of Defendants' activities, Plaintiff has been damaged in an  
5 amount to be ascertained at trial.

6 27. Defendants' actions are willful and done to intentionally deceive the  
7 public. Plaintiff is entitled to a trebling of any damages award pursuant to 15 U.S.C.  
8 1117 (a) (3).

9 **COUNT III**

10 **CANCELLATION OF TRADEMARK REGISTRATION**

11 28. Plaintiff repeats and realleges each and every allegation set forth in  
12 paragraphs 1-18 and 20-27 of this Complaint as if fully set forth therein.

13 29. Defendant is the owner of the mark, NAMESENTRY®, U.S. Trademark  
14 Reg. No. 4,342,396, in International Class 41 for Computer Services.

15 30. Defendant is also the owner of the application for the registration of the  
16 NAMESENTRY® mark in International Class 45.

17 31. The date of first use and first use in commerce of the mark  
18 NAMESENTRY™ by Plaintiff was well before Defendant's claimed dates of use of  
19 the NAMESENTRY® mark.

20 32. Plaintiff has priority of use of the NAMESENTRY™ service mark.

21 33. Defendant's services as identified in the NAMESENTRY® registration  
22 are closely related to Plaintiff's services sold under the NAMESENTRY™ mark and,  
23 on information and belief, have been and are being promoted through the same  
24 channels of trade.

25 34. On information and belief, Defendant's NAMESENTRY® mark is  
26 identical to the Plaintiff's NAMESENTRY™ mark and is likely to cause confusion,  
27 deception or mistake to Plaintiff's irreparable damage and injury, in violation of  
28

1 section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d). Accordingly, the Defendant's  
2 registration for NAMESENTRY® should be cancelled.

3 **COUNT IV**

4 **COMMON LAW TRADEMARK INFRINGEMENT**

5 35. Plaintiff repeats and realleges each and every allegation set forth in  
6 paragraphs 1-18, 20-27 and 29-34 of this Complaint as if fully set forth therein.

7 36. As a result of the aforementioned acts, Defendant has violated Plaintiff's  
8 exclusive common law rights in the NAMESENTRY™ marks.

9 37. Plaintiff has continuously used the NAMESENTRY™ marks to identify  
10 their services in California and throughout the United States, in order to distinguish  
11 their services from services of a different origin.

12 38. Defendant's unauthorized use of the NAMESENTRY™ and/or colorable  
13 imitations of the NAMESENTRY™ marks are likely to and do permit Defendant to  
14 pass off its infringing services to the general public to the detriment of Plaintiff and  
15 the unjust enrichment of Defendant. Defendant's actions have caused and continue to  
16 cause confusion as to the source and/or sponsorship of its services.

17 39. Defendant's actions constitute willful infringement of Plaintiff's  
18 exclusive rights in the NAMESENTRY™ marks in violation of state common law.

19 40. Plaintiff is informed and believes, and alleges thereon, that in engaging in  
20 the acts described above, Defendant's acted with oppression, fraud and/or malice.  
21 The acts of Defendants have been despicable and undertaken in conscious disregard of  
22 Plaintiff's rights. Accordingly, Plaintiff is entitled to an award of punitive damages  
23 against Defendants in an amount sufficient to punish and make an example of them  
24 according to proof.

25 41. As a direct and proximate result of Defendants' conduct, Plaintiff has  
26 suffered damage to its valuable trademarks in an amount to be ascertained at trial.

27  
28

1 42. Plaintiff does not have an adequate remedy at law, and will continue to  
2 be damaged by Defendants' sale of its goods unless this Court enjoins Defendants  
3 from such fraudulent business practices.

4 **COUNT V**

5 **UNFAIR COMPETITION**

6 **IN VIOLATION OF California Civil Code §17200 et seq.**

7 43. Plaintiff repeats and realleges each and every allegation set forth in  
8 paragraphs 1-18, 20-27, 29-34 and 36-42 of this Complaint as if fully set forth therein.

9 44. Defendants' misappropriation and unauthorized use of Plaintiff's service  
10 marks and trade secrets constitute unfair competition under the laws of the United  
11 States and the State of California.

12 45. Plaintiff is entitled to full restitution and/or disgorgement of all revenues,  
13 earning, profits, compensation, and benefits, which have been obtained by Defendants  
14 because of their unlawful business acts or practices.

