Jeffrey A. LeVee (State Bar No. 125863)
jlevee@jonesday.com
Samantha S. Eisner (State Bar No. 230344)
seisner@jonesday.com
JONES DAY
555 South Flower Street
Fiftieth Floor
Los Angeles, CA 90071-2300
Telephone: (213) 489-3939
Facsimile: (213) 243-2539

Attorneys for Plaintiff
The Internet Corporation for Assigned Names
and Numbers

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

The Internet Corporation for Assigned Names and Numbers,
 	
               Plaintiff,
 	
    v.
 	
RegisterFly.Com, Inc., and UnifiedNames, Inc.,
 	
               Defendants.
	Case No. CV 07-2089 R (PLAx)
	
	[PROPOSED] ORDER GRANTING CIVIL CONTEMPT SANCTIONS
	
	[*Ex Parte* Application for Civil Contempt Sanctions, Memorandum in Support of *Ex Parte* Application, and Declaration of Jeffrey LeVee in Support of Application filed concurrently herewith]
	
	Date: TBD
	Time: TBD
	Judge: Hon. Manuel L. Real

[PROPOSED] ORDER

On April 26, 2007, this Court issued a Preliminary Injunction ("PI") against Defendants RegisterFly.Com, Inc. and UnifiedNames, Inc. (collectively, "RegisterFly"). The PI imposed the same obligations on RegisterFly that the Court imposed on RegisterFly on April 16, 2007, when the Court issued a Temporary Restraining Order ("TRO") against RegisterFly, and imposed additional obligations necessitated by RegisterFly's failure to comply with the TRO. Concurrent with the issuance of the TRO, the Court ordered RegisterFly to file, by April 20, 2007, a response to an order to show cause why a preliminary injunction should not be issued against RegisterFly. RegisterFly did not file any response to the Court's order to show cause.

On May 1, 2007, plaintiff Internet Corporation for Assigned Names and Numbers ("ICANN") filed an *Ex Parte* Application for Civil Contempt Sanctions, presenting clear and convincing evidence to this Court of RegisterFly's failure to comply with the PI. In addition, ICANN presented this Court with evidence that it served RegisterFly with the PI.

Accordingly, based on the Complaint filed herein, the *Ex Parte* Application for Temporary Restraining Order, the Memorandum filed in Support of the Application, the Declarations in Support of the Application, Supplement to Plaintiff ICANN's Application for Temporary Restraining Order, ICANN's Briefing In Support of Preliminary Injunction, the Declaration of Jeffrey A. LeVee in Support of Preliminary Injunction, the Preliminary Injunction, the *Ex Parte* Application for Order to Civil Contempt Sanctions, the Memorandum and Declaration of Jeffrey A. LeVee filed in support of the Contempt Application, and the argument of counsel,

IT IS HEREBY ORDERED THAT:

Defendants RegisterFly.Com, Inc. and UnifiedNames, Inc. are hereby found in civil contempt for violating this Court's April 26, 2007 Preliminary Injunction.

IT IS FURTHER ORDERED THAT:

1. As a SANCTION for RegisterFly's refusal to comply with the Preliminary Injunction ("PI") in submitting data to ICANN, upon ICANN's request a U.S. Marshal shall accompany Plaintiff Internet Corporation for Assigned Names and Numbers ("ICANN") to gain access to the premises of Defendants RegisterFly.Com, Inc., and UnifiedNames, Inc. and all of their officers, directors, agents, or representatives (collectively referred to as "RegisterFly") as necessary to physically obtain an electronic copy of all Data required under the Court's April 26, 2007 Preliminary Injunction, and to seize such electronic cop[ies]. ICANN and RegisterFly are to assist the U.S. Marshal in assuring the electronic cop[ies] meet the necessary technical specifications. RegisterFly is required to disclose to the U.S. Marshal all physical locations where the Data is found.

2. The Data the U.S. Marshal is authorized to seize is generally described as follows: a current and complete copy of all registrant data for all Internet domain names that RegisterFly services as an ICANN-accredited Registrar, including the registration data for the equitable registrants of those domain names currently identified as registered by a proxy registration service, such as "ProtectFly". This includes a complete and accurate copy of all Data, including all registrant data identifying a proxy registration service as registrant, and a copy of the registration data for the equitable registrants of those domain names identified as registered by a proxy registration service. The U.S. Marshal shall seize or require the electronic copying of all Data reflecting all registration transfers up to the point of the Data seizure.

