

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 07-22674-CIV-JORDAN/TORRES**

DELL, INC., and ALIENWARE CORPORATION,

Plaintiffs,

v.

BELGIUMDOMAINS, LLC, CAPITOL  
DOMAINS, LLC, DOMAINDOORMAN, LLC,  
NETRIAN VENTURES, LTD.,  
IHOLDINGS.COM, INC, JUAN PABLO  
VAZQUEZ a/k/a JP VAZQUEZ, an individual;  
and DOES 1-10,

Defendants.

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**REGISTRAR DEFENDANTS' MEMORANDUM IN OPPOSITION TO  
PLAINTIFFS' MOTION FOR SANCTIONS**

Plaintiffs' Motion for Sanctions Including the Entry of a Default Judgment [DE 103] ("Motion") is based on sheer speculation and misstatements of fact. Plaintiffs simply assume that the Registrar Defendants have despoiled evidence, without proof. However, as shown by the declarations of defendant Netrian Ventures, Inc.'s computer technician, Ezequiel Guilleron (attached as Exhibit **A**), and the Registrar Defendants' expert witness Jesus Peña (attached as Exhibit **B**), Plaintiffs are mistaken. In fact, this is yet another example of a disturbing pattern by Plaintiffs, where they have repeatedly made outrageous and false accusations based on rampant, misplaced speculation, such as Plaintiffs' contention that the "missing" evidence is critical to their case, while simultaneously admitting that they have no evidence to support this contention. Finally, and critically – since Plaintiffs seek the "ultimate sanction" of a default judgment – Plaintiffs fail to provide any evidence that the Registrar Defendants have acted in bad faith; moreover, the declarations of Messrs. Guilleron and Peña show that no such evidence exists.

Therefore, the Court should deny Motion outright and award the Registrar Defendants their reasonable attorneys' fees and costs incurred in responding to this baseless Motion. At minimum, prior to the Court imposing any sanction whatsoever, since Plaintiffs' expert has refused to allow the Registrar Defendants access to the data he analyzed (absent a payment of approximately \$80,000) the Court should order Plaintiffs to provide the Registrar Defendants with that data at no cost to them and then allow the Registrar Defendants a reasonable time to analyze the data and then supplement this Opposition.

In further opposition, the Registrar Defendants state as follows:

**I. INTRODUCTION**

Plaintiffs allegations are exceedingly vague, which makes it difficult for the Registrar Defendants to defend against them. For example, Plaintiff's expert NetEvidence alleges that "the hard drives in nine of the Servers were intentionally wiped clean" and that "on 5 of the Servers [the] computer program BCWipe had been used in a process to write all zeros to the drives." (Declaration of James Stanford Wilson in Support of Plaintiffs' Motion for Sanctions, Including the Entry of a Default Judgment ("Wilson Decl.") [DE 104] at ¶¶ 19, 20.) However, Plaintiffs are drawing nefarious conclusions based on actions which can (and do) have numerous benign explanations. Moreover, nowhere do Plaintiffs specify which hard drives those allegations refer to; however, it is very likely that once the Registrar Defendants are allowed access to the forensic data on which Mr. Wilson bases his declaration – which access has been barred absent a payment of nearly \$80,000 – and are then able to analyze Plaintiffs' conclusory statements, they will be able to show that such practices relate either to the Registrar Defendants' long-standing security and privacy practices or their current transition to a more powerful and flexible hardware storage device for hosting their domain name registration services.

**A. Plaintiffs' Motion Is a Deliberate Attempt to Prejudice the Court based on Innuendo, Speculation, and Woefully-Misguided Assumptions**

Plaintiffs' Motion is replete with unsupported, prejudicial allegations intended to mischaracterize the Registrar Defendants as the very personification of evil. The Motion continually posits that Defendants acted improperly, and with the worst of all possible intentions – for example, asserting, without support from their NetEvidence expert's affidavit, that “Defendants selectively, intentionally and permanently erased information from five servers.” (Motion at 2.) Plaintiffs then jump to their conclusion without bothering with the intervening steps mandated by Eleventh Circuit authority (discussed below): “Since Defendants intentionally destroyed evidence in bad faith... the Court should impose the ‘ultimate sanction’ of default judgment.” (Motion at 2-3.) In their eagerness, Plaintiffs give short shrift to niceties such as due process, the rules of evidence, and the like – which is part and parcel of their conduct of this action to date.

