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ORIGINAL FILED
FEB 3 2005
 FEDERAL DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE
E-filing

6 Attorney for plaintiff Friendfinder, Inc.

7
 8 **UNITED STATES DISTRICT COURT**
 9 **NORTHERN DISTRICT OF CALIFORNIA**
 10 **SAN JOSE DIVISION**

12 **FRIENDFINDER, INC.**, a California
 13 corporation,

14 Plaintiff,

15 v.

16 **SUCCESSFULMATCH.COM.**, a California
 17 corporation,

18 Defendant.

) **005 00518**
) Case No. **JSW**
) **COMPLAINT FOR TRADEMARK**
) **INFRINGEMENT, FEDERAL UNFAIR**
) **COMPETITION, TRADEMARK**
) **DILUTION, CYBERPIRACY, AND STATE**
) **UNFAIR BUSINESS PRACTICES**
) **DEMAND FOR JURY TRIAL**
) **BY FAX**

20 This is an action by plaintiff Friendfinder, Inc. ("Friendfinder"), for damages, injunctive
 21 relief, and attorneys' fees for defendant's willful trademark infringement and misappropriation of
 22 plaintiff's marks and family of marks, defendant's willful misleading of consumers, and fraudulent
 23 registration and use of infringing Internet domain names. Friendfinder, for its complaint herein,
 24 founded upon federal question and supplemental jurisdiction, alleges as follows:

25 **JURISDICTION AND VENUE**

26 1. This Court has jurisdiction over the subject matter of the action pursuant to 28 U.S.C. §
 27 1331 and 28 U.S.C. § 1338(b), as an action for violations of the Lanham Act, 15 U.S.C. §§ 1051 et
 28 seq., and over the claims alleged under state law, pursuant to the principles of supplemental
 jurisdiction, 28 U.S.C. § 1367.

COMPLAINT
 Friendfinder, Inc. v. Successfulmatch.com
 U.S. Dist. Ct., N. Dist. Cal.

1 2. Venue is proper in this district pursuant to 28 U.S.C. §1391(b) in that, among other
2 things, a substantial part of the events giving rise to the claims herein occurred in this judicial
3 district.

4 INTRADISTRICT ASSIGNMENT

5 3. Assignment to the San Jose Division of the District Court is proper in that a substantial
6 part of the events or omissions which give rise to the claims herein occurred in the County of Santa
7 Clara, State of California. (Local Rule 3-2).

8 PARTIES

9 4. Plaintiff Friendfinder, Inc. (“Friendfinder”) is a California corporation with its
10 principal place of business in Santa Clara County, California.

11 5. Defendant Successfulmatch.com (“Successfulmatch”) is, on information and belief,
12 a California corporation, with its principal offices in Mountain View, California.

13 FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

14 6. Plaintiff Friendfinder is a well-known provider of international Internet on-line
15 personal advertising, dating and related services throughout the United States and the world.
16 Friendfinder, along with its sister company Friendfinder Network, Inc., provides these services on
17 the World Wide Web. Friendfinder is the owner of trade and service marks (the “Friendfinder
18 Marks”) used in connection with the provision of these services.

19 7. Friendfinder’s services are interactive online database software programs, with
20 artificial intelligence capabilities, used by customers to find compatible persons and companions,
21 based upon various criteria which are entered into interactive databases. By way of example only,
22 such criteria may include (without limitation) age, sex, location or residence, and interests.

23 8. Friendfinder’s Internet services are offered on the World Wide Web. Business on
24 the Internet is primarily done through sites on the World Wide Web, each of which usually has an
25 “address” called a “Uniform Resource Locator” (“URL”), which usually incorporates a name
26 registered on the Internet, called a “domain name.” Domain names are obtained by companies or
27 individuals from registrars accredited by the Internet Corporation For Assigned Names and
28 Numbers (ICANN), which has been described as a “quasi-governmental internet-regulating body.

1 *Weber-Stephen Products Co. v. Armitage Hardware & Building Supply*, 2000 WL 562470
2 (N.D.Ill. 2000).

