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OF ORIGINAL FILED
Los Angeles Superior Court

JAN 17 2007

John A. Clarke, Executive Officer/Clerk

By R. Miklos, Deputy

11 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **FOR THE COUNTY OF LOS ANGELES**

13 STEVEN RAMBAM, aka Steven Rombom,)

14 Plaintiff,)

15 vs.)

16 ENOM, INC., A Nevada Corporation,)
17 DEMAND MEDIA, INC., A Delaware)
18 Corporation, A. J. WEBERMAN, and Does)
19 1 to 10, inclusive)

20 Defendants.)

Case No. **SC092414**

) EX-PARTE APPLICATION FOR A
) TEMPORARY RESTRAINING ORDER
) AND AN ORDER TO SHOW CAUSE
) RE PRELIMINARY INJUNCTION;
) MEMORANDUM OF POINTS AND
) AUTHORITIES; DECLARATION OF
) GARY KURTZ

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23 ///

24 ///

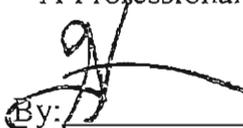
1 Plaintiff applies ex-parte at 8:30 a.m. in Department ___ of the above identified,
2 located at 1725 Main Street, Santa Monica, California for a temporary restraining order and
3 an order to show cause re issuance of a preliminary injunction preventing the transfer of the
4 registration and rights to an Internet domains: Garbology.com, Dylanology.com,
5 Steverombom.com, JDO.org, and Dennisking.org., which are presently registered with
6 Defendants Enom, Inc. and/or Demand Media, Inc.
7

8 This Application is based on Code of Civil Procedure § 708.240 and on the ground
9 that defendant's web page registrations are a valuable assets connected to and with the State
10 of California and subject to collection procedures. A temporary restraining order and
11 preliminary injunction are necessary to prevent the transfer of the registration or hosting of
12 the web site. Without such a restraining order, the registration could easily be moved out of
13 the jurisdiction.
14
15

16 This application is based on this notice, the accompanying memorandum of points
17 and authorities and declaration of Gary Kurtz, the pleadings and other matters in this
18 Court's files in this action, and all further evidence that is presented and received at the
19 hearing on the instant matter.
20

21
22 Dated: January 16, 2007

LAW OFFICE OF GARY KURTZ
A Professional Law Corp.

23
24
25 By: 
26 Gary Kurtz, Esq., Attorney for
27 Plaintiff Steven Rambam
28

1 Memorandum of Points and Authorities

2
3 **I. Introduction**

4
5 Judgment Creditor is attempting to collect on a judgment, which was entered after a
6 jury verdict on a defamation cause of action. Judgment Debtor is still publishing
7 defamation about Mr. Rambam using the web sites at issue in this action. For example, the
8 acidtrip.com website accuses Mr. Rambam of being a child molester, among other false
9 accusations. The jdo.org website accuses Mr. Rambam of being a terrorist, a criminal, and
10 other false, offensive items.
11

12 The web sites at issue have value because of their age and unusual content. The
13 requested order will not likely stop the defamation, but it will capitalize on it to the benefit
14 of the victim of the defamation. Obviously, the defamatory information will be purged
15 from the web sites before they are sold.
16

17 This process, which starts with a creditor's action and injunctive relief, and then
18 moves to the appointment of a receiver to sell the web pages and terminate the lawsuit, was
19 successfully tried in an action entitled *Kurtz v. Network Solutions, Inc.*, LASC Case No. LC
20 073703. That web page – which contained defamatory information about Plaintiff's
21 Counsel resulting in a judgment exceeding \$200,000.00 – was sold pursuant to the same
22 procedure anticipated in this case. That procedure started with the same temporary
23 restraining order and order to show cause re preliminary injunction requested herein.
24
25
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1 **II. Argument**

2 The instant action is based on Code of Civil Procedure § 708.210, which reads:

3
4 If a third person has possession or control of property in which
5 the judgment debtor has an interest or is indebted to the
6 judgment debtor, the judgment creditor may bring an action
7 against the third person to have the interest or debt applied to
the satisfaction of the money judgment.