Particularly egregious are Plaintiffs' fundamental assumption that any business conducted outside the borders of the United States automatically establishes liability, for whatever claims Plaintiffs choose to bring. For example, again without any evidence, Plaintiffs allege that “Defendants use... shell entities, fictitious businesses and personal names to ‘register hundreds of thousands of domain names every day...’” (*See* Motion at 3.) To the contrary, however, six months ago – and thus long before they had any knowledge of this lawsuit – the Registrar Defendants began the process of transferring their business registrations to the British Virgin Islands. (*See* Exhibit C [to be filed under seal on 1-23-08].) Ignoring modern business realities, which provide any number of legitimate reasons for such a transfer, Plaintiffs reject the very possibility of a mundane explanation, jumping directly to the conclusion that any such

action must be the actions of a guilty party – a particularly ironic leap, given plaintiff Dell’s international corporate structure.

Thus, the background chatter in the Motion must be ignored. With the noise out of the way, when the Court turns to the actual facts, it will see that the Motion is baseless.

**B. The Registrar Defendants’ Security and Privacy Practices**

The Registrar Defendants servers are maintained at a facility operated by Internap Network Services Corporation (“Internap”). (Exhibit A, Declaration of Ezequiel Guilleron in Support of the Registrar Defendants’ Opposition to Plaintiffs’ Motion for Sanctions (“Guilleron Decl.”) at ¶ 8.) Netrian’s servers process millions of domain registrations and deletions every day. (*Id.*) Processing those transactions requires large amounts of disk space to store temporary cache data associated with those transactions. (*Id.*) As that temporary data becomes outdated and then deleted to free up disk space, Netrian routinely runs a secure data cleanup program that wipes unused disk space on the servers. (*Id.* at ¶ 12.) This practice ensures that confidential customer information, such as logins, passwords, and financial information, has been destroyed from the servers at Internap. (*Id.* at ¶ 13.) However, the practice of wiping this temporary data does not destroy information relating to the Registrar Defendants’ customer records (*id.* at ¶ 31), customer login and password settings (*id.* at ¶ 32), customer domain name portfolio information (*id.* at ¶ 33), or any programs, databases, scripts, and registry access tools necessary for the Registrar Defendant’s normal operations (*id.* at ¶ 34.) Furthermore, Plaintiffs do not allege that any of this important data was destroyed, because they admit having no idea what, if anything, was erased. (*See* Motion at 9 (“it is impossible to know exactly what was erased”).

Furthermore, the Registrar Defendants’ data hygiene practices do not affect stored database records of domain registrations and deletions. Plaintiffs were able to successfully copy

those records and, if necessary, can independently verify them against the database records of the third-party registry, VeriSign, Inc. (*See* Guilleron Decl. at ¶ 35.) Critically, Plaintiffs have wholly failed to identify any category of information or evidence destroyed by any of the Registrar Defendants. In other words, all of the data necessary to Plaintiffs' allegations is available not only from Defendants, but also from the registry, VeriSign, Inc., and public records. As such, Plaintiffs cannot credibly be heard to have suffered any harm from allegedly "missing" data.

### **C. The NORCO RAID Storage Unit**

Some of Plaintiffs' allegations likely relate to the Registrar Defendants' use of a NORCO storage device. The NORCO unit contains nearly a dozen hard drives, none of which had been used in connection with domain name registration services as of the date of the investigation. As of November 15, 2007, the day of the investigation, the Registrar Defendants had never used the NORCO unit in connection with the provision of domain registration services. (*See id.* at ¶ 17.) The Registrar Defendants operations require temporarily storing large amounts of data. (*Id.* at ¶¶ 11-14.) That is why Netrian recently purchased a NORCO-brand RAID storage device and six hard drives.<sup>1</sup> (*See id.* at ¶ 15.) The Registrar Defendants did not use the NORCO unit immediately after purchasing it. (*Id.* at ¶ 17.) Then, on November 5, 2007, Netrian ordered an additional three hard disks for use in the NORCO unit. (*Id.* at ¶ 16.) The nine disks in the NORCO unit had never been used in connection with servers actually hosting registration services. (*Id.* at ¶ 17.)

Netrian intended to ultimately use the NORCO storage unit as the primary shared storage for all twenty-two servers at the Internap facility. (*See id.* at 20.) Before making that change, Mr.