3 9. The Friendfinder “family” of international Internet on-line personal advertising and
4 dating web sites consists of numerous web sites, including (without limitation) web sites with the
5 domain names: Friendfinder.com, Seniorfriendfinder.com, Adultfriendfinder.com,
6 Asiafriendfinder.com, Germanfriendfinder.com, Frenchfriendfinder.com, Churchfriendfinder.com,
7 and Filipinofriendfinder.com. These domain names are used on web sites having URL’s of
8 (respectively) <http://friendfinder.com>, <http://seniorfriendfinder.com>, <http://adultfriendfinder.com>,
9 <http://asiafriendfinder.com>, <http://germanfriendfinder.com>, <http://frenchfriendfinder.com>,
10 <http://churchfriendfinder.com>, and <http://filipinofriendfinder.com> (collectively referred to as the
11 “Friendfinder Sites”).

12 10. Collectively, the Friendfinder Sites are among the top thirty most-visited sites on
13 the Internet. These Friendfinder Sites attract millions of distinct user visits per day, and their online
14 services have millions of members.

15 11. In connection with the operation of the Friendfinder Sites, Friendfinder has spent
16 substantial time, effort and money advertising and promoting the Friendfinder Marks throughout
17 the United States and the world. As a result, the Friendfinder Marks have become widely known
18 and respected, and Friendfinder has developed an enormous amount of goodwill in them.

19 12. In connection with its provision of its services, Friendfinder owns, among others,
20 the Friendfinder Marks, including (without limitation): FRIEND FINDER, FRIENDFINDER,
21 SENIORFRIENDFINDER, ADULTFRIENDFINDER, ASIAFRIENDFINDER,
22 GERMANFRIENDFINDER, FRENCHFRIENDFINDER, CHURCHFRIENDFINDER,
23 FILIPINOFRIENDFINDER, and KOREANFRIENDFINDER.

24 13. In connection with its provision of personal advertising and dating services,
25 Friendfinder owns the federally registered servicemark/trademark (hereafter “trademark” or
26 “mark”) FRIEND FINDER, for personal advertising, United States Registration No. 1,785,477
27 (hereafter, “the federally registered trademark”), which is an incontestable trademark, pursuant to §
28 15 of the Lanham Act, 15 U.S.C. § 1065, with a registration date of August 3, 1993, and a first use

1 in commerce on June 29, 1991, and continuous use thereafter. A true and correct copy of the
2 current federal Trademark Applications and Registrations Retrieval (TARR) report from the web
3 site for the United States Patent and Trademark Office, for the mark FRIEND FINDER, is attached
4 hereto as Exhibit "A."

5 14. Plaintiff has a pending application for federal registration of the mark
6 FRIENDFINDER (serial no. 78300295) for dating services and on-line chat rooms encouraging
7 dating and the development of relationship, in International Classes Nos. 45 and 38, with a filing
8 date of September 15, 2003. This mark was first used in commerce on or about June 20, 1991, and
9 has been used continuously thereafter. A true and correct copy of the current federal Trademark
10 Applications and Registrations Retrieval (TARR) report from the web site for the United States
11 Patent and Trademark Office, for the pending federal trademark registration for the mark
12 FRIENDFINDER is attached hereto as Exhibit "B."

13 15. Plaintiff has a pending application for federal registration of the mark
14 ADULTFRIENDFINDER (serial no. 78300670) for dating services, chat rooms, and online
15 magazines relating to dating, sexuality and relationships, in International Classes Nos. 38, 41 and
16 45, with a filing date of September 15, 2003. This mark was first used in commerce on or about
17 December, 1996, and has been used continuously thereafter. A true and correct copy of the current
18 federal Trademark Applications and Registrations Retrieval (TARR) report from the web site for
19 the United States Patent and Trademark Office, for the pending federal trademark registration for
20 the mark ADULTFRIENDFINDER is attached hereto as Exhibit "C."

21 16. Plaintiff has common law ownership rights in the unregistered Friendfinder Marks
22 for use in commerce in connection with the provision of on-line Internet dating and personal
23 advertising services, including, without limitation, the marks FRIENDFINDER,
24 SENIORFRIENDFINDER, ADULTFRIENDFINDER, ASIAFRIENDFINDER,
25 GERMANFRIENDFINDER, FRENCHFRIENDFINDER, CHURCHFRIENDFINDER,
26 FILIPINOFRIENDFINDER, and KOREANFRIENDFINDER (collectively referred to hereafter as
27 the "Common Law Marks"). Friendfinder's use of the Common Law Marks in interstate
28 commerce has been long, prominent and continuous.

