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14 DANIEL L. BALSAM

FILED
San Francisco County Superior Court
JUN - 9 2009
GORDON PARK LI, Clerk
By: 
SAJJA RAVINANTHAPPA, Deputy Clerk

15 **SUPERIOR COURT OF CALIFORNIA**
16 **COUNTY OF SAN FRANCISCO (UNLIMITED JURISDICTION)**

17 DANIEL L. BALSAM, an individual,) Case No.: CGC-08-473382
18)
19 Plaintiff,) **JUDGMENT OF COURT AS TO**
20 v.) **DEFENDANT**
21) **TRAVELFLEAMARKET.COM INC., A**
22) **NEW YORK CORPORATION**
23 STARTUP CONSULTANTS LLC et al.,)
24)
25 Defendants.) Date: June 2, 2009
26) Time: 9:00 a.m.
27) Department: 218

- 28
- 29 1. Defendant TRAVELFLEAMARKET.COM INC., a New York Corporation, was
 - 30 properly served with a copy of the summons and complaint.
 - 31 2. Defendant TRAVELFLEAMARKET.COM INC., a New York Corporation, failed to
 - timely respond to the complaint.
 3. The default of Defendant TRAVELFLEAMARKET.COM INC., a New York
 - Corporation, was entered on June 18, 2008.

- 1 4. The Court finds that Defendant TRAVELFLEAMARKET.COM INC., a New York
2 Corporation, advertised in four unsolicited commercial emails to Plaintiff with falsified,
3 misrepresented, or forged information contained in or accompanying the email headers.
- 4 5. The Court finds that a domain name is analogous to an identity on the Internet. The
5 Court finds that sending commercial emails from multiple domain names, when there is
6 no justifiable business rationale for doing so: 1) is a deceptive means for the sender to
7 portray itself as if it were actually multiple entities, and 2) is a deceptive means of
8 evading spam filters, and therefore 3) violates California Business & Professions Code
9 § 17529.5(a)(2).
- 10 6. The Court finds that the registration information for a domain name that appears in
11 email headers is properly considered information accompanying the email headers.
12 The Court finds that domain names registered to "IRL Technet Ltd." when there is no
13 such entity, and registered to an address that is really an Irish Pub, contain materially
14 false information in violation of California Business & Professions Code
15 § 17529.5(a)(2) and the Consumers Legal Remedies Act (Civil Code § 1770(a)(2),
16 (a)(3), and (a)(5)).
- 17 7. Judgment is entered as follows by the Court:
- 18 8. Defendant TRAVELFLEAMARKET.COM INC., a New York Corporation, is liable to
19 Plaintiff on the complaint in the amount of \$4,000.00 liquidated damages for four
20 unlawful unsolicited commercial emails pursuant to California Business & Professions
21 Code § 17529.5(b)(1)(B)(ii).
- 22 9. Defendant TRAVELFLEAMARKET.COM INC., a New York Corporation, is liable to
23 Plaintiff on the complaint in the amount of \$10,000.00 (\$2,500.00 for each of four
24 violations) of a previously-entered stipulated judgment. *Balsam v. Ultimate Corner et*
25 *al*, No. 1-04-CV-020000 (Super. Ct. Cal., Cty. of Santa Clara filed May 19, 2004)
26 (stipulated judgment by defendant TravelFleaMarket.com Inc. Nov. 22, 2004). Exhibit
27 A is a true and correct copy of the stipulated judgment.
- 28 10. Defendant TRAVELFLEAMARKET.COM INC., a New York Corporation, is liable to
29 Plaintiff for attorneys' fees in the amount of \$1,200.00 (three hours at \$400.00 per
30 hour) pursuant to Cal. Code Civ. Proc. § 17529.5(b)(1)(C).
- 31

1 11. Defendant TRAVELFLEAMARKET.COM INC., a New York Corporation, is liable to
2 Plaintiff on the complaint in the amount of \$34.40 for recoverable costs of service.

3 12. The total monetary judgment amount is \$ 15,234.40.

4 13. Defendant TRAVELFLEAMARKET.COM INC., a New York Corporation, is also
5 liable to Plaintiff for interest at 10% per year beginning June 2, 2009.

6 14. Defendant TRAVELFLEAMARKET.COM INC., a New York Corporation, is
7 prohibited from advertising in or sending unlawful commercial email advertising either
8 directly or through agents, servants, and employees. All persons acting under, in
9 concert with, or for Defendant TRAVELFLEAMARKET.COM INC., a New York
10 Corporation, are similarly prohibited from sending unlawful commercial email
11 advertising.

12
13 IT IS SO ORDERED.

14
15 Date:

June 8, 2009

William R. Gargano

Judge of the Superior Court

WILLIAM R. GARGANO
Commissioner

Exhibit A

Stipulated judgment by TravelFleaMarket.com (Nov. 22, 2004) in *Balsam v. Ultimate Corner et al*, No. 1-04-CV-020000 (Super. Ct. Cal., Cty. of Santa Clara filed May 19, 2004)

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FILED

NOV 22 2004

KIRI TORRE
 Chief Executive Officer/Clerk
 Superior Court of the County of Santa Clara
 BY *[Signature]* DEPUTY
ROWENA WALKER

Attorney for Plaintiff
 Daniel L. Balsam

SUPERIOR COURT OF THE STATE OF CALIFORNIA

(COUNTY OF SANTA CLARA (UNLIMITED JURISDICTION))

DANIEL L. BALSAM, an individual,

CASE NO. 1-04-CV-020000

Plaintiff,

**STIPULATION TO ENTRY
 OF JUDGEMENT AND
 JUDGEMENT**

Vs.

ULTIMATE CORNER, et al.,

Cal. Bus. & Prof. Code 17200 et seq.
 Cal. Bus & Prof. Code 17500 et seq.

Defendants.

STIPULATION TO ENTRY OF JUDGEMENT

For the purpose of settling and compromising a dispute, Daniel L. Balsam (Hereinafter "Mr. Balsam" and TravelFleaMarket.com, Inc (hereinafter "TFM") hereby stipulate and agree as follows:

1. Mr. Balsam has made claims for equitable relief.
2. TFM has agreed to provide the requested relief by hereafter complying with all laws and regulations pertaining to Internet advertising.
3. This stipulated Judgement is an injunction for purposes the Unfair Business Practices And the Unfair Advertising Practices Act.
4. In accordance with the terms of the offer and acceptance and to secure the performance Thereof. Mr. Balsam, by and through his attorney, and TFM hereby enter in to this

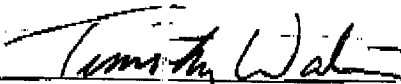
stipulation to be filed in the above-identified action for the purpose of causing a final judgment to be entered against TFM in accordance with the terms set forth in paragraphs 2 and 3 above.

5. The parties have agreed to bear their own costs and attorney fees.

DATED this ___ day of September, 2004

Presented by

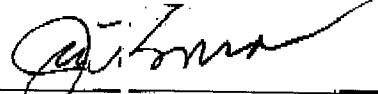
INTERNET ATTORNEY


Timothy Watson
Attorney for Daniel L. Balsam

TRAVELFLEAMARKET.COM, INC


Robert Phillips
President, TravelFleaMarket.com, Inc.

IT IS SO ORDERED


Judge of the Superior Court
JACK KOMAR

NOV 22 2004