

Exhibit A

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November 2, 2007

VIA FIRST CLASS MAIL AND EMAIL TO Victoria@vkhall-law.com

Victoria K. Hall
Law Office of Victoria K. Hall
3 Bethesda Metro, Suite 700
Bethesda, MD 20814

Re: *Jacobsen v. Katzer, et al.-MOTION FOR SANCTIONS*
USDC-Northern District of California at San Francisco, No.: C06-1905-JSW

Dear Victoria,

As I mentioned in my October 26, 2007 letter, I intend to seek sanctions against you for filing a second motion for reconsideration of the cybersquatting claim in violation of Civ. L.R. 7-9(c) and Fed. R. Civ. P. 11. Your position is not "warranted by law" and I encourage you to withdraw your motion for reconsideration. As required by Fed. R. Civ. P. 11 and LR 7-8, I have attached a copy of the sanctions motion to this letter. I intend to file this motion with the Court if you have not withdrawn your motion for reconsideration within 21 days of today's date.

Please call me if you have any questions.

Very truly yours,



Scott Jerger

cc: client

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Attorneys for Defendants Matthew Katzer and Kamind Associates, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ROBERT JACOBSEN, an individual,)
)
)
 Plaintiff,)
)
)
 vs.)
)
 MATTHEW KATZER, an individual, KAMIND)
 ASSOCIATES, INC., an Oregon corporation dba)
 KAM Industries,)
)
 Defendants.)

Case Number C06-1905-JSW

Hon. Jeffrey S. White

**DEFENDANTS MATTHEW KATZER
AND KAMIND ASSOCIATES, INC.'S
MOTION FOR SANCTIONS UNDER LR
7-9(C) AND FED. R. CIV. P. 11 AGAINST
VICTORIA K. HALL**

NOTICE

To the Court and all interested parties, please take notice that a hearing on Defendants Matthew Katzer and Kamind Associates, Inc.'s Motion for Sanctions will be held on XXXX, in Courtroom 2, Floor 17, of the above-entitled court located at 450 Golden Gate Avenue, San Francisco, California.

1 **MOTION**

2 Defendants Matthew Katzer and Kamind Associates Inc. move the court for an order
3 imposing sanctions on attorney Victoria K. Hall pursuant to Civ. L.R. 7-9(c) and Fed. R. Civ. P.
4 11.

5
6 **STATEMENT OF ISSUES TO BE DECIDED**

- 7 1. Whether attorney Victoria K. Hall has violated Civ. L.R. 7-9(c) and Fed. R. Civ. P. 11
8 by filing a second motion for reconsideration of the dismissed cybersquatting claim of
9 action.

10 **STATEMENT OF RELEVANT FACTS**

11 Pursuant to this Court’s Civil Minute Order [Dkt.#166] dated September 14, 2007,
12 Plaintiff was instructed to serve a copy of Plaintiff’s proposed second amended complaint on
13 Defendants by October 26, 2007. Plaintiff was given until October 31, 2007 to file a motion for
14 leave to file a second amended complaint should Defendants object to the filing of the second
15 amended complaint.

16 Plaintiff served two versions of a second amended complaint on Defendants on October
17 26, 2007. Defendants responded by letter of the same date, stating that they did not object to the
18 filing of a second amended complaint, however Defendants did object to the filing of two second
19 amended complaints. Defendants also expressed concern over the inclusion of the dismissed
20 cybersquatting claim in “Version A” of the second amended complaint and stated that defendants
21 would seek sanctions if plaintiff pursued reinstatement of the cybersquatting claim. *See* Exhibit
22 A to Decl. of R. Scott Jerger.

23 On October 31, 2007, Plaintiff filed a “Motion for leave to File Second Amended
24 Complaint, and in the Alternative, Motion for Final Judgment under Rule 54(b) as to
25 Cybersquatting Cause of Action.” [Dkt.#174]. This document, however, is not a motion for
26 leave to file a second amended complaint. In fact, this motion does not have one, proposed

1 second amended complaint attached to it. Rather, this document is a second motion for
2 reconsideration of Plaintiff's dismissed cybersquatting claim contained in the first amended
3 complaint, as plaintiff concedes in the memorandum of law supporting the motion. *See e.g.,*
4 *Motion for leave to File Second Amended Complaint, and in the Alternative, Motion for Final*
5 *Judgment under Rule 54(b) as to Cybersquatting Cause of Action* at pp. 3, 4, 5. Plaintiff filed a
6 motion to reconsider the dismissal of this claim on September 4, 2007 [Dkt#159-2]. This Court
7 denied this motion for reconsideration on September 5, 2007 [Dkt.#161]. Plaintiff's second
8 motion for reconsideration of the cybersquatting claim contains exactly the same legal argument
9 presented in the first motion for reconsideration and argued by Plaintiff in response to the motion
10 to dismiss.

