

1 **INTERROGATORY NO. 19:**

2 Please identify and describe in detail all agreements governing the services Go Daddy  
3 provided with respect to the disputed domain names, including by identifying all persons with  
4 knowledge of the foregoing and by describing all documents related to the foregoing.

5 **RESPONSE TO INTERROGATORY NO. 19:**

6 In addition to the General Objections, Go Daddy objects to this interrogatory on the  
7 grounds that it is cumulative and has already been answered by Go Daddy's prior discovery  
8 responses.

9 Subject to and without waving the foregoing objections, Go Daddy responds as follows:

10 See documents Bates-numbered GD-000488—GD-000531. Additionally, the following  
11 individuals may have relevant knowledge: Linda Jett, John Roling, and Jeff Munson.

12 **INTERROGATORY NO. 20:**

13 Please identify and describe in detail the basis for GoDaddy's contention or opinion that  
14 "ICANN, the managing body of internet, domain name registrars, specifically prohibits domain  
15 registrars from becoming involved in disputes over domain ownership in their Uniform Domain  
16 Name Dispute Resolution Policy," including by identifying all persons with knowledge of the  
17 foregoing and by describing all documents related to the foregoing. If GoDaddy does not so  
18 contend or have such an opinion, please include a statement to that effect in GoDaddy's  
19 response. Please include the page number and date or version number with any citation to any  
20 policy of ICANN or other entity.

21 **RESPONSE TO INTERROGATORY NO. 20:**

22 Subject to and without waving its General Objections, Go Daddy responds as follows:

23 Go Daddy's statement that "ICANN ... specifically prohibits domain registrars from  
24 becoming involved in disputes over domain ownership in their Uniform Domain Name Dispute  
25 Resolution Policy" is based on the provisions of the Uniform Domain Name Dispute Resolution  
26 Policy (the "UDRP"), including Paragraphs 3-7, which can be found at  
27 <http://www.icann.org/en/udrp/udrp-policy-24oct99.htm>.


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Additionally, the following individuals may have relevant knowledge: Rod Simonini,  
Matthew Bilunes, Jessica Hanyen, and Laurie Anderson.

Dated: September 30, 2011

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

By:   
John L. Slafsky  
David L. Lansky  
Hollis Beth Hire

1 **CERTIFICATE OF SERVICE**

2  
3 I, Norma Carvalho, declare:

4 I am employed in Santa Clara County. I am over the age of 18 years and not a party to  
5 the within action. My business address is Wilson Sonsini Goodrich & Rosati, 650 Page Mill  
6 Road, Palo Alto, California 94304-1050. On this date, I caused to be served:

7  
8 **GO DADDY'S RESPONSE TO PLAINTIFF'S SECOND SET OF  
INTERROGATORIES (NOS. 9-20)**

9 on each person listed below, by placing the document(s) described above in an envelope  
10 addressed as indicated below, which I sealed. I placed the envelope(s) for collection and mailing  
11 with the United States Postal Service on this day, following ordinary business practices at  
12 Wilson Sonsini Goodrich & Rosati.  
13

14  
15 Perry R. Clark  
16 Law Offices of Perry R. Clark  
17 825 San Antonio Road  
18 Palo Alto, CA 94303

19 I declare under penalty of perjury under the laws of the State of California that the  
20 foregoing is true and correct. Executed at Palo Alto, California on September 30, 2011.

21   
22 \_\_\_\_\_  
23 Norma Carvalho

Redacted

MAJOR ACCOMPLISHMENTS

Redacted

ASSISTING KELLY LEWIS -

Redacted

PetronasTowers.net possible pending law suit with the Malaysian government. Site is simply just forwarding to a porn site.

Redacted

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Joseph Hanyen  
Abuse Department Content Manager  
GoDaddy.com  
Spam and Abuse Department  
480-505-8897  
jhanyen@godaddy.com

=====  
Please contact my direct supervisor at [bbutler@godaddy.com](mailto:bbutler@godaddy.com) with any  
feedback.  
=====

Redacted

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**From:** Slafsky, John  
**Sent:** Monday, June 14, 2010 2:15 PM  
**To:** 'perry clark'  
**Subject:** RE: Petronas/GoDaddy

CONFIDENTIAL AND FURNISHED PURSUANT TO FEDERAL RULE OF EVIDENCE 408

Perry --

Your e-mail messages today are very disturbing.

