

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION

Anne Martinez, individually and)
on behalf of all other persons)
similarly situated,)
)
Plaintiffs,)
v.)
)
RegisterFly, Inc.,)
Unifiednames Inc.)
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.)

Civil Action No 07 _____

ANNE MARTINEZ
AFFIDAVIT IN SUPPORT OF
TEMPORARY RESTRAINING ORDER

After being duly sworn I do hereby depose, affirm, and swear to the following facts and submit this affidavit in Support a Temporary Restraining Order in this case:

1. RegisterFly has recently created a new service which they called "ProtectFly."
2. I have attached to this affidavit the information they post on their web site regarding the extra service for which they will bill additional fees.
3. ProtectFly conceals the true owner of a domain with the purpose of keeping that person's information being publicly posted on the Internet which could lead to the registrant receiving spam or other harassment. This is accomplished by replacing all of the domain ownership and contact information with that of RegisterFly instead of the actual domain owner.

4. I have never signed up for this “service”, nor have I been billed for this “service” nor do I want this “service.” It is not a service! I never have wanted it and do not want it now.

5. This newest obstacle to me moving my domain name registrations was not placed on all of my accounts at RegisterFly

6. ProtectFly is supposed to be able to be turned off through the RegisterFly control panel, which would return the actual domain owner’s information to public record. However, it is currently impossible to do this, which means there is no way to remove the RegisterFly information from my domains. This means that there is no way I can transfer the domains or prove my ownership of them.

7. Furthermore, according to ICANN’s web site RegisterFly has indeed turned domain registration information over to ICANN with the actual registrants or “owners” information missing, and instead information containing their own “ProtectFly” entries, not that of real domain owner.

8. ICANN has no way of knowing who actually owns any particular domain and returning the Domain Name to the true owner. When RegisterFly if finally decertified, or crumbles completely domain disputes could and would take place, possibly going on for years and including litigation that few small-scale domain owners could afford.

9. For this reason, it is imperative to assure that the original ownership information that RegisterFly possesses is preserved, and that there is no opportunity for RegisterFly to damage or destroy this information.

10. If RegisterFly did destroy or damage the original ownership information, then it would make it near impossible for me to prove that I should still own my domain name rather than some cyber-squatter. It would take months for ICANN to sort out all the claims, and many of us would be long out of business before it could be done.

11. RegisterFly has intentionally and illegally prevented me from moving my domain registrations, by intentionally and without my approval converting the public ownership of my web sites to their own code, and then refusing to allow me to remove “ProtectFly.”

12. This has also thwarted ICANN because now ICANN cannot protect the public and even ICANN realizes that “data escrow may be insufficient for ICANN to protect that data.” However appears to blame the registrant by saying : “In making a choice to use a proxy/privacy service, customers should be aware of balancing privacy against access to data.”

13. What ICANN may not know is that I did NOT authorize RegisterFly to convert my accounts to “ProtectFly” and I cannot get them to remove it!

14. Since “data escrow” is not able to protect the public, this Court must take all reasonable measures to assure “data preservation.”

This the 15th day of March 2007.

ANNE MARTINEZ

SWORN to and subscribed

before me this the _____ day of _____,2007

NOTARY PUBLIC

My Commission Expires: _____