

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION

ANNE MARTINEZ, individually and)
on behalf of all other persons)
similarly situated,)

Civil Action No 07-CV-188

Plaintiffs,)

v.)

REGISTERFLY, INC.,)
UNIFIEDNAMES INC.)

NOTICE OF SUBSEQUENT FILING

HOSTING SERVICES GROUP INC.)

KEVIN MEDINA, in his personal capacity and)
as an agent of RegisterFly, Inc. and)

as an agent of Unifiednames Inc.)

John Naruszewicz, in his capacity as an agent)
of both Unifiednames and RegisterFly,)

ENOM, and)

ICANN,)

Defendants.)

COMES NOW the defendant, Internet Corporation for Assigned Names and Numbers ("ICANN"), by and through counsel and hereby files this Notice of Subsequent Filing of the Preliminary Injunction entered by the Honorable Manuel L. Real granting ICANN's Motion for Preliminary Injunction in the action of *ICANN v. RegisterFly.Com, Inc., et al.*, CV 07-2089 R, pending the in United States District Court for the Central District of California. In addition, the court has set a hearing date for a permanent injunction for June 5, 2007 at 10:00 a.m.

This the 27th day of April, 2007.

/s/ Philip J. Mohr

Philip J. Mohr, NC State Bar #24427
Womble Carlyle Sandridge & Rice, PLLC
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Telephone: 336-721-3577
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CERTIFICATE OF SERVICE

I hereby certify that on this date a the foregoing **NOTICE OF SUBSEQUENT FILING** has been caused to be electronically filed with the Clerk of Court and served electronically through the Clerk of Court on April 27th, 2007 to the following person(s):

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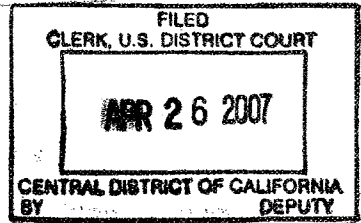
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LOS ANGELES

BY _____



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]~~ PRELIMINARY
INJUNCTION

[Brief in Support of Preliminary
Injunction and Declaration of Jeffrey
A. LeVee in Support of Preliminary
Injunction concurrently filed
herewith]

Date: April 26, 2007
Time: 10:00 a.m.
Judge: Hon. Manuel L. Real

1 **[PROPOSED] ORDER**

2 On April 16, 2007, this Court issued a Revised Temporary Restraining Order
3 against Defendants RegisterFly.Com, Inc. and UnifiedNames, Inc. (collectively,
4 "RegisterFly"). The Court further ordered RegisterFly to file, by April 20, 2007, a
5 response to an order to show cause why a preliminary injunction should not be
6 issued against RegisterFly. RegisterFly did not file any response to the Court's
7 order to show cause.

8 On April 24, 2007, plaintiff Internet Corporation for Assigned Names and
9 Numbers ("ICANN") filed a memorandum in support of the preliminary injunction,
10 in which ICANN provided evidence that RegisterFly has failed to respond to the
11 Court's April 16, 2007 Revised Temporary Restraining Order. ICANN also
12 provided to the Court evidence that RegisterFly's counsel has been receiving the
13 papers that ICANN has served in this action.

14 Accordingly, based on the Complaint filed herein, the *Ex Parte* Application
15 for Temporary Restraining Order, the Memorandum filed in Support of the
16 Application, the Declarations in Support of the Application, Supplement to Plaintiff
17 ICANN's Application for Temporary Restraining Order, ICANN's Briefing In
18 Support of Preliminary Injunction, the Declaration of Jeffrey A. LeVee in Support
19 of Preliminary Injunction, and the argument of counsel,

20 IT IS HEREBY ORDERED THAT:

21 The April 16, 2007 Revised Temporary Restraining Order against
22 Defendants RegisterFly.Com, Inc. and UnifiedNames, Inc. is hereby ISSUED as a
23 Preliminary Injunction.