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<sup>1</sup> The NORCO unit itself does not provide storage. A NORCO user must install hard disks in the unit. (*See id.* at ¶ 15.)

Guilleron had been running a series of performance tests on the NORCO and its drives to ensure that it would satisfy Netrian's performance requirements. (*See id.* at ¶¶ 18, 19.) Those tests included writing all zeros, random data, and custom data across all of the disks installed in the NORCO unit. (*Id.* at ¶ 18.) However, Mr. Guilleron had been unable to resolve lingering issues with latency during certain disk-related operations. (*Id.* at 20.) As of November 15, 2007, the NORCO unit was still physically installed in the same hardware rack as several brand-new servers which had also never been used to host registration services, but on which Mr. Guilleron had been running performance tests. (*Id.* at ¶¶ 21, 22.)

Significantly, NetEvidence's allegations are based on an analysis of data to which the Registrar Defendants do not have access. Those allegations include: (i) that "activity logging was being deleted on many of the Servers" (Wilson Decl. [DE 104] at ¶ 16); (ii) that "many of the Servers were rebooted on or about November 14, 2007" (*id.* at ¶ 18); (iii) that "the hard drives in nine of the Servers were intentionally wiped clean using a process writing all zeros to the drives" (*id.* at ¶ 19); (iv) that "on 5 of the Servers [the] computer program BCWipe had been used in a process to write all zeros from the drive (*id.* at ¶ 20, 21); and (v) that "at least 9 of the 22 servers contained empty hard drives or hard drives intentionally wiped clean" (*id.* at ¶ 22.).

To counter these assertions, the Registrar Defendants' expert, Jesus Peña, has determined that he will need access to the forensic images analyzed by NetEvidence to review the inferences NetEvidence has drawn.<sup>2</sup> (*See* Exhibit B, Peña Decl., at p. 6, ¶ 7, 8) ("In order to address the claims presented by Wilson, one of the image sets created is required by Defendant."). However,

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<sup>2</sup> NetEvidence's "conclusions" are inferences at best. For example, with regard to the allegation that some hard drives had been "wiped clean", Plaintiff's expert testifies that "This technique is often employed to render recovery of data stored on hard drives impossible." (Wilson Decl. at ¶ 19.) Plaintiffs' thus admit that they can, at most, only speculate that evidence was destroyed; however, they show themselves incapable of identifying any particular evidence or even what kind of evidence may have been destroyed.

to date, that access has been barred absent the payment of approximately \$80,000 to NetEvidence. (*See infra.*)

**D. Rebooting the Servers**

Plaintiffs also ask the Court to draw unfounded inferences relating to server reboots that occurred on November 14, 2007. While it may be true that “[r]ebooting a server is often performed in connection with major changes to the server or to make permanent new configurations” (Wilson Decl. at ¶ 19.), it is equally true that a benign explanation exists. In fact, to facilitate Plaintiffs’ investigation, the Registrar Defendants rebooted some of the servers to ensure reliability. (*See* Guilleron Decl. at ¶ 25.) Absolutely no data was deleted between November 12 and November 15. The Registrar Defendants believed Plaintiffs’ investigator would need to reboot servers and, concerned about the effect it would have on their ability to provide continuous registration services, the Registrar Defendants rebooted some of the active servers to test their ability to quickly return to service following a reboot. (*See id.*)

**E. The Registrar Defendants Cannot Fully Defend Against the Charges Leveled in Plaintiffs’ Motion for Sanctions Without a Copy of the Forensic Data**

The Order Granting Plaintiffs’ Motion for *Ex Parte* Seizure Order, Accelerated Discovery, and Order Sealing the File [DE 23] provided that “Defendants may obtain from [Plaintiffs’] forensic expert, at their expense, a copy of data or information obtained” during the investigation. (*Id.* 16.) On January 10, 2008, counsel for the Registrar Defendants requested from Plaintiffs’ expert a copy of the evidence and an invoice for those services; on January 15, 2008, Plaintiffs’ expert replied by facsimile informing the Registrar Defendants’ counsel that he would charge \$79,600 for providing them a copy of the evidence in compliance with the Court’s Order and that he would require 7-10 business days. (*See* Composite Exhibit D, Correspondence between Derek Linke, Esq., and NetEvidence.) However, Mr. Peña estimates that providing such

a copy should less than half the sum demanded by Mr. Wilson. (*See* Peña Decl. at ¶¶ 4, 5.) Alternatively, Plaintiffs could permit Defendants access to one of its two copies from which to make their own duplicate.