1 17. Defendant owns and maintains a domain name of Nudistfriendfinder.com, and
2 operates a web site with an Internet URL of <http://nudistfriendfinder.com>. Defendant also owns
3 and maintains a domain name of Deaffriendfinder.com, and operates a web site with an Internet
4 URL of <http://pages.deaffriendfinder.com>. Using these domain names (collectively referred
5 hereafter to as the “Infringing Domain Names”), defendant provides on-line personal advertising
6 and dating services. Defendant’s sites each include, without limitation, on-line chat services to
7 promote dating and relationships, on-line magazines relating to dating and sexuality, and related
8 products and services. Defendant uses, in connection with its providing of these on-line personal
9 advertising and dating services and related products and services, the marks Friend Finder,
10 Friendfinder, Nudist Friendfinder, Deaf Friendfinder, and related names and marks (collectively
11 referred to herein as the “Infringing Marks”), which are identical or confusingly similar to marks
12 owned by plaintiff herein.

13 18. On information and belief, defendant’s first use of each of the Infringing Domain
14 Names and Infringing Marks in interstate commerce, in connection with dating or personal
15 advertising services, and related products and services, occurred subsequent to Friendfinder’s first
16 use of the Friendfinder Marks in interstate commerce in connection with dating or personal
17 advertising services, and related products and services. Defendant’s uses of the Infringing Domain
18 Names and Infringing Marks infringe on Friendfinder’s rights in the Friendfinder Marks.

19 19. Plaintiff is informed and believes, and on that basis alleges, that defendant has
20 registered additional domain names that infringe Friendfinder’s rights. Friendfinder reserves the
21 right to amend this Complaint to add these additional domain names when they are discovered.

22 20. The Infringing Domain Names and Infringing Marks are confusingly similar to the
23 Friendfinder Marks. Defendant’s Infringing Domain Names are used by defendant as the addresses
24 of Internet websites that are, in fact, unaffiliated with Friendfinder, its products or services.
25 Defendant’s sites provide an inferior quality of services compared to the services provided by
26 Friendfinder. Defendant’s Infringing Marks are used by defendant in connection with the
27 providing of goods and services that are, in fact, unaffiliated with Friendfinder, its products or
28 services. Defendant’s goods and services, provided in connection with the use of the Infringing

1 Marks, are of an inferior quality compared to the goods and services provided by Friendfinder.

2 21. Defendant's registrations and use of the Infringing Domain Names, and use of the
3 Infringing Marks, infringe Friendfinder's trademark rights. Further, defendant's actions create the
4 false impression that defendant's websites, goods and services are affiliated with or in some
5 manner authorized, endorsed or sponsored by Friendfinder. At the same time, Friendfinder's hard-
6 won reputation for premium quality is being diluted and the value of the Friendfinder Marks
7 diminished.

8 22. On information and belief, defendant is using the Infringing Domain Names and
9 Infringing Marks in HTML code, including, without limitation, in text and metatags, on its web
10 sites on the World Wide Web. On information and belief, such use of the Infringing Domain
11 Names and Infringing Marks is causing defendant's internet sites to appear in the search results
12 when consumers search the internet by conducting searches for Friendfinder's web sites, goods
13 and services on popular internet search engines such as Google, Yahoo, and others. As a result of
14 such conduct by defendant, defendant is creating initial interest confusion between defendant's
15 goods and services and those of Friendfinder.

16 23. Friendfinder is informed and believes, and on that basis alleges, that defendant is
17 receiving financial gain by reason of the unauthorized use of the Infringing Domain Names and
18 Infringing Marks, including (without limitation) customer membership and services fees.

19 24. On information and belief, defendant's wrongful infringing conduct was, and is
20 being, performed with full knowledge of Friendfinder's interest in the Friendfinder Marks, and was
21 and is willful, deliberate and intentional.

22 25. Within the last year preceding the filing of this Complaint, Friendfinder became
23 aware of defendant's infringing conduct, and has twice contacted defendant since then, demanding
24 that defendant cease and desist all infringing conduct. Defendant has refused to comply with
25 Friendfinder's demands, and defendant's illegal use of the Infringing Domain Names and
26 Infringing Marks continues unabated. Friendfinder has been left with no choice but to institute the
27 instant action seeking judicial protection of its rights.