You could have easily secured the disputed "petronastower" domain name for your client within 60 days via the well-known UDRP arbitration process, for a small fraction of the attorney fees required of federal court litigation. Instead you opted to bring a futile TRO motion against the registrar in federal court in December, you subsequently chose to bring a separate "in rem" lawsuit in federal court, and now you are proceeding with federal court litigation against the registrar even though you control the domain name and even though each of your claims against the registrar are doomed. This has caused significant and unnecessary expense for the registrar, GoDaddy, in blatant violation of FRCP Rule 11.

Your settlement demands below are unacceptable. If your client is interested in pursuing domain name infringers, it can either bring UDRP claims or it can sue the infringers in court. It is absurd to suggest that the registrar assume your client's trademark policing burden.

You forwarded a proposed stipulation concerning a Case Management Conference on July 15 and joint submission of a Case Management Statement by July 1. These dates do not work for us. We are available, however, on July 22, in which case we would expect to file a Case Management Statement by July 8. Please forward another stipulation with these dates.

The parties will now need to exchange Initial Disclosures. We propose that the parties do this by July 15, i.e. one week before the Case Management Conference. Please confirm your agreement to this deadline.

At the Case Management Conference we intend to advise Judge Hamilton that GoDaddy will be (i) moving to dismiss this case altogether and (ii) moving for sanctions, including an attorney-fee award, against both you and your client. Under the circumstances GoDaddy is committed to proceeding with the sanctions motion even if you subsequently elect to dismiss this baseless and ill-advised lawsuit.

John Slafsky  
Wilson Sonsini Goodrich & Rosati  
650 Page Mill Road  
Palo Alto, CA 94304  
650-320-4574 (ph)  
650-493-6811 (fax)  
jslafsky@wsgr.com

---

**From:** Perry Clark [mailto:perry@perryclarklaw.com]  
**Sent:** Monday, June 14, 2010 10:13 AM  
**To:** Slafsky, John  
**Subject:** Petronas/GoDaddy

CONFIDENTIAL AND FURNISHED PURSUANT TO FEDERAL RULE OF EVIDENCE 408

John,

It has come to our attention that a website "mirroring" the website previously associated with the PETRONASTOWER.NET domain name is located at PETRONASTOWERS.NET. It appears that the PETRONASTOWERS.NET domain name is registered at GoDaddy.com, as was the PETRONASTOWER.NET domain name the Court ordered transferred to Petronas. The "registrant" also appears to be the same.

Could you please let me know whether your client would be willing to transfer the PETRONASTOWERS.NET domain name to Petronas and on what terms and conditions. In addition, please let me know if your client would consider agreeing to inform Petronas in the future when GoDaddy receives an application to register a domain name using the PETRONAS mark.

Best,  
Perry  
Law Offices of Perry R. Clark  
3457 Cowper St.  
Palo Alto, CA 94306  
Tel.: 650 248 5817

This email and any attachments thereto may contain private, confidential, and privileged material for the sole use of the intended recipient. Any rev

1 Perry R. Clark, Esq.  
2 Law Offices of Perry R. Clark  
3 1245 Hamilton Avenue  
4 Palo Alto, CA 94301  
5 Telephone: (650) 248-5817  
6 Facsimile: (650) 248-5816  
7 perry@perryclarklaw.com

8 Attorney for Plaintiff  
9 PETROLIAM NASIONAL BERHAD

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 OAKLAND DIVISION

13 PETROLIAM NASIONAL BERHAD,  
14 Plaintiff,  
15 vs.  
16 GODADDY.COM, INC.,  
17 Defendant.

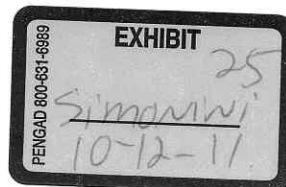
CASE NO: 09-CV-5939 PJH  
Date: April 28, 2010  
Time: 9:00 a.m.  
Location: Courtroom 3  
Third Floor

18 PETROLIAM NASIONAL BERHAD,  
19 Plaintiff,  
20 vs.  
21 PETRONASTOWER.NET, an internet domain  
22 name,  
23 Defendant.