24 IT IS FURTHER ORDERED THAT:

25 1. Defendants RegisterFly.Com, Inc., and UnifiedNames, Inc. and all of
26 their officers, directors, agents, or representatives (collectively referred to as
27 "RegisterFly"), and all persons or entities in active concert with or under common
28 control by or with the above listed, are hereby directed *immediately*, in accordance

1 with Sections 3.4 and 3.6 of the Registrar Accreditation Agreement (“RAA”)
2 between ICANN and RegisterFly, to provide ICANN with a complete copy of all
3 registrant data for all Internet domain names that RegisterFly services as an
4 ICANN-accredited Registrar, including the registration data for the equitable
5 registrants of those domain names currently identified as registered by a proxy
6 registration service, such as “ProtectFly” (the “Data”). To be clear, RegisterFly is
7 required to provide a complete and accurate copy of all Data, including all
8 registrant data identifying a proxy registration service as registrant, and separately
9 to provide a copy of the registration data for the equitable registrants of those
10 domain names identified as registered by a proxy registration service. In providing
11 ICANN with this Data, RegisterFly is enjoined and restrained from altering or
12 destroying any of the Data prior to making the copy, except for those alterations
13 required to facilitate RegisterFly customer-requested domain name transfers.
14 RegisterFly is further directed to provide ICANN a complete and current update of
15 the Data on a recurring weekly (once every seven days) basis.

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

- 18 • the Registered Name;
- 19 • the names of the primary nameserver and secondary
20 nameserver(s) for the Registered Name;
- 21 • the identity of the registrar (which may be provided through
22 registrar's website);
- 23 • the original creation date of the registration;
- 24 • the expiration date of the registration;
- 25 • the name and postal address of the Registered Name Holder;
- 26 • the name, postal address, e-mail address, voice telephone
27 number, and (where available) fax number of the technical
28 contact for the Registered Name;

- 1 • the name, postal address, e-mail address, voice telephone
- 2 number, and (where available) fax number of the administrative
- 3 contact for the Registered Name;
- 4 • the name and (where available) postal address, e-mail address,
- 5 voice telephone number, and fax number of the billing contact;
- 6 • any other Registry Data that the registrar has submitted to the
- 7 registry operator or placed in the registry database.

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

14 3. An electronic copy of the registration data for the equitable registrants of
15 those domain names currently identified as registered by a proxy registration
16 service such as “ProtectFly” must be submitted to ICANN within twenty-four hours
17 of ICANN’s service on RegisterFly of this Order, and must be made in accordance
18 with the procedures specified herein.

19 4. The Data that RegisterFly is required to provide to ICANN as set forth in
20 this Order must be current, complete and reflect all registration transfers up to the
21 point of the Data transmission to ICANN.

22 5. The Data referred to in this Order must be submitted to ICANN’s secured
23 file transfer protocol (“SFTP”) server as earlier agreed to by RegisterFly.

24 6. RegisterFly is required to perform a MD5 algorithm over each
25 transmission of Data prior to submission to ICANN and to provide ICANN with
26 that MD5 algorithm result with the Data file.

27 7. RegisterFly must provide the Data referred to in this Order in a consistent
28 .csv file format, in accordance with RFC 4180. If RegisterFly is unable to perform

1 .csv exports to create the Data file, RegisterFly must, within 48 hours of the entry
2 of this Order: (1) provide ICANN notice that it cannot perform the required export;
3 (2) complete discussions with ICANN staff to agree upon an acceptable
4 standardized file format; and (3) utilize the negotiated standardized file format for
5 all Data submissions.

6 8. RegisterFly, and all persons or entities in active concert with or under
7 common control, are enjoined immediately and permanently from taking any
8 actions to interfere with ICANN's rights to inspect and audit all of RegisterFly's
9 registration Data under Section 3.4.3. RegisterFly must make its books and
10 records, including the Data, immediately available for audit by ICANN.

11 9. RegisterFly, and all persons or entities in active concert with or under
12 common control, are enjoined immediately and permanently from taking any
13 actions to interfere with ICANN's rights under the RAA, including, but not limited
14 to, ICANN's right to use the Data in order to protect the domain names of
15 RegisterFly's customers.