11 ARGUMENT

12 Civ. L.R. 7-9(c) states:

13 **Prohibition Against Repetition of Argument.** No motion for leave to file a motion
14 for reconsideration may repeat any oral or written argument made by the applying party
15 in support of or in opposition to the interlocutory order which the party now seeks to
16 have reconsidered. Any party who violates this restriction shall be subject to
appropriate sanctions.

17 Plaintiff's second motion for reconsideration of the dismissal of the cybersquatting claim
18 repeats the *exact* same argument that plaintiff made in plaintiff's first motion for reconsideration,
19 *i.e.* the argument that this Court misunderstood plaintiff's argument regarding the domain name.
20 *Cf. Motion for leave to File Second Amended Complaint, and in the Alternative, Motion for*
21 *Final Judgment under Rule 54(b) as to Cybersquatting Cause of Action with Motion for*
22 *Reconsideration* [Dkt.# 159-2] pages 2-3. The only difference is that plaintiff now has the
23 transcript of the hearing, however the argument remains exactly the same.

24 In addition to not repeating any argument, plaintiff must show: (1) a material difference
25 in fact or law exists from that which was presented to the Court before entry of the interlocutory
26 order for which reconsideration is sought, (2) the emergence of new materials facts or a change

1 of law occurring at the time of such order, or (3) a manifest failure by the Court to consider
2 materials facts or dispositive legal arguments. Civ. L.R. 7-9(b)(1)-(3). Plaintiff's ordering of the
3 transcript does not satisfy this showing.

4 As this Court has already held, "Plaintiff's contention that the Court misunderstood his
5 argument at the hearing does not constitute a changed material fact and does not alter the Court's
6 ruling on Defendants' motion to dismiss." *Order Denying Motion for Leave to File Motion for*
7 *Reconsideration* at 2 [Dkt.#161]. Similarly, ordering the transcript does not constitute the
8 "emergence" of new material facts as this Court was present at the hearing and this Court has
9 already considered plaintiff's oral argument at the hearing. Finally, as evidenced by this Court's
10 *Order Denying Motion for Leave to File Motion for Reconsideration*, this Court has considered
11 plaintiff's legal arguments and found them unpersuasive, therefore plaintiff has not shown a
12 "manifest failure by the Court to consider...legal argument." Plaintiff has failed to show any
13 reason why he should be allowed to file a second motion for reconsideration or why he should be
14 allowed to repeat arguments already made on two occasions to this Court.

15 In addition to violating Civ. L.R. 7-9(c), plaintiff has violated Fed. R. Civ. P. 11(b) by
16 filing a frivolous motion for reconsideration that is "not warranted by existing law." As
17 discussed above, Civ. L.R. 7-9 clearly prevents plaintiff from filing a second motion for
18 reconsideration of the dismissal of the cybersquatting claim that repeats oral and written
19 argument previously made by plaintiff. The Ninth Circuit has held that sanctions are appropriate
20 for a party that files a motion for reconsideration that is "not warranted by law." *Uni-oil, Inc. v.*
21 *E.F. Hutton & Co.*, 809 F.2d 548, 559 (9th Cir. 1986) (affirming sanctions for filing a motion to
22 reconsider that contained a "total lack of any showing that the court [had] failed to consider a
23 material fact presented to it").

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SANCTION REQUESTED

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- 2 **1. Attorney Fees.** Defendants request an award of reasonable attorney fees and costs
- 3 incurred in presenting this motion pursuant to Fed. R. Civ. P. 11(c)(1)(A) against Victoria
- 4 K. Hall and in responding to the Plaintiff's second motion for reconsideration.
- 5 **2. Fines.** Defendants request that Victoria K. Hall be required to pay either a monetary
- 6 penalty to the Court or an equivalent nonmonetary sanction to deter repetition of the
- 7 present conduct or any similar conduct. Fed. R. Civ. P. 11(c)(2). Defendants leave to the
- 8 Court's discretion the nature of this sanction.
- 9

10 Dated: TO BE SUBMITTED 21 DAYS FROM RECEIPT BY OPPOSING COUNSEL.

11 Respectfully submitted,

12 _____
/s/

13 R. Scott Jerger (*pro hac vice*)
14 Field Jerger, LLP
610 SW Alder Street, Suite 910
15 Portland, OR 97205
Tel: (503) 228-9115
16 Fax: (503) 225-0276
Email: scott@fieldjerger.com

17 **CERTIFICATE OF SERVICE**

18 I certify that on November 2, 2007, I served Matthew Katzer's and KAM's Motion for

19 Sanctions on Robert Jacobsen and his attorney Victoria Hall via first class mail and email to the

20 following address:

21 Victoria K. Hall
Attorney for Robert Jacobsen
22 3 Bethesda Metro Suite 700
Bethesda, MD 20814
23 Victoria@vkhall-law.com

24 _____
/s/

25 R. Scott Jerger (*pro hac vice*)
Field Jerger, LLP

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