PJH  
CASE NO: 10-CV-00431 EMC

24 [PROPOSED] ORDER TRANSFERRING DOMAIN NAME  
25 PURSUANT TO 15 U.S.C. § 1125(D)  
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[PROPOSED] ORDER TRANSFERRING DOMAIN  
Case Nos: 09-CV-5939 PJH and 10-CV00431 EMC





1 The undersigned has reviewed Plaintiff Petronas's Motion for Order Transferring  
2 Domain Name Pursuant to 15 U.S.C. § 1125(D) and for Entry of Judgment. For the reasons set  
3 forth in that motion, the Court hereby orders as follows:

- 4 1. GoDaddy.com, Inc. shall transfer the internet domain "petronastower.net" to  
5 Plaintiff Petronas within ten (10) days of this order; and
- 6 2. GoDaddy.com, Inc. shall provide Plaintiff Petronas within ten (10) days of this  
7 order all information certifying the transfer of the domain name and any  
8 information that Plaintiff Petronas may need to use and maintain that domain  
9 name, including any information certifying ownership of the domain name.

10 Should either party wish to modify the timing for the transfer or make additional changes  
11 to this order regarding the technical details of the domain name transfer, the Court orders the  
12 parties to meet and confer within (10) days and submit a modified proposed order for the Court's  
13 review. The parties may also submit a joint letter not to exceed two pages explaining the  
14 proposed changes and any disputes the parties may have regarding those changes.

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SO ORDERED:

Date: 5/13/10



[PROPOSED] ORDER TRANSFERRING DOMAIN NAME

Case Nos: 09-CV-5939 PJH and 10-CV00431 EMC



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**I. NOTICE OF MOTION**

TO ALL PARTIES AND COUNSEL OF RECORD: Please take notice that pursuant to Civil Local Rule 7-11 Plaintiff Petroliam Nasional Berhad (“Plaintiff” or “Petronas”) hereby makes this unopposed motion for an order transferring the domain name “petronastower.net” to Plaintiff Petronas pursuant to 15 U.S.C. § 1125(D) and for entry of judgment.

**II. STATEMENT OF RELIEF REQUESTED**

Plaintiff Petronas requests that this Court issue an order directing GoDaddy.Com, Inc. to transfer the domain name “petronastower.net” to Plaintiff Petronas pursuant to 15 U.S.C. § 1125(D). Plaintiff Petronas further requests an order entering judgment in Petronas’s favor in this action. Counsel for GoDaddy has informed counsel for Petronas that GoDaddy is not taking any position with respect to this motion. On January 25, 2010, Plaintiff Petronas informed the registrant of the “petronastower.net” domain of this action at the address provided GoDaddy and as required by 15 U.S.C. § 1125(D). Ex. A. Petronas had previously tried to contact the registrant by mail, email, and telephone regarding the “petronastower.net” domain name. Ex. \_ at 3:8-19 and 26-30. Petronas has not received any communication from the registrant as of the date of this motion. Plaintiff Petronas is unaware of any other person or entity that does, or would, oppose the motion.

**III. MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION**

The “petronastower.net” domain name should be transferred to Plaintiff Petronas under the Anticyberpiracy section of the Lanham Trademark Act, 15 U.S.C. § 1125(D), because there is no dispute that all three of the requirements of the Anticyberpiracy section are met. First, the domain name “petronastower.net” infringes Plaintiff Petronas’s federally registered trademark for the mark “PETRONAS.” Second, Plaintiff Petronas has been unable to find the person who registered the “petronastower.net” domain name or obtain *in personam* jurisdiction over that person. Third, the internet registrar—GoDaddy—of the domain name “petronastower.net” has

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NOTICE OF MOTION AND MOTION FOR ORDER TRANSFERRING DOMAIN NAME PURSUANT TO 15 U.S.C. § 1125(D)  
AND FOR ENTRY OF JUDGMENT  
Case Nos: 09-CV-5939 PJH and 10-CV00431 EMC

1 provided the information required by 15 U.S.C. § 1125(d)(2)(D)(i) which certifies that this Court  
2 has the control and authority to transfer the domain name.

3 **A. Procedural Posture and Related Case**

4 Plaintiff Petronas filed two actions in the Northern District related to the  
5 “petronastower.net” domain name and filed an unopposed motion to relate the two actions on  
6 March 24, 2010. Ex. B (Docket No. 31). This action against GoDaddy (09-5939 PJH) was filed  
7 first and concerns Petronas’s allegations that, among other things, Defendant GoDaddy.com  
8 indirectly infringes the “PETRONAS” mark by maintaining the registration of the  
9 “petronastower.net” domain name with actual knowledge that the domain name infringes the  
10 trademark rights of Petronas.