FIRST CLAIM FOR RELIEF
(Trademark Infringement, 15 U.S.C. §§ 1114 (1))

1
2
3 26. Plaintiff repeats the allegations of paragraphs 1 through 25, inclusive, hereinabove
4 alleged and incorporates said allegations by reference.

5 27. Friendfinder owns the exclusive trademark and service mark rights and privileges in
6 and to the federally registered trademark, FRIEND FINDER, United States Registration No.
7 1,785,477 (hereafter, “the federally registered trademark”), which is an incontestable trademark
8 Friendfinder uses the federally registered trademark as a designation of source and quality for its
9 goods and services.

10 28. Defendant, with full knowledge of Friendfinder’s rights to the federally registered
11 trademark, registered the Infringing Domain Names and used these domain names, and its
12 Infringing Marks, to directly compete with Friendfinder in the provision of the same or similar
13 goods and services. Defendant further used the Infringing Domain Names and Infringing Marks to
14 divert customers seeking Friendfinder websites and services to defendant’s websites and services
15 and to create initial interest confusion among consumers on the World Wide Web.

16 29. Defendant’s Infringing Domain Names and Infringing Marks are confusingly
17 similar to the federally registered trademark, and defendant’s registration and use of the Infringing
18 Domain Names and Infringing Marks are likely to confuse, deceive and/or cause mistake among
19 consumers, and therefore infringes plaintiff’s rights in the federally registered trademark, in
20 violation of 15 U.S.C. § 1114(1).

21 30. Friendfinder has no adequate remedy at law for defendant’s infringement of the
22 federally registered trademark, in that: (i) the federally registered trademark is unique and
23 valuable property, injury to which cannot adequately be compensated by monetary damages; (ii)
24 the damages to Friendfinder resulting from the infringement are not precisely and fully
25 ascertainable; (iii) the infringement injures and threatens to continue to injure Friendfinder’s
26 reputation and goodwill; and (iv) the damage resulting to Friendfinder from defendant’s wrongful
27 conduct, and the conduct itself, are continuing, and Friendfinder would be required to bring a
28 multiplicity of suits to achieve full redress for the injuries caused thereby.

1 31. Unless restrained, defendant's infringement of the federally registered trademark
2 will continue to cause irreparable injury to Friendfinder, both during the pendency of this action
3 and thereafter. Therefore, this Court should enter orders preliminarily and permanently enjoining
4 defendant and their agents, employees and other acting in concert with them, from directly or
5 indirectly infringing the federally registered trademark in any manner, including by using such
6 Mark, or any other names or marks that are confusingly similar thereto, in any domain names or on
7 any websites, or in connection with the providing of goods or services that are the same or similar
8 as Friendfinder's goods and services, and requiring defendant to take all steps necessary to direct
9 the registrar of the Infringing Domain Names and any other domain names owned by defendant
10 that this Court determines infringes Friendfinder's trademarks, to transfer such names to
11 Friendfinder.

12 32. Friendfinder is further entitled to recover damages sustained in consequence of
13 defendant's wrongful conduct, in an amount to be determined; to recover defendant's profits; and
14 to recover its attorneys' fees and costs herein. Based upon the circumstances of the case, including
15 the willful, deliberate and intentional nature of defendant's conduct, and the extent of the unlawful
16 conduct, Friendfinder is further entitled, pursuant to 15 U.S.C. § 1117, to recover triple the amount
17 found as actual damages.

18 **SECOND CLAIM FOR RELIEF**
19 **(Violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a))**

20 33. Plaintiff repeats the allegations of paragraphs 1 through 32, inclusive, hereinabove
21 alleged and incorporates said allegations by reference.

22 34. The acts of defendant alleged herein are likely to cause confusion, or to cause
23 mistake, or to deceive as to the affiliation, connection, or association of defendant and/or its
24 websites with Friendfinder and its websites, or as to the sponsorship or approval of defendant's
25 goods, services or commercial activities by Friendfinder. Defendant's actions further misrepresent
26 the nature, characteristics or qualities of defendant's goods, services or commercial activities and
27 constitute infringement of Friendfinder's marks, including, without limitation, Friendfinder's
28 Common Law Marks and Friendfinder's federally registered mark.