As a result of this problem, as of the filing of this response, Defendants have not been able to review the data on which Mr. Wilson has based his assumptions, which prevents them from defending against Plaintiffs' vague and conclusory accusations regarding evidence spoliation. Accordingly, for this reason alone, the Motion should be denied. Quite simply, it would be a mockery of justice for Plaintiffs to be awarded a default judgment based on their refusal to allow Defendants to review the "evidence" on which that default judgment was awarded absent an \$80,000 payment.

## **II. ARGUMENT**

Florida based federal courts look to Florida law for guidance on when to impose sanctions for spoliation. *See Optowave Co. v. Nikitin*, 2006 U.S. Dist. LEXIS 81345, \*24 (M.D. Fla. Nov. 7, 2006) ("[A]lthough Federal law controls spoliation sanctions, the Court's opinion may be 'informed' by State law, as long as it is consistent with federal law, because federal law in the Eleventh Circuit does not set forth specific guidelines on spoliation." (citing *Flury v. DaimlerChrysler Corp.*, 427 F.3d 939, 944 (11th Cir. 2005))).

In *Victor v. Makita U.S.A., Inc.*, 2007 U.S. Dist. LEXIS 83427, \*5 (M.D.Fla. Nov. 9, 2007), the court identified the elements a party must prove to establish spoliation under Florida law:

"Spoliation is the intentional destruction, mutilation, alteration, or concealment of evidence." *Optowave Co.*, 2006 U.S. Dist. LEXIS 81345, at \*21 (internal quotation marks omitted) (quoting Black's Law Dictionary 1437 (8th ed. 2004)); *accord Floeter v. City of Orlando...* 2007 U.S. Dist. LEXIS 9527, at \*14 (M.D. Fla. Feb. 9, 2007). "Generally, spoliation is established when the party seeking sanctions proves (1) that the missing evidence existed at one time; (2) that the alleged spoliator had a duty to preserve the evidence; and (3) that the evidence

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was crucial to the movant being able to prove its prima facie case or defense.”  
*Floeter*, 2007 U.S. Dist. LEXIS 9527, at \*15 (M.D. Fla. Feb. 9, 2007) (citing  
*Optowave*, 2006 U.S. Dist. LEXIS 81345, at \*8; *Golden Yachts, Inc. v. Hall*, 920  
So. 2d 777, 781 (Fla. 4th DCA 2006)).

*Id.* at \*5 (emphasis added). In this case, Plaintiffs fail to establish the allegedly missing evidence ever existed, or that any allegedly missing evidence is “crucial” to their case. Consequently, the Motion fails on this basis alone.

In addition to proving the above three factors, Plaintiffs must also prove bad faith and the insufficiency of lesser sanctions. “[S]anctions for spoliation of evidence are appropriate only when the absence of that evidence is predicated on bad faith... mere negligence in losing or destroying records is not enough for an adverse inference, as it does not sustain an inference of consciousness of a weak case.” *Kimbrough v. City of Cocoa*, 2006 U.S. Dist. LEXIS 87572, \*14-15 (M.D. Fla. Dec. 4, 2006) (citing *Bashir v. Amtrak*, 119 F.3d 929, 931 (11th Cir. 1997) (internal citations omitted; emphasis added)). Indeed, as noted in *Optowave*:

In addition to the factors applied by Florida courts, under federal law in the Eleventh Circuit, the most severe sanction of default, for instance, should be exercised only when there is a showing of bad faith and lesser sanctions will not suffice. See *Flury*, 427 F.3d at 944-45; see also *Aldrich v. Roche Biomedical Laboratories*, 737 So.2d 1124, 1125 (Fla. 5th DCA 1999) (the appropriate sanction when a party fails to preserve evidence in its custody depends on the willfulness or bad faith of the party responsible), *rev. denied*, 751 So. 2d 1250 (Fla. 2000).