11 Petronas filed the second action as an *in rem* action under the Anticyberpiracy section of  
12 the Lanham Trademark Act against the “petronastower.net” domain name. The relief Petronas  
13 requested in its complaint in the *in rem* action is an order directing GoDaddy.com to transfer the  
14 “petronastower.net” domain name Petronas.

15 This Court has not yet had an opportunity to rule on Petronas’s unopposed motion  
16 relating the two actions. If the related case motion is granted, however, this Court can promptly  
17 consider this motion, which Petronas makes as part of the *in rem* action. If the related case  
18 motion is denied, this motion will need to be re-filed for consideration by the Judge in the *in rem*  
19 action.

20 **B. “Petronastower.net” Should be Transferred to Petronas**

21 Where, as in this case, a domain name infringes a registered trademark and the domain  
22 registrant either cannot be located or is not subject to *in personam* jurisdiction, the  
23 Anticyberpiracy section of the Lanham Act authorizes a Court to order the domain name  
24 registrar to transfer the domain name to the trademark owner. *See* 15 U.S.C. § 1125(d)(2)(A)(i)

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28 NOTICE OF MOTION AND MOTION FOR ORDER TRANSFERRING DOMAIN NAME PURSUANT TO 15  
U.S.C. § 1125(D)  
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1 and (ii).<sup>1</sup> Because there is no dispute that the requirements of the Anticyberpiracy section are  
2 met in this case, this Court is authorized to order the domain name registrar of  
3 “petronastower.net”—GoDaddy.com—to transfer that domain name to Petronas, the owner of  
4 the “PETRONAS” mark.

5 **1. “Petronastower.net” Infringes the Trademark Rights of Petronas**

6 There can be no dispute that the first requirement for the transfer of the  
7 “petronastower.net” domain under the Anticyberpiracy section of the Lanham Act—that the  
8 domain name infringes the trademark rights of Petronas—is met in this case. Specifically, the  
9 Anticyberpiracy section applies to any domain name “that violates any right of the owner of a  
10 mark registered in the Patent and Trademark Office, or protected under subsection (a) [false  
11 designation of origin] or (c) [dilution] [of 15 U.S.C. § 1125].” 15 U.S.C. § 1125(d)(2)(A)(i).

12 Here, the “petronastower.net” domain name violates the rights of Petronas with respect to  
13 its federally registered “PETRONAS” mark because it infringes that mark under 15 U.S.C. §  
14 1114 and creates a false designation of origin under 15 U.S.C. § 1125(a). As an initial matter,  
15 Petronas is the owner of the duly registered federal trademark for the mark “PETRONAS.” Ex.  
16 D at 3:23-25 and 10-11. In addition, the “petronastower.net” domain name infringes the  
17 “PETRONAS” mark under 15 U.S.C. § 1114 because the domain name is “a use in commerce”  
18 of the “PETRONAS” mark that is “likely to cause confusion” among consumers as to whether  
19 the pornographic website using the “petronastower.net” domain name is associated with  
20 Petronas—which it is not. *Au-Tomotive Gold, Inc. v. Volkswagen of America, Inc.*, 457 F.3d  
21 1062, 1075-76 (9th Cir. 2006). Moreover, the “petronastower.net” domain name violates the  
22 rights of Petronas under 15 U.S.C. § 1125(a) by creating a “false designation of origin” as to the  
23 pornographic website found at the “petronastower.net” domain name because that site did not

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26 <sup>1</sup> For convenience, a complete copy of the Anticyberpiracy section (15 U.S.C. §  
27 1125(d)(2)(A)) is attached as Ex. C at 2 of 7.

1 “originate” with Petronas and, in fact, Petronas strongly objects to the site and its use of  
2 “PETRONAS.” *New West Corp. v. N.Y.M. Co. of California*, 595 F.2d 1194, 1201 (9th Cir.  
3 1979) (“Whether we call the violation infringement, unfair competition, or false designation of  
4 origin, the test is identical—is there a likelihood of confusion?”).

