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CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY Jms
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11 UNITED STATES DISTRICT COURT
12 EASTERN DISTRICT OF CALIFORNIA

14 DUSTIN K. ADLER, an individual,
15 Plaintiff,
16 vs.

Case No. 2:08-CV-01333-JAM-EFB

**~~PLAINTIFF'S PROPOSED ORDER RE:~~
DECLARATORY AND INJUNCTIVE
RELIEF**

17 RELYNET, INC., a California
Corporation, MICHAEL DICARLO, an
18 individual, INTERNET BRANDS, INC., a
Delaware Corporation, VORTEX MEDIA
19 GROUP, INC. a Delaware Corporation,
20 and DOES 1 through 50, inclusively,
21 Defendants.

22 RELYNET, INC., a California
Corporation, MICHAEL DICARLO, an
23 individual, and DOES 1 through 50,
24 inclusively,
25 Counterclaimants,

26 v.
27 DUSTIN K. ADLER, an individual,
28 Counterdefendant.

Adler v. Relynet, Inc. et al

Doc. 298



1 This matter was previously tried to a jury. Prior to commencement of trial, the parties'
2 counsel stipulated that the Court would reserve its adjudication of the declaratory relief claims until
3 after the jury had rendered its verdict. Both Plaintiff and Defendants have asserted claims for
4 declaratory relief. Having fully considered the evidence admitted at trial, as well as the arguments of
5 counsel, the Court now rules as follows:

6 The granting of declaratory relief rests in the sound discretion of the Court, and the Court
7 finds that both declaratory and injunctive relief are appropriately ordered in this case. Accordingly,
8 the Court now orders declaratory and injunctive relief as follows:

9 IT IS HEREBY ORDERED that judgment be entered in Plaintiff's favor, with the result that
10 Plaintiff Dustin K. Adler is the sole owner of ZeroForum version 2.0.5a Siva (United States
11 Copyright Registration No. TX-2-210-247) ("the '247 Copyright").

12 With respect to ZeroForum version 2.0.6c (United States Copyright Registration No. TX-2-
13 210-248)("the '248 Copyright"), the Court finds that a portion of the underlying code
14 (approximately 5% to 7%) was written by Adler while he was employed by RelyNet and, therefore,
15 belongs to RelyNet as a hired work. However, the Court also finds that the remaining code in this
16 version infringes Adler's '247 Copyright. Accordingly, Adler is entitled to enjoin RelyNet from
17 using, copying, or distributing the code covered by the '248 Copyright except that portion owned by
18 RelyNet as a hired work.

19 With respect to ZeroForum version 2.1.2 (United States Copyright Registration No. TX-2-
20 210-249) ("the '249 Copyright"), the Court finds that a portion of the underlying code
21 (approximately 5 %) was written by Adler while he was employed by RelyNet and, therefore,
22 belongs to RelyNet as a hired work. However, the Court also finds that the remaining code in this
23 version infringes Adler's '247 Copyright. Accordingly, Adler is entitled to enjoin RelyNet from
24 using, copying, or distributing the code covered by the '249 Copyright except that portion owned by
25 RelyNet as a hired work.

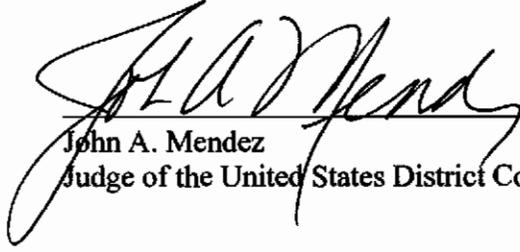
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1 In summary, RelyNet's interest in the '248 and '249 Copyrights extends only to the
2 additional code written by Adler while employed by RelyNet as described above. All the remaining
3 code underlying the '248 and '249 Copyrights infringes Adler's rights as the sole owner of the '247
4 Copyright.

5 IT IS HEREBY FURTHER ORDERED that judgment be entered in Plaintiff's favor, with
6 the result that Defendants RelyNet, Inc. and Michael DiCarlo are ordered to return to Plaintiff all
7 copies of software that contain code covered by the '247 Copyright and are further ordered to extract
8 or delete said code from any later versions of ZeroForum used or possessed by said Defendants.
9 Said Defendants are hereby permanently enjoined and restrained from using any software containing
10 source code covered by the '247 Copyright, however denominated.

11 IT IS SO ORDERED.

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13 Dated: ~~February~~ ^{Jan} April 12, 2010, 2010


John A. Mendez
Judge of the United States District Court

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