2006 U.S. Dist. LEXIS 81345 at \*25 (emphasis added).

Plaintiffs’ “evidence,” which is little more than speculation, does not indicate bad faith, and, even assuming *arguendo* that it did, lesser sanctions would clearly be available because, as noted above, the fact that Verisign has the information Plaintiffs claim was “deleted” establishes that no irreparable harm could have occurred even if Defendants had done what Plaintiffs claim they did – which Defendants did not do. As explained below, Plaintiffs cannot meet the heavy

burdens placed on them by federal and state courts with respect to a showing of willful spoliation; therefore, the Motion must be denied.

**A. Plaintiffs Have Not Shown That Any Evidence Is Missing**

Plaintiffs' first task is to show that evidence is now missing which previously "existed at one time." *Floeter*, 2007 U.S. Dist. LEXIS 9527 at \*15. Plaintiffs have failed to offer such proof. The Registrar Defendants' declarations establish that they are not aware of the destruction of any information from Netrian's servers. The Registrar Defendants ran laboratory tests on a storage array which had not been used to host services – which, it appears, constitute a substantial portion of the array "analyzed" by Mr. Wilson – which therefore could not ever have contained any evidence relevant to this case. The Registrar Defendants also rebooted servers in a manner which was necessary to ensure continuity of service to their customers, and which did not affect their customer records or any other information relating to this case.

Given that Plaintiffs fail to offer proof that any evidence is missing, the Motion must be denied. *See, e.g., Sharp v. City of Palatka*, 2008 U.S. Dist. LEXIS 868, \*5-6 (M.D.Fla. Jan. 7, 2008) ("[T]he Court is not satisfied that Plaintiff has met the first element of establishing spoliation because Plaintiff has not proven that the Getchell/Fells tape was ever actually in existence. Therefore, Plaintiff's motion for an adverse inference at trial is DENIED"); *Lockheed Martin Corp. v. L-3 Communs. Corp.*, 2007 U.S. Dist. LEXIS 79572 ,\*10 (M.D.Fla. Oct. 25, 2007) ("While Burrell had a duty to preserve evidence relevant to the present litigation, there is no evidence that the email he deleted falls within the category... the evidence is insufficient to establish that there are any 'missing' emails that would constitute 'evidence' in this case.").

**B. Plaintiffs Have Not Shown That Any Allegedly  
“Missing” Evidence Is Crucial to Their Case**

Under Florida law, the party claiming spoliation must demonstrate not only that the evidence existed at one time and that the spoliator had a duty to preserve the evidence but also that the “evidence was critical to [the party] being able to prove its prima facie case or a defense.” *Optowave*, 2006 U.S. Dist. LEXIS 81345 at \*25 (cited in *Fed. Trade Comm’n v. Nationwide Connections*, 2007 U.S. Dist. LEXIS 93088, \*6 (S.D.Fla. Dec. 19, 2007)).

The Motion does not allege that the purportedly missing evidence will impair their ability to prove their prima facie case. Plaintiffs seized a great deal of evidence from the Registrar Defendants, other defendants, and nonparties immediately after the *ex parte* seizure hearing. Instead of focusing on the *Optowave* standard – *i.e.*, whether they can prove their *prima facie* case – Plaintiffs admit they do not know what, if anything, was erased (*see* Motion at 8), but speculate the reason must have been nefarious. To the contrary, the Registrar Defendants’ affidants have established that they ran laboratory tests on a storage array which had not been used to host services. This array, therefore, contained no relevant evidence, let alone “critical” evidence. In addition, the evidence Plaintiffs claim so desperately to need is largely available from Verisign. Accordingly, there is no basis to grant Plaintiffs’ the draconian relief they seek.

**C. The Registrar Defendants Have Not Acted In Bad Faith**

“Dismissal represents the most severe sanction available to a federal court, and therefore should only be exercised where there is a showing of bad faith and where lesser sanctions will not suffice.” *Flury*, 427 F.3d at 944 (11<sup>th</sup> Cir. 2005) (citing *Gratton v. Great Am. Commc’ns*, 178 F.3d 1373, 1374 (11th Cir. 1999)). Even lesser sanctions are not appropriate unless the moving party first establishes bad faith. To justify even the mild sanction of an adverse inference, the Court must find bad faith. *Bashir v. Amtrak*, 119 F.3d 929, 931 (11th Cir. 1997) (“In this circuit,

an adverse inference is drawn from a party's failure to preserve evidence only when the absence of that evidence is predicated on bad faith.”); *accord, Penalty Kick Mgmt., Ltd. v. Coca Cola Co.*, 318 F.3d 1284, 1293-94 (11th Cir. 2003).

