

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

i.think inc.,

*Plaintiff,*

v.

MINEKEY, INC;  
DELIP ANDRA; and  
INTERNET UNLIMITED, LLC

*Defendants.*

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CIVIL ACTION NO. 3-08-CV-0163-P

ECF

**APPENDIX IN SUPPORT OF PLAINTIFF’S MOTION TO REMAND**

Plaintiff i.think inc. submits this Appendix in support of its Motion to Remand, which contains the following document:

Number	Document Title	Page Numbers
1	Affidavit of Beth Mack	1-3

Dated: February 13, 2008

Respectfully submitted,

PATTON BOGGS LLP

/s/ Talcott J. Franklin

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ATTORNEYS FOR PLAINTIFF i.think inc.

**CERTIFICATE OF SERVICE**

This is to certify that the above and foregoing document was served upon all counsel of record by notice of electronic filing, pursuant to Fed. R. Civ. P. 5(b)(2)(D), today, February 13, 2008.

Craig W. Weinlein  
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/s/ Talcott J. Franklin

Talcott J. Franklin

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CIVIL ACTION NO. 3-08-CV-0166-P

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**AFFIDAVIT OF BETH MACK**

STATE OF TEXAS

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COUNTY OF DALLAS

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BEFORE ME, the undersigned authority, on this day personally appeared Beth Mack, known to me to be the person whose name is subscribed to this affidavit and, after being duly sworn, did depose and state:

1. My name is Beth Mack. I am over the age of twenty-one (21) years and am otherwise competent to make this affidavit. I have personal knowledge of the facts stated herein, and those facts are true.

2. I am Principal for i.think inc. I have been in this position since the company began operations in 1997.

3. i.think inc. is an online research services company with over ten years experience meeting online research needs.

4. On or about December 13, 2007, i.think inc. discovered that Minekey, Inc. (“Minekey”) and Delip Andra (“Andra”) (collectively “Defendants”) were operating a website that uses “iThink”. The following are the websites operated by Defendants: ithink.com and ithink.net.

5. Defendants use the domains and “iThink” in connection with online opinion polls in connection with primarily Facebook.

6. On January 8, 2008, i.think inc.’s attorneys sent a cease and desist letter via overnight delivery to Andra at the address that Minekey provides on its website. i.think inc. demanded that Andra immediately stop using and transfer ithink.com and ithink.net to i.think inc. i.think inc. also demanded a reply by January 18, 2008.

7. Minekey responded to the January 8, 2008 letter by its attorneys. The letter simply stated that they were investigating the allegations made. The letter did not state a date by which Minekey would respond to i.think inc.’s assertions.

8. Defendants did not deactivate their website or transfer to i.think inc. the ithink.com and ithink.net domain names as a result of the letter. After further consideration and no change in Defendants’ website, i.think inc. filed an Original Petition and Application for Temporary and Permanent Restraining Order in *i.think inc. v. Minekey, Inc., Delip Andra and Internet Unlimited*, Cause No. 08-01055, in the 160<sup>th</sup> Judicial District Court, Dallas County, Texas (the “Action”) on January 30, 2008.

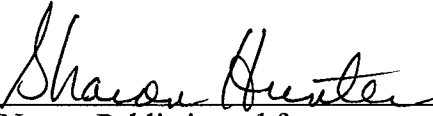
9. The Action brings claims under Texas Business and Commerce Code §§ 16.26 and 16.29 and breach of contract. i.think inc. seeks injunctive relief, damages and attorneys’ fees. In the Action, i.think inc. seeks a temporary and permanent restraining order, preventing Defendants from using iThink in connection with online surveys at the domains ithink.com and ithink.net.

10. i.think inc.'s Application for Temporary Restraining Order was set for hearing on February 1, 2008 at 2:00 p.m. A couple of hours before the hearing, Defendants filed their Notice of Removal.

11. i.think inc.'s concern in the Action is to prevent Defendants from using "iThink" and itthink.com and itthink.net in connection with online opinion polls. i.think inc. does not seek, and expressly waives, damages in an amount greater than \$75,000.00, exclusive of interest and costs.

  
\_\_\_\_\_  
Beth Mack

SUBSCRIBED AND SWORN TO before me this the 12th day of February, 2008.

  
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Notary Public in and for  
the State of Texas

My Commission Expires:

