

EXHIBIT K

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May 31, 2000

BY FACSIMILE AND BY FEDERAL EXPRESS

Derek A. Newman, Esq.
Newman & Newman, LLP
1001 Fourth Avenue Plaza
Suite 3200
Seattle, Washington 98154

Re: Bulk Access to Register.com, Inc.'s WHOIS Data

Dear Derek:

This law firm is counsel to Register.com, Inc. ("register.com"). We are writing to respond to your letter of May 26, 2000 concerning register.com's refusal to license its proprietary WHOIS data to eNIC Corporation ("eNIC").

We have reviewed the Registrar Accreditation Agreement by and between register.com and the Internet Corporation for Assigned Names and Numbers ("ICANN"), and carefully considered the arguments set forth in your letter. We respectfully disagree with your position that register.com's refusal to license its proprietary WHOIS data to eNIC constitutes a violation of that Agreement.

R 000771

Derek A. Newman, Esq.
May 31, 2000
Page 2

As you know, many Internet users believe passionately in their right of privacy, and consider the use of their personal information for the purpose of making unsolicited commercial telephone calls, or sending unsolicited direct or electronic mail, an invasion of that right of privacy. Such activities can have an extremely negative impact on consumer's attitudes, as evidenced by the widespread coverage of the topic in both traditional and electronic media, as well as the level of legislative activity directed at privacy on the Internet.

As you also know, register.com's proprietary WHOIS database contains personal information about each of register.com's customers, including their names, postal addresses, telephone numbers, and electronic mail addresses. Out of respect for the desire of its customers not to have their personal information used for the purpose of making unsolicited commercial telephone calls, or sending unsolicited direct or electronic mail, register.com has scrupulously sought to prevent the use of its proprietary WHOIS data to enable such activities.

To this end, register.com only makes its proprietary WHOIS data publicly accessible on a domain name by domain name basis, and such access is conditioned upon a searcher's agreement to the terms of use of register.com's proprietary WHOIS database. Those terms of use state, in relevant part, that, "[the searcher] will use this data only for lawful purposes and that, under no circumstances

Derek A. Newman, Esq.
May 31, 2000
Page 3

will [the searcher] use this data to . . . allow, enable, or otherwise support the transmission of mass unsolicited, commercial advertising or solicitations via direct mail, electronic mail, or by telephone"

Further to its policy of taking all necessary steps to prevent the use of its proprietary WHOIS data to enable unsolicited commercial telephone calls, or the sending of unsolicited direct or electronic mail, it is register.com's policy not to provide bulk licenses to that data to entities that register.com has a good faith belief will engage in any of the foregoing activities. With this background in mind, we now turn to the statements contained in your letter of May 26th.

In essence, your letter is little more than a demand that register.com provide its proprietary WHOIS data to eNIC, accompanied by a statement that if register.com does not do so, eNIC will "pursue its legal remedies against Register.com." In support of your demand, you cite to Section 2(F)(6) of the Registrar Accreditation Agreement, which you argue "does not permit Register.com" to determine which third parties it wishes would presumably also be the basis upon which eNIC would "pursue its legal remedies." We respectfully disagree.

As an introductory matter, the Registrar Accreditation Agreement is a contract by and between register.com and ICANN, not register.com and eNIC. Moreover, as you are undoubtedly aware, Section II(S)(2) of the Registrar Accredita-

Derek A. Newman, Esq.
May 31, 2000
Page 4

tion Agreement expressly states that "[t]his Agreement shall not be construed to create any obligation by either ICANN or [register.com] to any non-party to this Agreement, including any SLD holder."

While the Registrar Accreditation Agreement does specify that register.com is to provide bulk access to its proprietary WHOIS data to third parties, this requirement is not in any fashion intended to compel register.com to provide such access to the detriment of register.com or its customers. Register.com has reviewed this interpretation with ICANN, and ICANN is in agreement that register.com has the discretion to refuse to license its proprietary WHOIS data if it has a good faith belief that such data will be used for the purpose of enabling unsolicited commercial telephone calls, or the sending of unsolicited direct or electronic mail.

With regard to your personal assurances that "eNIC does not spam, has never in the past spammed, and has no intention to spam," we note that, contrary to those assurances, eNIC has indeed engaged in the sending of unsolicited commercial electronic mail messages in the past. As evidence of such activity, we are attaching as Exhibit 1 to this letter a copy of an unsolicited electronic mail sent by eNIC to a register.com customer.

R 000774

Derek A. Newman, Esq.
May 31, 2000
Page 5

In light of the foregoing, your personal assurances as outside counsel to eNIC are not sufficient to overcome the great risk register.com would be taking if it were to provide eNIC with its proprietary WHOIS data. As you might imagine, were eNIC to use that proprietary WHOIS data to make unsolicited commercial telephone calls, or send of unsolicited direct or electronic mail, such activities would inevitably be associated with register.com, and would therefore result in inestimable harm to register.com.

In view of the foregoing, we must respectfully advise you that register.com will not comply with your demands.

Very truly yours,



Kenneth A. Plevan

Attachment

cc: Jack S. Levy, Esq.
General Counsel
Register.com, Inc.

Louis Touton, Esq.
Vice President and General Counsel
Internet Corporation for Assigned Names and Numbers

From: <hostmaster@nic.cc>
To: [customer's name redacted]

We have added some new features and programs we would like to inform you about:

Whois Database
FREE URL Web Forwarding
FREE Under Construction Page
WWW DNS Change
Webmaster Link Program

-
Whois Database - We now provide whois registration information on our web site at <http://www.nic.cc>

FREE URL Forwarding - NIC.CC will forward your CC domain to a URL anywhere in the world if NIC.CC maintains your DNS.

FREE Under Construction Page - A under construction web page that shows your domain name.

WWW DNS Change - Request your password hostmaster@nic.cc to change your DNS server information online.

Webmaster Link Program - Signup and place a banner link on your site and receive \$10.00 commission for every paid domain registration, you can find the details at <http://www.nic.cc/webmasters.html>

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We now update our zone files twice a day so that any DNS changes or new domains are up and running within 12 hours.

-
Other projects we have underway:

FREE Web Hosting
FREE Email Forwarding
Search Engine for CC domains.

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R 000777

If you have any questions or problems with your domain please email
hostmaster@nic.cc anytime.

NIC.CC Admin
<http://www.nic.cc>