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and Numbers

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CLERK, U.S. DISTRICT COURT
SEP 24 2007
CENTRAL DISTRICT OF CALIFORNIA
BY W DEPUTY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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13 The Internet Corporation for Assigned
Names and Numbers, Clerk, U.S. District Court

Case No. CV 07-2089 R (PLAx)

14 Plaintiff, SEP 27 2007

~~PROPOSED~~
DEFAULT JUDGMENT

15 v.

Date: September 24, 2007

Time: 10:00 a.m.

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

Judge: Hon. Manuel L. Real

17 Defendants.

18
19 On August 6, 2007, the Clerk of this Court entered the default of defendants
20 RegisterFly.Com, Inc. and UnifiedNames, Inc. (collectively, "Defendants" or
21 "RegisterFly") for failure to timely plead or otherwise defend against the above-
22 referenced action. On September 24, 2007, upon proper notice, this Court provided
23 the parties an opportunity to be heard on the sufficiency of this Default Judgment.

24 IT IS ORDERED that the following facts are established:

25 1. This is an action for breach of contract, injunctive relief, and
26 declaratory relief with respect to the repeated breaches by Defendant
27 RegisterFly.Com, Inc. (and its parent company, UnifiedNames, Inc.) of its contract
28 with ICANN.

1 2. Plaintiff ICANN is a not-for-profit public benefit corporation
2 organized under the laws of the State of California with its principal place of
3 business in Marina del Rey, California.

4 3. Defendant RegisterFly.Com, Inc. is a for-profit public corporation
5 organized under the laws of the State of Delaware with its principal place of
6 business in Miami Beach, Florida.

7 4. Defendant UnifiedNames, Inc. is the parent company for
8 RegisterFly.Com, Inc. Defendant UnifiedNames, Inc. is a for-profit public
9 corporation organized under the laws of the State of New Jersey with a separate
10 principal place of business in Miami Beach, Florida.

11 5. This Court has jurisdiction over the subject matter of this action under
12 28 U.S.C. § 1332(a)(2). The amount in controversy exceeds \$75,000, exclusive of
13 interest and costs, and the dispute is between a citizen of California, ICANN, a
14 citizen of Florida and Delaware, RegisterFly.Com, Inc., and a citizen of New Jersey
15 and Florida, UnifiedNames, Inc.

16 6. Venue is proper under 28 U.S.C. § 1391(a) because a substantial part
17 of the events giving rise to the claims in this case occurred in this judicial district.
18 Further, Section 5.6 of the RAA provides that jurisdiction and exclusive venue for
19 all litigation concerning the RAA shall be in a court located in Los Angeles,
20 California.

21 7. Defendant RegisterFly.Com, Inc. served as an ICANN-accredited
22 registrar. On September 13, 2004, ICANN entered into a registrar accreditation
23 agreement with "Top Class Names, Inc." On or around November 22, 2004, Top
24 Class Names, Inc. filed a Certificate of Amendment of Certificate of Incorporation
25 with the State of Delaware, changing its name to RegisterFly.Com, Inc.

26 8. RegisterFly was no longer following the appropriate domain name
27 registration process required under the RAA with ICANN, and RegisterFly appears
28 to be in a state of complete disarray.

1 9. Neither ICANN nor RegisterFly has been excused from performance
2 of its obligations under the RAA. ICANN is in full compliance with its contractual
3 obligations under the RAA.

4 10. RegisterFly engaged in conduct violating multiple sections of the RAA
5 and failed to cure the breaches within the fifteen working day cure period allowed
6 for under Section 5.3 of the RAA.

7 11. Under Section 3.3 of the RAA, RegisterFly was required to maintain
8 an interactive web page with daily updates concerning all active Registered Names
9 sponsored by the Registrar. RegisterFly failed to maintain the continuous
10 operability of its web page and failed to perform the required updates to the
11 publicly available data in violation of Section 3.3.

12 12. Under Section 3.4 of the RAA, RegisterFly was required to maintain
13 electronic records for each active Registered Name it sponsors in its registry.
14 RegisterFly was also required to make those records available to ICANN for
15 inspection at ICANN's request. Despite numerous requests for inspection by
16 ICANN, RegisterFly refused to allow ICANN to inspect and audit the Data, in
17 violation of the contract.