8 The related code sections include Code of Civil Procedure § 708.240, which permits
9 injunctive relief in a creditor's action, as follows:

10
11 The judgment creditor may apply to the court in which an
12 action under this article is pending for either or both of the
following:

13 (a) An order restraining the third person from transferring to the
14 judgment debtor the property in which the judgment debtor is
15 claimed to have an interest or from paying to the judgment
16 debtor the alleged debt. The order shall be made on noticed
17 motion if the court so directs or a court rule so requires.
18 Otherwise, the order may be made on ex parte application. The
19 order shall remain in effect until judgment is entered in the
20 action or until such earlier time as the court may provide in the
order. An undertaking may be required in the discretion of the
court. The court may modify or vacate the order at any time
with or without a hearing on such terms as are just.

21 (b) A temporary restraining order or a preliminary injunction or
22 both, restraining the third person from transferring to any
23 person or otherwise disposing of the property in which the
24 judgment debtor is claimed to have an interest, pursuant to
25 Chapter 3 (commencing with Section 525) of Title 7, and the
court may make, dissolve, and modify such orders as provided
therein.

26
27 Here, the asset in question is a registration right to control the web pages located at
28 Garbology.com, Dylanology.com, Steverombom.com, JDO.org, and Dennisking.org.,

1 which are presently registered with Defendants Enom, Inc. and/or Demand Media, Inc.
2 Unless enjoined, that can be changed instantaneously to deprive Plaintiff of the ability to
3 use the asset to partially satisfy his judgment.
4

5 General standards for the issuance of a preliminary injunction are satisfied in this
6 situation. The standard for issuing injunctive relief was set forth in *It Corp. v. County of*
7 *Imperial*, 35 Cal.3d 63, 69-70, 196 Cal.Rptr. 715 (1983):
8

9 This court has traditionally held that trial courts should evaluate
10 two interrelated factors in deciding whether or not to issue a
11 preliminary injunction. The first is the likelihood that the
12 plaintiff will prevail on the merits at trial. The second is the
13 interim harm that the plaintiff is likely to sustain if the
14 injunction is denied as compared to the harm that the defendant
15 is likely to suffer if the preliminary injunction were issued.

16 The Court continued to explain that, "[t]he ultimate goal of any test to be used in deciding
17 whether a preliminary injunction should issue is to minimize the harm which an erroneous
18 interim decision may cause." *Id.* at 73.
19

20 Injunctions may be used to prevent further harm, such as the future inability to honor
21 the terms of an agreement. In *Southern Christian Leadership Conference v. Al Malakah*
22 *Auditorium, Co.*, 230 Cal.App.3d 207, 223, 281 Cal.Rptr. 216 (1991), the court explained:
23

24 Plaintiffs are not required to wait until they suffer actual harm,
25 but may seek injunctive relief against threatened infringement
26 of their rights.
27

28 The court continued to note that:

In ruling on a preliminary injunction, the court considers
whether a greater injury will result to the defendant from
granting the injunction than to the plaintiff from refusing it.

Id.

1 All injunction standards are satisfied in the instant case. First, there is an extreme
2 likelihood of success on the merits. Plaintiff has a judgment against Weberman, and the
3 Defendants here are in control of an asset of the judgment debtor. Second, there is a risk of
4 judgment debtor moving the registration, as that could be done quickly and remotely. On
5 the other hand, there is **no** possibility of judgment debtor suffering legally recognizable
6 harm from being prevented from secreting his registration out of the jurisdiction of a United
7 States Court. He would still control the content of the web pages during this litigation.\

10
11 **III. Conclusion**

12 Although not the usual collection method, judgment creditor's request is consistent
13 with more established procedures. Judgment debtor has some assets within this Court's
14 reach, so judgment creditor seeks the orders necessary to collect on that judgment.
15

16
17 Dated: January 16, 2007

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20 By: 

Gary Kurtz, Esq., Attorney for
Plaintiff Steven Rambam