1 35. Friendfinder has no adequate remedy at law for defendant's infringement of the
2 Friendfinder Marks, in that: (i) the Friendfinder Marks are unique and valuable property, injury to
3 which cannot adequately be compensated by monetary damages; (ii) the damages to Friendfinder
4 resulting from the infringement are not precisely and fully ascertainable; (iii) the infringement
5 injures and threatens to continue to injure Friendfinder's reputation and goodwill; and (iv) the
6 damage resulting to Friendfinder from defendant's wrongful conduct, and the conduct itself, are
7 continuing, and Friendfinder would be required to bring a multiplicity of suits to achieve full
8 redress for the injuries caused thereby.

9 36. Unless restrained, defendant's infringement of the Friendfinder Marks will continue
10 to cause irreparable injury to Friendfinder, both during the pendency of this action and thereafter.
11 Therefore, this Court should enter orders preliminarily and permanently enjoining defendant and
12 its agents, employees and other acting in concert with them, from directly or indirectly: (i) stating
13 or implying that Friendfinder is in any way affiliated with defendant or its websites, or approves or
14 endorses defendant's or its products, services or commercial activities; (ii) using the Friendfinder
15 Marks, or any other names, logo or marks that are confusingly similar to the Friendfinder Marks,
16 including, without limitation, the Infringing Marks, Infringing Domain Names or any other
17 confusingly similar Internet domain names or marks; (iii) using any word, term, name, device or
18 any combination thereof that is likely to cause confusion, mistake or deception as to the affiliation,
19 connection or association of defendant, or defendant's goods, services or commercial activities,
20 with Friendfinder; (iv) using any word, term, name, device or any combination thereof that is
21 likely to cause confusion, mistake or deception as to the origin, sponsorship or approval of
22 defendant's goods, services or commercial activities, with Friendfinder; (v) requiring defendant to
23 take all steps necessary to direct the registrars of the Infringing Domain Names and any other
24 domain names owned by defendant that the Court determines infringe plaintiff's rights, to transfer
25 such names to Friendfinder; and (vi) requiring defendant to remove any Infringing Marks or
26 Infringing Domain Names from the HTML code used by defendant in connection with its web
27 sites, including, without limitation, from an text or metatags used on the World Wide Web.
28

1 37. Friendfinder is further entitled to recover damages sustained in consequence of
2 defendant's wrongful conduct, in an amount to be determined; to recover defendant's profits; and
3 to recover its attorneys' fees and costs herein. Based upon the circumstances of the case, including
4 the willful, deliberate and intentional nature of defendant's conduct, and the extent of the unlawful
5 conduct, Friendfinder is further entitled, pursuant to 15 U.S.C. § 1117, to recover triple the amount
6 found as actual damages.

7 **THIRD CLAIM FOR RELIEF**
8 **(Trademark Dilution, 15 U.S.C. §§ 1125(c) and 1127)**

9 38. Plaintiff repeats the allegations of paragraphs 1 through 37, inclusive, hereinabove
10 alleged and incorporates said allegations by reference.

11 39. By virtue of Friendfinder's prominent, long and continuous use of the Friendfinder
12 Marks in interstate commerce, they have become and continue to be "famous" within the meaning
13 of 15 U.S.C. § 1125(c).

14 40. Defendant has made and continues to make commercial use in commerce of
15 Friendfinder Marks in a manner that causes dilution of the distinctive quality of such marks, and
16 lessens the capacity of such marks to identify and distinguish Friendfinder goods and services.

17 41. Friendfinder is entitled to an order from this Court preliminarily and permanently
18 enjoining defendant, its agents, employees and other acting in concert with them, from directly or
19 indirectly making any further commercial use of any of the Friendfinder Marks or any other
20 names, marks or logos that are substantially similar thereto (including, without limitation, the
21 Infringing Domain Names and Infringing Marks), and requiring defendant to take all steps
22 necessary to direct the registrars of the Infringing Domain Names and any other domain names
23 owned by defendant that the Court determines infringe plaintiff's rights, to transfer such names to
24 Friendfinder.

25 42. Because defendant has willfully intended to cause dilution of Friendfinder Marks,
26 Friendfinder is entitled, pursuant to 15 U.S.C. §§ 1117 and 1125(c)(2), to recover all damages
27 sustained as a result of defendant's unlawful conduct, including: (i) defendant's profits; (ii)
28 Friendfinder's damages; (iii) Friendfinder's costs of suit; (iv) Friendfinder's reasonable attorneys'
fees.