18 13. Section 3.6 of the RAA required RegisterFly to escrow with ICANN a
19 complete copy of the Data for all names registered with RegisterFly. ICANN
20 requested a complete copy of all RegisterFly registration Data on numerous
21 occasions in February and March 2007. In violation of Section 3.6, RegisterFly
22 failed to provide ICANN with this complete electronic copy within the timeframe
23 required.

24 14. Under Section 4.1 of the RAA, RegisterFly was required to follow
25 ICANN's Transfer Policy. In violation of this provision, RegisterFly ignored its
26 customers' transfer requests. RegisterFly failed to effectuate transfers, failed to
27 provide the necessary codes to facilitate transfers, and failed to unlock names to
28 allow for transfers.

1 15. Each of RegisterFly's breaches provides an independent ground for
2 termination of the RAA.

3 16. Through these actions, RegisterFly breached its obligations under the
4 RAA by refusing to perform as required.

5 17. ICANN has been damaged by RegisterFly's breaches, and
6 RegisterFly's customers have been damaged by RegisterFly's breaches, which have
7 prevented ICANN from protecting RegisterFly's customers (as the RAA
8 specifically authorizes). RegisterFly's behavior has prevented ICANN from doing
9 its job -- protecting the stability, integrity, and utility of the DNS on behalf of the
10 global Internet community.

11 18. ICANN provided RegisterFly all of the appropriate notifications of
12 breach of the RAA, RegisterFly's right to cure the breaches within fifteen working
13 days, and the resulting notices of termination for failure to cure those breaches in
14 the time allowed, as required under Section 5 of the RAA.

15 19. RegisterFly continued to breach the RAA after the initiation of this
16 action, as it failed to pay accreditation fees to ICANN as required under Section 3.9
17 of the RAA. RegisterFly currently owes ICANN \$122,152.35 in unpaid
18 accreditation fees invoiced after the filing of the Complaint in this action.

19 IT IS FURTHER ORDERED that Judgment by Default be entered as
20 follows:

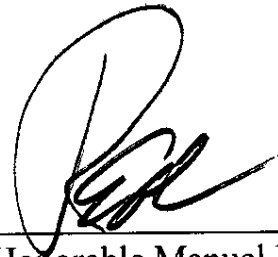
- 21 1. ICANN rightfully terminated RegisterFly's RAA;
- 22 2. That Defendants, their officers, agents, representatives, employees,
23 assigns, and all persons acting in concert or in privity with any of them are
24 permanently enjoined from engaging in any further violations of the surviving
25 terms of the RAA. These ongoing terms include, but are not limited to: obligations
26 relating to the retention and maintenance of registration data; the timely payment of
27 accreditation fees as invoiced; and respecting the termination of the ICANN Logo
28 License Agreement;

1 3. The Defendants owe damages to ICANN in the amount of
2 \$122,152.35 for the unpaid accreditation fees. Defendants are required to provide
3 ICANN payment of the \$122,152.35 via wire transfer within ten (10) days of the
4 entry of this Judgment; and

5 4. The entry of this Default Judgment in no way supersedes or otherwise
6 alters the June 12, 2007 Permanent Injunction, or any other Order entered by this
7 Court during the pendency of this action. Defendants are required to abide by all
8 orders of this Court, and this Court retains jurisdiction over the continued
9 enforcement of all Orders in this matter.

10 IT IS SO ORDERED.

11 Dated: September 24, 2007



The Honorable Manuel L. Real
United States District Court Judge

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PROOF OF SERVICE BY PERSONAL DELIVERY

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 555 South Flower Street, Fiftieth Floor, Los Angeles, California 90071-2300. On September 12, 2007, I caused to be served the foregoing document:

[PROPOSED] DEFAULT JUDGMENT

on the interested party by placing a true copy in envelope(s) addressed as follows:

Heather McCloskey, Esq.	Attorney for Defendant,
Ervin Cohen & Jessup LLP	RegisterFly.Com, Inc.
9401 Wilshire Blvd., 9th Floor	
Beverly Hills, CA 90212	

I caused such envelope(s) to be delivered by hand to the addressee(s).

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on September 12, 2007, at Los Angeles, California.



Elizabeth Tran