5 Accordingly, the first requirement for the transfer of the “petronastower.net” domain  
6 name to Petronas under the Anticyberpiracy section of the Lanham is met because that domain  
7 name infringes the trademark rights of Petronas.

## 8 2. The Registrant of “Petronastower.net” Is Unknown

9 The second requirement for the transfer of “petronastower.net” to Petronas under the  
10 Anticyberpiracy section is met because Petronas could not locate—despite due diligence—the  
11 registrant of the domain name nor could this Court obtain *in personam* jurisdiction over the  
12 registrant. Where, as here, the owner of a mark cannot “obtain *in personam* jurisdiction” or “was  
13 not able to find” the person who registered an infringing domain name with the “bad faith intent”  
14 to profit from the use of the domain name, the second requirement for the transfer of the domain  
15 under the Anticyberpiracy section is met. *See* 15 U.S.C. § 1125(d)(2)(A)(ii).

16 Here, according to GoDaddy’s records, the “petronastower.net” domain name was  
17 registered by “Heiko Schoneneke” whose address is “BPM 195226, 372 Old Street, London,  
18 Ec1V 9AU, United Kingdom.” Ex. A and E (detailing efforts to contact registrant). The internet  
19 registrant also provided an email address: “dd\_privat@hotmail.com.” Although Plaintiff  
20 Petronas tried repeatedly to locate and contact the registrant, including by Federal Express,  
21 email, and telephone, it was unable to do so. *Id.* Because the registrant of the  
22 “petronastower.net” domain could not be located or subjected to *in personam* jurisdiction, the  
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28 NOTICE OF MOTION AND MOTION FOR ORDER TRANSFERRING DOMAIN NAME PURSUANT TO 15  
U.S.C. § 1125(D)  
AND FOR ENTRY OF JUDGMENT  
Case Nos: 09-CV-5939 PJH and 10-CV00431 EMC

1 second requirement of the Anticyberpiracy section has been met with respect to the  
2 “petronastower.net” domain name.<sup>2</sup>

3 **C. GoDaddy Certifies This Court’s Authority to Transfer the**  
4 **“petronastower.net” Domain Name**

5 GoDaddy is the registrar of the domain name “petronastower.net” and, as required by the  
6 Anitcyberpiracy section, has provided certification that this Court has the “control and authority”  
7 to transfer the “petronastower.net” domain name to Petronas. Specifically, 15 U.S.C. §  
8 1125(d)(2)(D)(i) provides that, upon the filing of an Anticyberpiracy action, “the domain name  
9 registrar . . . shall expeditiously deposit with the court documents sufficient to establish the  
10 court’s control and authority regarding the disposition of the registration and use of the domain  
11 name to the court.” GoDaddy provided this information to Petronas and it is being filed along  
12 with this motion. Ex. F. As a result, all of the requirements for an order directing GoDaddy to  
13 transfer the “petronastower.net” domain name to Petronas under the Anticyberpiracy section  
14 have been met.

14 **D. Entry of Judgment**

15 In this action, Plaintiff Petronas seeks an order transferring the “petronastower.net”  
16 domain name. Upon the issuance of such an order, the Court will have granted complete relief to  
17 Petronas and entry of judgment will be proper under Fed. R. Civ. P. 54. Accordingly, Plaintiff  
18 Petronas requests that in addition to an order transferring the “petronastower.net” domain name,  
19 the Court also issue final judgment in favor of Petronas.

20 **IV. CONCLUSION**

21 For the foregoing reasons, Plaintiff Petronas respectfully requests an order directing  
22 GoDaddy.com to transfer the “petronastower.net” domain name to Petronas and the entry of

23 \_\_\_\_\_  
24 <sup>2</sup> Section 1125(d)(2)(A)(ii)(II)(bb) refers to “publishing notice of the action. . . as the Court  
25 may direct” as a means of locating a registrant in addition to providing notice at the mail and email  
26 addresses of the registrant. This publication requirement does not apply to the present case  
27 because the publication requirement is irrelevant where *in personam* jurisdiction cannot be  
obtained over the domain name registrant.

1 judgment in favor of Petronas. A proposed order and proposed final judgment are being filed  
2 with this motion.

3 Dated: March 25, 2010

LAW OFFICES OF PERRY R. CLARK

4

5

By: /s/ Perry R. Clark.