FOURTH CLAIM FOR RELIEF
**(Cyberpiracy, Anticybersquatting Consumer Protection Act,
15 U.S.C. § 1125(d))**

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2
3
4 43. Plaintiff repeats the allegations of paragraphs 1 through 42, inclusive, hereinabove
5 alleged and incorporates said allegations by reference.

6 44. Defendant has registered and used, and continues to use, the Infringing Domain
7 names, which are domain names that are identical, or confusingly similar to, or dilutive of, one or
8 more of the Friendfinder Marks.

9 45. The Friendfinder Marks misappropriated by defendant were distinctive and famous
10 at the time defendant registered the Infringing Domain Names.

11 46. Defendants conduct described herein was performed without regard to
12 Friendfinder's goods and services and with a bad faith intent to profit from one or more of the
13 Friendfinder Marks.

14 47. Friendfinder is entitled to an order from this Court preliminarily and permanently
15 enjoining defendant, its agents, employees and other acting in concert with them, from directly or
16 indirectly making any further commercial use of any of the Friendfinder Marks or any other
17 names, marks or logos that are substantially similar thereto (including, without limitation, the
18 Infringing Domain Names), and requiring defendant to take all steps necessary to direct the
19 registrars of the Infringing Domain Names and any other domain names owned by defendant that
20 the Court determines infringe plaintiff's rights, to transfer such names to Friendfinder, and/or an
21 order canceling the Infringing Domain Names.

22 48. Friendfinder is further entitled to recover damages sustained in consequence of
23 defendant's wrongful conduct, in an amount to be determined; to recover defendant's profits; and
24 to recover its attorneys' fees and costs herein. Based upon the circumstances of the case, including
25 the willful, deliberate and intentional nature of defendant's conduct, and the extent of the unlawful
26 conduct, Friendfinder is further entitled, pursuant to 15 U.S.C. § 1117, to recover triple the amount
27 found as actual damages.

28 ///

1 **FIFTH CLAIM FOR RELIEF**
2 **(Unfair Business Practices Under California State Law,**
3 **California Business & Professions Code § 17200 et seq.)**

4 49. Plaintiff repeats the allegations of paragraphs 1 through 48, inclusive, hereinabove
5 alleged and incorporates said allegations by reference.

6 50. Defendant's activities, as alleged above, constitute unfair business practices in
7 violation of California Business & Professions Code §17200 et seq.

8 51. Defendant's unfair business practices include, without limitation: (i) infringement
9 of plaintiff's rights in the Friendfinder Marks; (ii) dilution of the Friendfinder Marks; (iii)
10 deception by defendant as to the affiliation, connection, or association of defendant and/or its
11 websites with Friendfinder and its websites, or as to the sponsorship or approval of defendant's
12 goods, services or commercial activities by Friendfinder; (iv) cyberpiracy as defined in 15 U.S.C.
13 § 1125(d); (iii) using deception to divert traffic, customers, and potential customers from plaintiff's
14 websites to defendant's websites.

15 52. As a result of defendant's acts and practices, Friendfinder has been, and, unless
16 enjoined, will continue to be deprived of the patronage of potential customers, and has suffered
17 and will continue to suffer injury to its business reputation and goodwill. In addition, consumers
18 are being misled and confused as to the source, origin, or approval of defendant's goods and
19 services, causing Friendfinder injury.

20 53. Friendfinder is entitled to an order from this Court preliminarily and permanently
21 enjoining defendant, its agents, employees and other acting in concert with them, from directly or
22 indirectly making any further commercial use of any of the Friendfinder Marks or any other
23 names, marks or logos that are substantially similar thereto (including, without limitation, the
24 Infringing Domain Names and Infringing Marks), and requiring defendant to take all steps
25 necessary to direct the registrars of the Infringing Domain Names and any other domain names
26 owned by defendant that the Court determines infringe plaintiff's rights, to transfer such names to
27 Friendfinder.

28 ///

1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, plaintiff pray for judgment as follows:

- 3 1. On the First, Second, Third and Fourth Claims For Relief alleged herein, for
- 4 damages according to proof, for disgorgement of defendant’s profits as provided by
- 5 law, and for treble damages and enhanced damages as provided by law;
- 6 2. On each and every Claim For Relief alleged herein, for preliminary and permanent
- 7 injunctive relief as hereinabove described and other forms of equitable relief
- 8 including but not limited to corrective advertising and transfer of alleged domains
- 9 to plaintiff;
- 10 3. On each and every Claim For Relief alleged herein, for attorneys’ fees as provided
- 11 by law;
- 12 4. For plaintiff’s costs of suit herein; and
- 13 5. For such other and further relief as the court shall find just and proper.