3. The Data referred to within this Order, must include the following information, as required under sections 3.2, 3.3, and 3.4 of the RAA:

   - the Registered Name;
   - the names of the primary nameserver and secondary nameserver(s) for the Registered Name;

- the identity of the registrar (which may be provided through registrar's website);
- the original creation date of the registration;
- the expiration date of the registration;
- the name and postal address of the Registered Name Holder;
- the name, postal address, e-mail address, voice telephone number, and (where available) fax number of the technical contact for the Registered Name;
- the name, postal address, e-mail address, voice telephone number, and (where available) fax number of the administrative contact for the Registered Name;
- the name and (where available) postal address, e-mail address, voice telephone number, and fax number of the billing contact;
- any other Registry Data that the registrar has submitted to the registry operator or placed in the registry database.

For the registration data for the equitable registrants of those domain names currently identified as registered by a proxy registration service, such as "ProtectFly", the Data referred to in this Order must include all of the information specified above; however, the name, address, contact and billing information must reflect data as it relates to the equitable registrant, as opposed to the registered proxy service.

4. As a SANCTION for RegisterFly's refusal to comply with Paragraph 8 of the PI, upon ICANN's request, a U.S. Marshal shall accompany ICANN to gain access to RegisterFly's premises as necessary to obtain access to RegisterFly's books and records to perform the Court-ordered audit pursuant to the April 26, 2007 Preliminary Injunction

5. Upon seizure of the Data, the U.S. Marshal is to provide ICANN with the complete copy for ICANN's use in accordance with the PI.

1   6.   The sanctions against RegisterFly may be lifted upon RegisterFly's

2 providing this Court with evidence sufficient to demonstrate it is in full compliance

3 with the PI.

4   7.   RegisterFly is under a continuing obligation to abide by all terms of the

5 April 26, 2007 PI and may be subject to additional civil or criminal sanctions for

6 any further violations thereof.

7   IT IS SO ORDERED.

8

9 Dated: _____, 2007

10

11

12   The Honorable Manuel L. Real
                           United States District Court Judge

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1
2
PROOF OF SERVICE BY OVERNIGHT DELIVERY

I am a citizen of the United States and employed in Los Angeles County,
3
California. I am over the age of eighteen years and not a party to the within-entitled
4
action. My business address is 555 South Flower Street, Fiftieth Floor, Los
5
Angeles, California 90071-2300. On May 2, 2007, I deposited with Federal
Express, a true and correct copy of the within documents:
6
7
[PROPOSED] ORDER GRANTING CIVIL CONTEMPT SANCTIONS
8
in a sealed envelope, addressed as follows:
9
10

Kevin Medina
RegisterFly.Com, Inc.
960 Arthur Godfrey Road, St402
Miami Beach, FL 33140
Email:
  kevin@unifiednames-inc.com
President of RegisterFly.Com,
Inc. and Unified Names, Inc.

Mitchell Novick, Esq.
Law Offices of Mitchell P. Novick
66 Park Street
Montclair, NJ 07042
Email:
mnovick@mitchellnovick.com
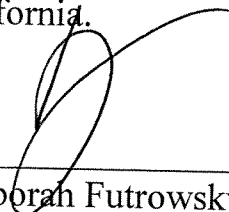Counsel for Kevin Medina,
Registerfly, and Unified Names
11
12
13
14
15

Harold Rabner, Esq.
Rabner, Allcorn, Baumgart &
Ben Asher, P.C.
52 Upper Montclair Plaza
(Upper Montclair)
Montclair, NJ 07043
Email:
hrabner@rabnerallcorn.com
Counsel for Kevin Medina,
RegisterFly, and Unified Names
16
17
18
19

Following ordinary business practices, the envelope was sealed and placed
20
for collection by Federal Express on this date, and would, in the ordinary course of
21
business, be retrieved by Federal Express for overnight delivery on this date.
22
I have submitted a courtesy copy of the above described document via email
23
to all parties listed above.
24
I declare that I am employed in the office of a member of the bar of this court
25
at whose direction the service was made.
26
27
28

1

Executed on May 2, 2007, at Los Angeles, California.

2

3

4

_____

5
Deborah Futrowsky

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

PROOF OF SERVICE