16 10. RegisterFly, and all persons or entities in active concert with or under
17 common control, must immediately provide ICANN with identification of all
18 physical locations where all Data referred to in this Order is located or stored.

19 11. RegisterFly must immediately post a notice on its website at
20 <http://www.registerfly.com/> and any other website through which it offers to
21 register Internet domain name registrations a notice that must appear in the top third
22 of each web page, must be in 14 point bold typeface, and must read "NOTICE TO
23 CONSUMERS: THE INTERNET CORPORATION FOR ASSIGNED NAMES
24 AND NUMBERS, THE NOT-FOR-PROFIT ENTITY THAT ADMINISTERS
25 THE INTERNET'S DOMAIN NAME SYSTEM, HAS ISSUED A NOTICE OF
26 TERMINATION OF THIS COMPANY'S ACCREDITATION TO SERVE AS AN
27 INTERNET DOMAIN NAME REGISTRAR. PLEASE SEE www.icann.org FOR
28 FURTHER INFORMATION."

1 12. RegisterFly is immediately and permanently enjoined from performing
2 any alterations to WHOIS data for any domain name for which RegisterFly
3 currently serves as the registrar of record except for those alterations required to
4 facilitate RegisterFly customer-requested domain name transfers.

5 13. ICANN is permitted immediately to take all steps necessary to preserve
6 the domain names of all registrants for which RegisterFly serves as the registrar of
7 record, including entering into agreements with domain name registries to prevent
8 the deletion of current RegisterFly domain names. The Court urges all domain
9 name registries to take whatever steps are necessary to assist ICANN in avoiding
10 the deletion of domain names registered by RegisterFly.

11 14. Pursuant to the Registrar Accreditation Agreement (“RAA”) between
12 ICANN and RegisterFly, ICANN shall be permitted immediately to terminate
13 RegisterFly’s RAA, thereby terminating RegisterFly’s ability to serve as a registrar.
14 Should ICANN terminate the RAA, RegisterFly may continue to pursue an
15 arbitration to seek to have its accreditation restored.

16 15. In the event ICANN terminates the RAA, except as directed by ICANN,
17 RegisterFly shall be immediately enjoined from providing any service or function
18 performed by registrars, including but not limited to the solicitation and/or
19 acceptance of domain name registrations, transfers or renewals, accepting payment
20 for domain name registrations, transfers or renewals, and altering any WHOIS data
21 for domain names for which RegisterFly served as the registrar of record.

22 16. Upon ICANN’s termination of the RAA, RegisterFly must immediately
23 post a notice on its website at <http://www.registerfly.com/> and any other website
24 through which it solicits Internet domain name registrations to inform customers
25 that its ICANN accreditation has been terminated. The notice must be placed in the
26 top third of each web page, must appear in 14 point bold typeface, and must read
27 “NOTICE TO CONSUMERS: ICANN HAS TERMINATED THIS COMPANY’S
28 ACCREDITATION TO SERVE AS AN INTERNET DOMAIN NAME

1 REGISTRAR. THIS COMPANY MAY NOT REGISTER DOMAIN NAMES.
2 PLEASE SEE www.icann.org FOR MORE INFORMATION.”

3 17. Upon ICANN’s termination of the RAA, ICANN shall be permitted to
4 use all Data collected for any purpose in the public interest, including but not
5 limited to facilitating a bulk transfer of all domain names for which RegisterFly (at
6 the time of termination) served as the registrar of record in accordance with
7 ICANN’s Inter-Registrar Transfer Policy.

8 18. Upon ICANN’s termination of the RAA, RegisterFly must take any and
9 all steps to facilitate ICANN’s bulk transfer of all domain names for which
10 RegisterFly (at the time of termination) served as the registrar of record in
11 accordance with ICANN’s Inter-Registrar Transfer Policy.

12 IT IS SO ORDERED.

13 Dated: April 26, 2007

14
15 **MANUEL L. REAL**

16 The Honorable Manuel L. Real
17 United States District Court Judge

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