14 **DEMAND FOR JURY TRIAL**

15 Plaintiff demands a jury trial on all issues triable to a jury in this action.

16
17 Dated: February 3, 2005

ROTHKEN LAW FIRM



18
19
20 By: Ira P. Rothken, Esq., (State Bar #160029)
21 Attorney for Plaintiff
22 FRIENDFINDER, INC.

23 THE ROTHKEN LAW FIRM
24 1050 Northgate Drive, Suite 520
25 San Rafael, CA 94903
26 Telephone: (415) 924-4250
27 Facsimile: (415) 924-2905
28

1 **CERTIFICATION PURSUANT TO CIVIL L.R. 3-16**

2 Pursuant to Civil L.R. 3-16, the undersigned certifies that the following listed
3 persons, associations of persons, firms, partnerships, corporations (including parent
4 corporations) or other entities (i) have a financial interest in the subject matter in
5 controversy or in a party to the proceeding, or (ii) have a non-financial interest in that
6 subject matter or in a party that could be substantially affected by the outcome of this
7 proceeding:

- 8 1. FRIENDFINDER, INC.
9 2. FRIENDFINDER NETWORK, INC.
10 3. SUCCESSFULMATCH.COM
11

12 Dated: February 3, 2005

ROTHKEN LAW FIRM

13
14 

15 By: Ira P. Rothken, Esq., (State Bar #160029)
16 Attorney for Plaintiff
17 FRIENDFINDER, INC.

18 THE ROTHKEN LAW FIRM
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EXHIBIT A

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2005-02-03 14:16:29 ET

Serial Number: 74249313 [Assignment Information](#)

Registration Number: 1785477 [Assignment Information](#)

Mark

Friend Finder

(words only): [FRIEND FINDER](#)

Standard Character claim: [No](#)

Current Status: [This registration has been renewed.](#)

Date of Status: [2003-11-06](#)

Filing Date: [1992-02-25](#)

Transformed into a National Application: [No](#)

Registration Date: [1993-08-03](#)

Register: [Principal](#)

Law Office Assigned: [LAW OFFICE 5](#)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: [900 -File Repository \(Franconia\)](#)

Date In Location: [2003-11-07](#)

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. [FRIENDFINDER, INC.](#)

Address:

[FRIENDFINDER, INC.](#)
[445 SHERMAN AVENUE](#)

PALO ALTO, CA 94306

United States

Legal Entity Type: Corporation

State or Country of Incorporation: California

GOODS AND/OR SERVICES

International Class: 016

magazine sections featuring personal advertising

First Use Date: 1991-06-29

First Use in Commerce Date: 1991-06-29

Basis: 1(a)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2003-11-06 - First renewal 10 year

2003-11-06 - Section 8 (10-year) accepted/ Section 9 granted

2003-07-30 - Combined Section 8 (10-year)/Section 9 filed

2003-07-30 - TEAS Section 8 & 9 Received

1999-10-18 - Section 8 (6-year) accepted & Section 15 acknowledged

1999-06-16 - Section 8 (6-year) and Section 15 Filed

1993-08-03 - Registered - Principal Register

1993-05-11 - Published for opposition

1993-04-09 - Notice of publication

1993-02-16 - Approved for Pub - Principal Register (Initial exam)

1992-12-31 - Communication received from applicant

1993-01-06 - Case file assigned to examining attorney

1992-10-05 - Non-final action mailed

1992-04-16 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

JOHN E RUSSELL (Attorney of record)

JOHN E RUSSELL
ALLMARK TRADEMARK, SUITE A
5327 ROMFORD DRIVE
SAN JOSE CA 95124

EXHIBIT B

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2005-02-01 13:06:11 ET

Serial Number: 78300295

Registration Number: (NOT AVAILABLE)

Mark (words only): [FRIENDFINDER](#)

Standard Character claim: No

Current Status: Final review prior to publication has been completed, application will be published for opposition.

