

**IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY,
FLORIDA**

DEEPGULF, INC. and
TOKE OIL AND GAS, S.A.

Plaintiffs,

vs.

MARC M. MOSZKOWSKI

Defendant.

Case No.: 2018 CA 000543

Division: "E"

**DEFENDANT'S MOTION IN LIMINE TO PRECLUDE PLAINTIFFS FROM
ASSERTING OWNERSHIP OF DOMAIN NAMES ABSENT
EVIDENTIARY FOUNDATION**

Defendant, Marc Moszkowski, respectfully moves this Court for an order in limine precluding Plaintiffs from asserting at trial that they own, control, or are entitled to ownership of any internet domain names registered, maintained, or administered by Defendant, unless Plaintiffs first produce admissible evidence establishing such ownership. In support, Defendant states:

1. Plaintiffs have asserted ownership over five internet domain names.

Of those five, two are entirely unknown to Defendant and appear to have no factual connection to him whatsoever. The remaining three

were created by Defendant respectively twenty-two (22), twenty-one (21), and seventeen (17) years ago.

2. Since their creation, Defendant has maintained continuous and exclusive administrative, financial, and technical control over these domains.
3. Plaintiffs have not produced, in discovery or affidavit, any evidence demonstrating:
 - That they initially registered any of the domain names in question;
 - That they paid for the registration or renewal of such domains;
 - That Defendant ever transferred or assigned ownership to them;
 - Or that any corporate resolution, agreement, or intellectual property assignment confers such ownership upon them.
4. The mere resemblance between a domain name and a corporate name does not establish legal ownership or control.
5. Permitting Plaintiffs to assert such ownership without foundational evidence would mislead the trier of fact, create unfair prejudice, and violate Florida's evidentiary standards under Rule 90.104.

6. Plaintiffs' own allegations in Count XI of the Complaint are factually and legally unsustainable. They assert that the domain names and associated data are "critical to the ongoing business" of DeepGulf, Inc. (Paragraph 108), yet:

- DeepGulf has had no business activity whatsoever since it exiled Defendant in February 2017;
- Defendant, as a 46 - 49.9% shareholder and purported Director, has received no reports, disclosures, or accounting of any business activity since that time—despite repeated formal demands for inspection of books and records, which have been obstructed without consequence;
- The domain names at issue (other than *pipepredictor.com*, developed by Defendant long before he met Plaintiff Howard) have contained no active content whatsoever since December 26, 2017, which Plaintiffs do not dispute;
- And the only apparent reason for the company's continued registration is the existence of this litigation, not any operating business interest.

Moreover, Plaintiffs list five domain names, two of which are entirely unknown to Defendant. The remaining three were created by Defendant respectively twenty-two, twenty-one, and seventeen years ago, and have been continuously administered and paid for by him. These domains have been used for personal email by Defendant for decades; involuntary transfer would expose Defendant to irreversible identity theft, misrepresentation, and reputational damage. Plaintiffs have produced no domain registration, payment history, ownership agreement, or corporate resolution to support their claim. The inclusion of HostGator.com, LLC—a former hosting provider dismissed from this case four years ago and with whom Defendant has had no connection since—further illustrates the speculative and legally unsupported nature of Plaintiff’s domain ownership claim.

If Plaintiffs have been, or were, genuinely interested in acquiring the two domain names that have no factual connection to Defendant but are purportedly “critical” to their business, one may reasonably wonder why—after eight years of litigation—they never attempted to acquire them from the public registrar or registrar marketplace. This omission speaks not to business urgency, but to tactical appropriation. Plaintiffs’ claim to ownership of domain names could have been

disproven in under 30 seconds via a public WHOIS search, which they apparently never conducted. This is tantamount to suing Defendant for the theft of a car that not only belonged to a third party, but whose title was publicly searchable and indisputably not theirs. To allow such a claim to proceed—absent even basic factual verification—undermines not only the integrity of the trial, but the very judicial efficiency Plaintiffs purport to defend.

Further, Count XI purports to seek the return of intellectual property, but identifies no such property with legal specificity. Paragraph 105 merely reincorporates Paragraphs 1 through 10, none of which reference any identifiable property. Paragraphs 106 and 107 rely on vague and conclusory references to "domain name information," "passwords," and "electronic access to data," without naming a single file, platform, database, or credential. No specific accounts, servers, or technical infrastructure are identified, and no documents are attached. The Count therefore lacks even minimal factual foundation, and should be disregarded in its entirety.

WHEREFORE, Defendant respectfully moves this Court to enter an order precluding Plaintiffs from asserting at trial any ownership or control over any internet domain name or any related administrative passwords,

access credentials, or electronic data and information unless and until admissible evidence of such ownership or entitlement is presented. This includes, but is not limited to, data hosted on Defendant's privately administered servers, to which Plaintiffs have never held legal title, administrative rights, or technical access independent of Defendant's infrastructure.

Respectfully submitted on this 23rd day of May, 2025.

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CERTIFICATE OF SERVICE

I hereby certify that, on this 23rd day of May, 2025, a copy of this Motion has been furnished to Braden K. Ball, Jr., attorney for the plaintiffs, through the Florida Courts E-Filing Portal.