Here, there is no evidence of bad faith. As established by the declarations, Plaintiffs’ allegations all relate to routine practices implemented by the Registrar Defendants to ensure their clients’ privacy and security and avoid service interruptions. The Registrar Defendants have a long-standing practice of wiping free space on server hard drives. (*See* Guilleron Decl. at ¶ 12.) The allegations relating to drives that were totally wiped likely relate to the tests being performed on the NORCO array or other hardware not yet used to host registration services. (*See id.* at ¶¶ 21, 22.) Finally, the reboots Plaintiffs allege occurred on November 14, 2007, were a commercially reasonable, standard operating procedure needed to ensure continuity of services and astronomically unlikely to destroy data. Accordingly, the facts here are similar to those of *Floeter*, in which the court held:

The evidence presented failed to establish that the [City] acted in bad faith by filing to preserve the Original Computer and the backup tapes... The evidence established that the overwriting of server backup tapes was done as part of a long-standing City practice... The copying of data from the Original Computer to the Replacement Computer was performed consistently with City practice, as was the re-imaging and disposition of the hard drive... the evidence is insufficient to establish that the City acted in bad faith in issuing Uvalle a new computer and in its disposition of the Original Computer, including its hard drive.

Accordingly, Floeter’s motion for sanctions... is not supported by the evidence.

2007 U.S. Dist. LEXIS 9527 at \*20-21. Likewise, here, Plaintiffs’ Motion is “not supported by the evidence,” and, therefore, should be denied.

**D. Default Is an Unwarranted Remedy**

In *Victor*, the court noted that upon a showing of bad faith and satisfaction of the other requisites, courts still have a wide array of options with respect to sanctions:

To address spoliation, a court may impose sanctions ranging from dismissal of the spoliator's case to an inference that the missing evidence would have been unfavorable to the spoliator. *See Flury*, 427 F.3d 939, 945 (“As sanctions for spoliation, courts may impose the following: (1) dismissal of the case; (2) exclusion of expert testimony; or (3) a jury instruction on spoliation of evidence which raises a presumption against the spoliator.”).

2007 U.S. Dist. LEXIS 83427 at \*5-6. In *Flury*, the Eleventh Circuit emphasized a default judgment is a “severe sanction” which is only appropriate “where lesser sanctions will not suffice.” 427 F.3d at 944.

Plaintiffs have no interest in bothering with intermediate sanctions: they want the Court to grant them a win by default, on top of Plaintiffs initiating and conducting a lengthy period of these proceedings *ex parte*. Despite the availability of lesser sanctions, Plaintiffs hasten to the conclusion that the Registrar Defendants “intentionally destroyed evidence in bad faith (Motion at 2), and therefore deserve “the most severe [punishment] in the spectrum of sanctions” (*Id.* at 9). Plaintiffs’ speculation as to whether data was deleted and the timing of such deletion is simply insufficient to justify an entry of default. In fact, here the evidence shows that nothing was lost and no data was destroyed by the Registrar Defendants. This Court should therefore deny Plaintiffs’ Motion, or, at worst, consider much lesser sanctions before imposing the “ultimate sanction” of a default judgment.

### **III. CONCLUSION**

For the above reasons, the Registrar Defendants respectfully request that the Court deny Plaintiffs’ Motion for Sanctions. Alternatively, if the Court is to consider granting Plaintiffs’ any relief, the Registrar Defendants request that the Court first order Plaintiffs’ to provide them a copy of the data analyzed by NetEvidence (at no expense to the Registrar Defendants) and allow the Registrar Defendants a reasonable amount of time to analyze that data and then supplement this Opposition. Finally, as the attached declarations show that the Motion is without merit, the

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Registrar Defendants request that that the Court award them their attorneys' fees and costs incurred in responding to the Motion, as well as such other and further relief as the Court deems just and proper.

Respectfully submitted,

Date: January 22, 2008

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 22, 2008, I electronically filed the *Registrar Defendants' Memorandum in Opposition to Plaintiffs' Motion for Sanctions* with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

s/Christopher S. Carver \_\_\_\_\_  
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**SERVICE LIST**  
**Dell, Inc. v. BelgiumDomains, LLC**

U.S. District Court, Southern District of Florida Case No. 07-22674-CIV-JORDAN/TORRES:

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