1	Kevin G. McCluskey, Esq., SBN: 12001	NOTE CHANGES MADE BY THE COURT	
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7			
8	Attorneys for Defendant, INDEPENDENT INK, INC., a California corporation		
9			
10	UNITED STATES DISTRICT COURT		
11	FOR THE CENTRAL DISTRICT OF CALIFORNIA		
12			
13	CODE –JET, INC., a Utah corporation	CASE NO.: 2:16-cv-06993-PSG -E [Assigned to Judge Phillip S. Gutierrez	
14	a Gtan corporation	Courtroom 880]	
	Plaintiff,	•	
15		[PROPOSED] JUDGMENT	
16	VS.	PURSUANT TO ORDER GRANTING DEFENDANT INDEPENDENT INK,	
17	INDEPENDENT INK, INC.,	INC.'S F.R.C.P. 12(b)(6) MOTION TO	
18	a California corporation,	DISMISS PLAINTIFF CODE-JET,	
19	Defendent)	INC.'S FIRST AMENDED ORIGINAL	
	Defendant.)	PETITION	
20		Original Petition Filed: June 22, 2016	
21		First Amended Original Petition Filed:	
22		September 14, 2016	
23			
24	On October 19, 2016, Defendant INDEPENDENT INK, INC., a California		
25	corporation (hereinafter "INDEPENDENT INK" and/or "DEFENDANT") filed		
26	a Motion to Dismiss Plaintiff CODE-JET, INC., a Utah corporation's (hereinafter		
27			
28	"CODE-JET" and/or "PLAINTIFF") operative First Amended Original Petition		
	[PROPOSED] JUDGMENT PURSUA	NT TO ORDER GRANTING DEFENDANT	

INDEPENDENT INK, INC.'S F.R.C.P. 12(b)(6) MOTION TO DISMISS PLAINTIFF

CODE-JET, INC.'S FIRST AMENDED ORIGINAL PETITION Dockets. Justia.com

for failure to state a claim under Rule 12(b)(6). See DKT. #31. The motion was scheduled for hearing on December 19, 2016. Id. Pursuant to Local Rule 7-9, PLAINTIFF was required to oppose the motion by November 28, 2016. CL.R. 7-9. PLAINTIFF did not file an opposition to the motion, timely or otherwise. Thus, pursuant to the Local Rule 7-12, the Court deems PLAINTIFF's failure to file a timely opposition as consent to granting the motion. CL.R. 7-12. On November 29, 2016, this Court entered its Order granting DEFENDANT's motion to dismiss PLAINTIFF's First Amended Original Petition, with prejudice, terminating the instant action. See DKT. 33. Therefore, IT IS HEREBY ORDERED that PLAINTIFF shall take nothing by way of its First Amended Original Petition and that judgment be entered in favor of Defendant INDEPENDENT INK, INC. and against Plaintiff CODE-JET, INC. in this action. ///

1	Defendant INDEPENDENT INK, INC. shall further have an award of its costs under F.R.C.P. 54(d), as may be ordered upon a timely filed application for		
2			
3 4	costs, and an award of its attorney's fees to defend the instant action, as may be		
5	ordered upon a timely filed Motion for Attorney's Fees, to be incorporated into		
6			
7	this judgment.		
8	IT IS SO ORDERED.		
9			
10	Dated:	PHILIP S. GUTIERREZ	
11		JUDGE OF THE SUPERIOR COURT	
12		U.S. District Judge	
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[PROPOSED] JUDGMENT PURSUANT TO ORDER GRANTING DEFENDANT INDEPENDENT INK, INC.'S F.R.C.P. 12(b)(6) MOTION TO DISMISS PLAINTIFF CODE-JET, INC.'S FIRST AMENDED ORIGINAL PETITION

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PROOF OF SERVICE

CODE-JET, INC. v. INDEPENDENT INK, INC. United States District Court - Central District of California

Case No. 2:16-cv-06993-PSG-E

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 6242 Westchester Parkway, Suite 200, Los Angeles, California 90045.

On **December 5, 2016**, I served the foregoing document described as [PROPOSED] JUDGMENT PURSUANT TO ORDER GRANTING DEFENDANT INDEPENDENT INK, INC.'S F.R.C.P. 12(b)(6) MOTION TO DISMISS PLAINTIFF CODE-JET, INC.'S FIRST AMENDED ORIGINAL PETITION on the interested parties in this action as follows: by placing true copies thereof enclosed in a sealed envelope and addressed as follows:

SEE ATTACHED SERVICE LIST

BY MAIL: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at El Segundo, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

BY FACSIMILE: By use of facsimile machine telephone number (310) 450-0925, I served a copy of the above document(s) on the interested parties in this action. The facsimile machine I used complied with California Rules of Court, Rule 2006(d), and I caused the machine to print a transmission record of the transmission.

BY ELECTONIC SERVICE: I caused a true and correct copy of the above-referenced document to be electronically served via electronic mail to the e-mail address(s) set forth above or as stated in the attached service list in accordance with Federal Rules of Civil Procedure 5(b).

I DECLARE under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

EXECUTED on **December 5, 2016** at Los Angeles, California.

KALIA KREUTZER

SERVICE LIST

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CODE-JET, INC. v. INDEPENDENT INK, INC. Case No. 2:16-cv-06993-PSG-E

2 United States District Court - Central District of California 3 Paul Lydolph, III, Esq. J. David Gowdy, Esq. 4 LYDOLPH & WEIERHOLT LAW OFFICE OF J. DAVID GOWDY 2975 West Executive Suites Parkway, 9285 Huntington Square, Suite 105 5 Suite 168 Fort Worth, TX 76182-4366 6 Lehi, UT 84043 Tel: (817) 656-0466 Tel: (800) 419-2828 Fax: (817) 577-2504 7 E-mail: E-mail: jdgowdy@gmail.com Attorneys for Plaintiff, CODE-JET, INC., Attorneys for Plaintiff, CODE-JET, INC., 8 a Utah corporation a Utah corporation 9 10 11 12 13 14 15 16 17 18 19 20 21