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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANN JENKINS, et al.,

Plaintiff,

v.

TUCOWS, INC.,

Defendant.

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No. C 07-03112 JSW

**ORDER TO SHOW CAUSE**

On June 13, 2007, Plaintiffs Ann and Ernest Jenkins (“Plaintiffs”) filed this lawsuit against the domain name “Mod.com,” and alleged a *in rem* action for cybersquatting. After Mod.com failed to appear, Plaintiffs filed a motion for default judgment, which was referred to Magistrate Judge Chen for a report and recommendation. (Docket Nos. 23, 27.) On April 2, 2008, Magistrate Judge Chen issued an Order requiring the Plaintiffs to provide supplemental briefing and evidence on the motion. (Docket No. 28.)

April 9, 2008, Plaintiffs filed a notice of withdrawal of their motion for default judgment. (Docket No. 29.) Thereafter, this Court issued Orders requiring Plaintiffs to submit a status report to the Court, addressing whether they intended to dismiss this case or whether they intended to re-file a motion for default judgment. (Docket Nos. 30, 31.) In response, on April 22, 2008, Plaintiffs filed an amended complaint, in which they dropped Mod.com as a defendant, and added Tucows, Inc., as a defendant and asserted claims for relief of conversion and trover. (Docket No. 32.) Tucows, Inc. subsequently moved to dismiss for lack of jurisdiction. After hearing argument on the motion, the Court ordered the parties to engage in

1 jurisdictional discovery, and ordered supplemental briefing on the issue of personal jurisdiction.  
2 (Docket Nos. 45, 47.)

3 On November 24, 2008, Plaintiffs and Tucows, Inc. stipulated to the filing of a second  
4 amended complaint, which drops Tucows, Inc. as a defendant and adds as defendants Robert  
5 Pooke and Kevin Dillon. (Docket Nos. 49, 50.) Based on the allegations in the amended  
6 complaint, Messrs. Pooke and Dillon are not affiliated with Tucows, Inc.

7 “A party may amend its pleading once as a matter of course: (A) before being served  
8 with a responsive pleading; or (B) within 20 days after serving the pleading if a responsive  
9 pleading is not allowed and the action is not yet on the trial calendar.” Fed. R. Civ. P. 15(a)(1).  
10 “In all other cases, a party may amend its pleading only with the opposing party’s written  
11 consent or the court’s leave. The court should freely give leave when justice so requires.”

12 Given the length of time that this case has been pending, and in light of Plaintiffs’ prior  
13 amendment dismissing the original defendant and the original claim and adding new claims  
14 against Tucows, Inc., Plaintiffs are **HEREBY ORDERED** to show cause why the amendment is  
15 permissible under Rule 15, and why the amended complaint should not be filed as an separate  
16 action. Plaintiffs’ response to this Order to Show Cause shall be due on December 12, 2008.

17 It is **FURTHER ORDERED** that Plaintiffs shall file a formal notice of dismissal of  
18 Tucows, Inc. by that date.

19 If is **FURTHER ORDERED** that, in light of the proposed amendment, the motion to  
20 dismiss for lack of jurisdiction filed by Tucows, Inc. is **DEEMED MOOT**, and the briefing  
21 schedule set by the Court in its order permitting jurisdictional discovery is **VACATED**.

22 **IT IS SO ORDERED.**

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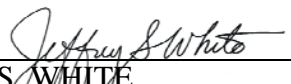
24 Dated: December 1, 2008

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JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE