

1 Jeffrey A. LeVee (State Bar No. 125863)
jlevee@jonesday.com
2 Samantha S. Eisner (State Bar No. 230344)
seisner@jonesday.com
3 JONES DAY
4 555 South Flower Street
5 Fiftieth Floor
6 Los Angeles, CA 90071-2300
7 Telephone: (213) 489-3939
8 Facsimile: (213) 243-2539

Attorneys for Plaintiff
The Internet Corporation for Assigned Names
and Numbers

2007 JUN -5 PM 3:58
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES

FILED

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11

12 The Internet Corporation for Assigned
13 Names and Numbers,

14 Plaintiff,

15 v.

16 RegisterFly.Com, Inc., and
17 UnifiedNames, Inc.,

18 Defendants.
19

Case No. CV 07-2089 R (PLAx)

**DECLARATION OF STEVEN
CONTE IN SUPPORT OF
ENTRY OF ICANN'S REPORT
ON COMPLIANCE**

[ICANN's Report on Compliance
with Injunction in Support of Further
Sanctions and Declaration of
Samantha Eisner in Support of
Report filed concurrently herewith]

Judge: Hon. Manuel L. Real

20
21
22
23
24
25
26
27
28

1 I, Steven Conte, declare:

2 1. I am the Chief Security Officer the Internet Corporation for Assigned
3 Names and Numbers ("ICANN"), the plaintiff in this action. I submit this
4 declaration in support of ICANN's Report on Compliance with Injunction in
5 Support of Further Sanctions ("ICANN's Report") against defendants
6 RegisterFly.Com, Inc. and UnifiedNames, Inc. (collectively, "RegisterFly"). I
7 have personal knowledge of the facts set forth in this declaration and am competent
8 to testify if called as a witness.

9 2. I have reviewed the April 26, 2007 Preliminary Injunction ("PI")
10 entered against RegisterFly in this action, as well as the May 25, 2007 Order
11 Imposing Further Sanctions ("Sanctions Order") and am competent to testify to the
12 data transmission and technical specifications imposed in those orders. I have also
13 reviewed and am familiar with the statements made by Kevin Medina in his June 1,
14 2007 Declaration Re: Compliance with Court Order of May 25, 2007.

15 3. ICANN still does not have a complete copy of the registration data for
16 the equitable registrants of those domain names currently identified as registered
17 through a proxy registration service, such as "ProtectFly."

18 4. ICANN did not receive a single transmission with the equitable
19 registrant data until May 24, 2007, 28 days after the entry of the April 26
20 Preliminary Injunction ("PI"). Even then, ICANN received data relating to fewer
21 than 35,000 of the proxy-registered names, although I understand that there are
22 approximately 180,000 affected proxy-registered domain names. Of the records
23 received on May 24, 2007 purporting to relate to the equitable registrants, over
24 1,300 of the records still refer to "ProtectFly" and do not provide the required
25 equitable registrant data.

26 5. At approximately 5:00 p.m. PDT on June 1, 2007, ICANN received
27 another transmission from RegisterFly purporting to be data relating to proxy-
28 registered names. This new data has records for approximately 200,000 of the

DECLARATION OF S. CONTE ISO
REPORT ON COMPLIANCE

1 proxy-registered names, and approximately 2,700 of the records still refer to
2 "ProtectFly" and do not provide the required equitable registrant data.

3 6. On June 1, 2007, at approximately 1:00 p.m. PDT I was contacted by
4 Samantha Eisner, one of ICANN's attorneys of record, and requested to participate
5 in a conference call with RegisterFly at 4:30 p.m. PDT that very afternoon. I
6 arranged my schedule to participate.

7 7. The June 1, 2007 call was the first time that anyone from RegisterFly
8 contacted the staff at ICANN to discuss how RegisterFly may be able to
9 standardize its .csv format to RFC 4180 standards or an otherwise usable. I
10 reached an agreement with Mr. Medina, who was present on the call for
11 RegisterFly, regarding what RegisterFly could do to standardize their files, though I
12 indicated that the process may require additional refining.

13 8. The first time that ICANN received a data transmission from
14 RegisterFly that was compliant with the negotiated format reached on June 1, 2007
15 was in the June 1, 2007 privacy-related data transmission. ICANN did not receive
16 a complete, compliant set of the entirety of the Data that RegisterFly was required
17 to produce under Paragraphs 1-3 of the PI until June 2, 2007.

18 9. All prior data submissions made by RegisterFly were not made in
19 compliance with RFC 4180 specifications, nor were they in the negotiated format.
20 Though the submissions were all made in some type of .csv format, each was made
21 in a non-standardized form. Mr. Medina's assertion that "it is clear that [the
22 submissions] are in the required .csv format," as stated in his June 1, 2007
23 Declaration at Paragraph 8, is just not true.

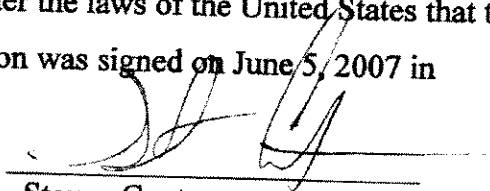
24 10. On May 31, 2007, ICANN finally received a file purporting to be an
25 MD5 hash from RegisterFly to accompany a data transmission. ICANN had never
26 received an MD5 hash from RegisterFly before. This May 31, 2007 MD5 hash –
27 required for its use as a comparison tool to assure file integrity – did not match the
28 hash generated by ICANN over the transmitted file.

1 11. In Paragraph 3 of his declaration, Mr. Medina relies upon a March 27,
2 2007 email from me as a basis for his understanding that he was not required to
3 produce an MD5 hash to ICANN. The email, however, only addressed encryption
4 standards, and makes no mention of an MD5 hash file, which has never been
5 mentioned as an encryption tool.

6 12. On that June 1, 2007 call, Kevin Medina stated that RegisterFly's May
7 31, 2007 MD5 hash was submitted as a descriptor over an encrypted file, which is
8 not what ICANN requested or was entitled to under the Court's Orders, and
9 therefore would render the file meaningless for ICANN. ICANN did not receive a
10 usable MD5 hash for the entirety of RegisterFly's data submissions until June 2,
11 2007.

12 13. On the morning of June 4, 2007, I received a DVD purporting to be in
13 a linux format and purporting to contain the registration Data ICANN is entitled to
14 audit under Section 3.4.3 of the Registrar Accreditation Agreement. I was not able
15 to open the disk to view the data. The disk was unreadable. Later that same day, I
16 received an internet download link to view the file. The link was expired. The file
17 name appeared also appeared to be the exact duplicate of a file that I received from
18 RegisterFly on June 2, 2007. On the morning of June 5, 2007, I opened a new
19 internet download link provided by RegisterFly. The downloaded files were exact
20 duplicates of the privacy-related files that I received from RegisterFly on June 1,
21 2007.

22 I declare under penalty of perjury under the laws of the United States that the
23 foregoing is true and correct. This declaration was signed on June 5, 2007 in
24 Valencia, California.



Steven Conte

25
26
27
28