15 46. Plaintiff is also entitled to an injunction because the fraudulent, unfair  
16 and unlawful conduct of Defendants alleged herein is causing irreparable harm to  
17 Plaintiff, is continuing and there is no indication that Defendants will cease such  
18 conduct in the future.

19 **COUNT VI**

20 **COMMON LAW UNFAIR COMPETITION**

21 47. Plaintiff hereby realleges and incorporates by reference the allegations of  
22 the preceding paragraphs of this Complaint as if fully set forth herein.

23 48. Plaintiff invested substantial time, skill or money in developing its  
24 service marks.

25 49. Defendants appropriated and used Plaintiff's property, including its  
26 service marks.

27 50. Defendants' appropriation and use of Plaintiff's property was without  
28 authorization or consent from Plaintiff.



1 51. As a result of Defendants' activities, Plaintiff has been damaged in an  
2 amount to be ascertained at trial.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff prays for relief against Defendants as follows:

5 1. A declaratory judgment that Plaintiff does not infringe the Defendant's  
6 trademark for NAMESENTRY®, U.S. Trademark Reg. No. 4,342,396;

7 2. A ruling that Defendant has committed false designation of origin under  
8 federal trademark law, 15 U.S.C. § 1125(a), that Plaintiff has been damaged by such  
9 violations, and that Defendant is liable to Plaintiff for such violations;

10 3. A ruling that Defendant trademark registration for NAMESENTRY® is  
11 cancelled due to a likelihood of confusion with Plaintiff's NAMESENTRY™  
12 service mark;

13 4. A ruling that Defendant has committed trademark infringement of  
14 Plaintiff's NAMESENTRY™ trademarks under common law, that Plaintiff has been  
15 damaged by such infringement, and that Defendant is liable to Plaintiff for such  
16 infringement;

17 5. A ruling that Defendant has engaged in unfair competition under state  
18 statutory and common law, that Plaintiff has been damaged by such conduct, and that  
19 Defendants are liable to Plaintiff for such conduct;

20 6. Under all claims for relief, a permanent injunction enjoining Defendants,  
21 their employees, agents, successors and assigns, and all those in active concert and  
22 participation with them, and each of them who receives notice directly or otherwise of  
23 such injunction from:

24 i. imitating, copying or using in an manner the NAMESENTRY™  
25 trademark or any marks confusingly similar thereto, including without  
26 limitation, any marks containing the words "Name" and "Sentry";

27 ii. using any false designation of origin or false description, including,  
28 without limitation, any letters, symbols, or designs constituting the

1 NAMEENTRY™ trademark or any mark(s) confusingly similar thereto  
2 or performing any act that can, or is likely to lead members of the trade  
3 or public to believe that any service or product manufactured, distributed,  
4 and/or sold by Defendants are, in any manner, associated or connected  
5 with Plaintiff or NAMEENTRY™, or are sold, manufactured, licensed,  
6 sponsored, approved or authorized by Plaintiff;

7 7. An order directing such other relief as this Court may deem appropriate  
8 to prevent the trade and public from deriving the erroneous impression that services or  
9 goods manufactured, sold or otherwise circulated or promoted by Defendant are  
10 authorized by Plaintiff;

11 8. For an award of Plaintiff’s damages trebled or, alternatively, an award of  
12 Defendant’s wrongful profits trebled, whichever is greater;

13 9. For an award of Plaintiff’s attorneys’ fees and costs as permitted by law;

14 10. For punitive damages pursuant to Plaintiff’s common law and state  
15 statutory claims;

16 11. For the imposition of a constructive trust;

17 12. For the disgorgement of Defendant’s unlawful proceeds, including  
18 Defendant’s gross profits;

19 13. For an award of interest, including pre-judgment interest on the foregoing  
20 amounts; and

21 14. For such other relief as the Court may deem just and proper.

22 **DEMAND FOR TRIAL BY JURY**

23 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby  
24 demands a jury trial on all issues and causes of action triable to a jury.

25 ///

26 ///

27 ///

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Respectfully submitted,

DATED: January 22, 2015

**COTMAN IP LAW GROUP, PLC**



By: \_\_\_\_\_

Daniel C. Cotman

Rasheed M. McWilliams

Obi I. Iloputaife

**COTMAN IP LAW GROUP, PLC**

35 Hugus Alley, Suite 210

Pasadena, CA 91103

Telephone: (626) 405-1413

Facsimile: (626) 316-7577

Attorneys for Plaintiff

*Cotman IP Law Group, PLC*