Date of Status: 2004-09-23

Filing Date: 2003-09-15

The Information will be/was published in the Official Gazette on (DATE NOT AVAILABLE)

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: [Principal](#)

Law Office Assigned: [LAW OFFICE 114](#)

Attorney Assigned:
[FIRST VIVIAN M Employee Location](#)

Current Location: 657 -Pre-Publication Final Review

Date In Location: 2004-09-27

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. [Friendfinder, Inc.](#)

Address:

[Friendfinder, Inc.](#)
[Suite 208 260 Sheridan Avenue](#)
[Palo Alto, CA 94306](#)
[United States](#)

Legal Entity Type: [Corporation](#)

State or Country of Incorporation: [California](#)

GOODS AND/OR SERVICES

International Class: 038

Providing on-line chat room for transmission of messages among computer users of the purpose of users meeting other users to encourage dating and to develop relationships

First Use Date: 1996-07-27

First Use in Commerce Date: 1996-07-27

Basis: 1(a)

International Class: 045

Dating services, namely, providing personal profiles, event listings, and related dating services including providing information relating to dating and relationships via the Internet and electronic mail

First Use Date: 1991-06-20

First Use in Commerce Date: 1991-06-20

Basis: 1(a)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2004-09-23 - Law Office Publication Review Completed

2004-09-13 - Assigned To LIE

2004-09-08 - Approved for Pub - Principal Register (Initial exam)

2004-09-08 - EXAMINERS AMENDMENT E-MAILED

2004-09-08 - Examiners Amendment -Written

2004-08-14 - TEAS Change of Correspondence Received

2004-03-16 - Non-final action e-mailed

2004-03-15 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

John E. Russell (Attorney of record)

John E. Russell
ALLMARK TRADEMARK
Suite A
4041 Sugar Maple Drive
Danville CA 94506
Phone Number: (925)648-4839
Fax Number: (925)648-4358

EXHIBIT C

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2005-02-01 13:11:52 ET

Serial Number: [78300670](#)

Registration Number: (NOT AVAILABLE)

Mark (words only): [ADULTFRIENDFINDER](#)

Standard Character claim: No

Current Status: [Application has been published for opposition.](#)

Date of Status: [2005-01-11](#)

Filing Date: [2003-09-15](#)

The Information will be/was published in the Official Gazette on [2005-01-11](#)

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: [Principal](#)

Law Office Assigned: [LAW OFFICE 114](#)

Attorney Assigned:
[HWANG JOHN C B Employee Location](#)

Current Location: [650 -Publication And Issue Section](#)

Date In Location: [2004-11-29](#)

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. [Friendfinder, Inc.](#)

Address:

[Friendfinder, Inc.](#)
[Suite 208 260 Sheridan Avenue](#)
[Palo Alto, CA 94306](#)
[United States](#)

Legal Entity Type: [Corporation](#)

State or Country of Incorporation: [California](#)

GOODS AND/OR SERVICES

International Class: 038

Providing online chat room for transmission of messages among computer users for the purpose of users meeting other users to encourage dating and to develop relationships

First Use Date: 1996-12-00

First Use in Commerce Date: 1996-12-00

Basis: 1(a)

International Class: 041

Providing online magazines featuring articles and information relating to dating, sexuality and relationships

First Use Date: 2003-07-00

First Use in Commerce Date: 2003-07-00

Basis: 1(a)

International Class: 045

Dating services, namely, providing personal profiles, photographs, event listings, and related dating services via the Internet and electronic mail

First Use Date: 2003-07-00

First Use in Commerce Date: 2003-07-00

Basis: 1(a)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2005-01-11 - Published for opposition

2004-12-22 - Notice of publication

2004-11-04 - Law Office Publication Review Completed

2004-10-19 - Assigned To LIE

2004-10-13 - Approved for Pub - Principal Register (Initial exam)

2004-10-02 - Amendment From Applicant Entered

2004-09-13 - Communication received from applicant

2004-09-13 - PAPER RECEIVED

2004-08-25 - TEAS Change of Correspondence Received

2003-10-21 - Unresponsive paper received

2004-03-16 - Non-final action e-mailed

2004-03-16 - Case file assigned to examining attorney

2003-10-21 - TEAS Preliminary Amendment Received

CORRESPONDENCE INFORMATION

Correspondent

John E. Russell (Attorney of record)

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Danville CA 94506

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