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Perry R. Clark

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Attorney for Plaintiff  
PETROLIAM NASIONAL BERHAD

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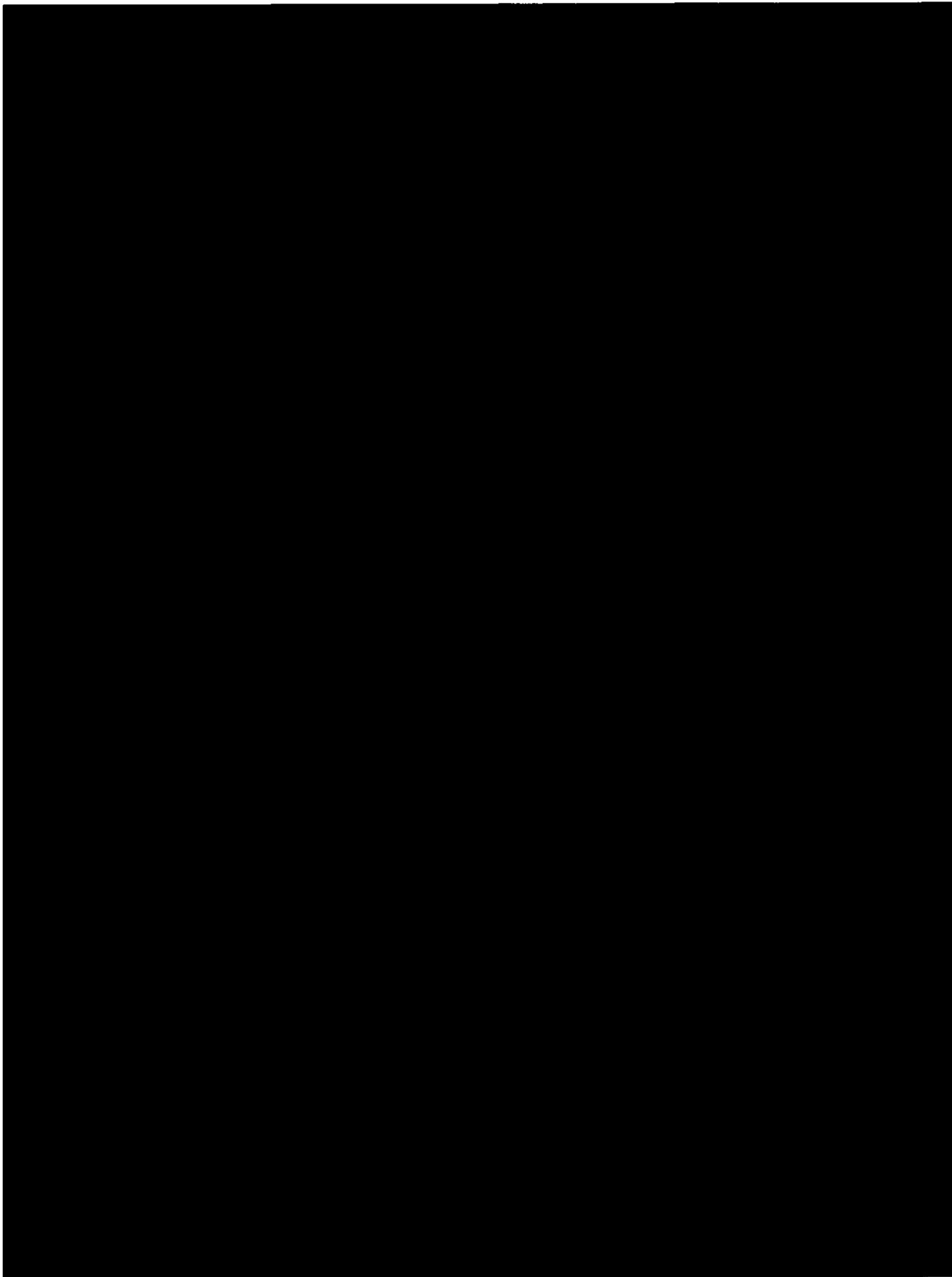
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28 NOTICE OF MOTION AND MOTION FOR ORDER TRANSFERRING DOMAIN NAME PURSUANT TO 15  
U.S.C. § 1125(D)  
AND FOR ENTRY OF JUDGMENT  
Case Nos: 09-CV-5939 PJH and 10-CV00431 EMC

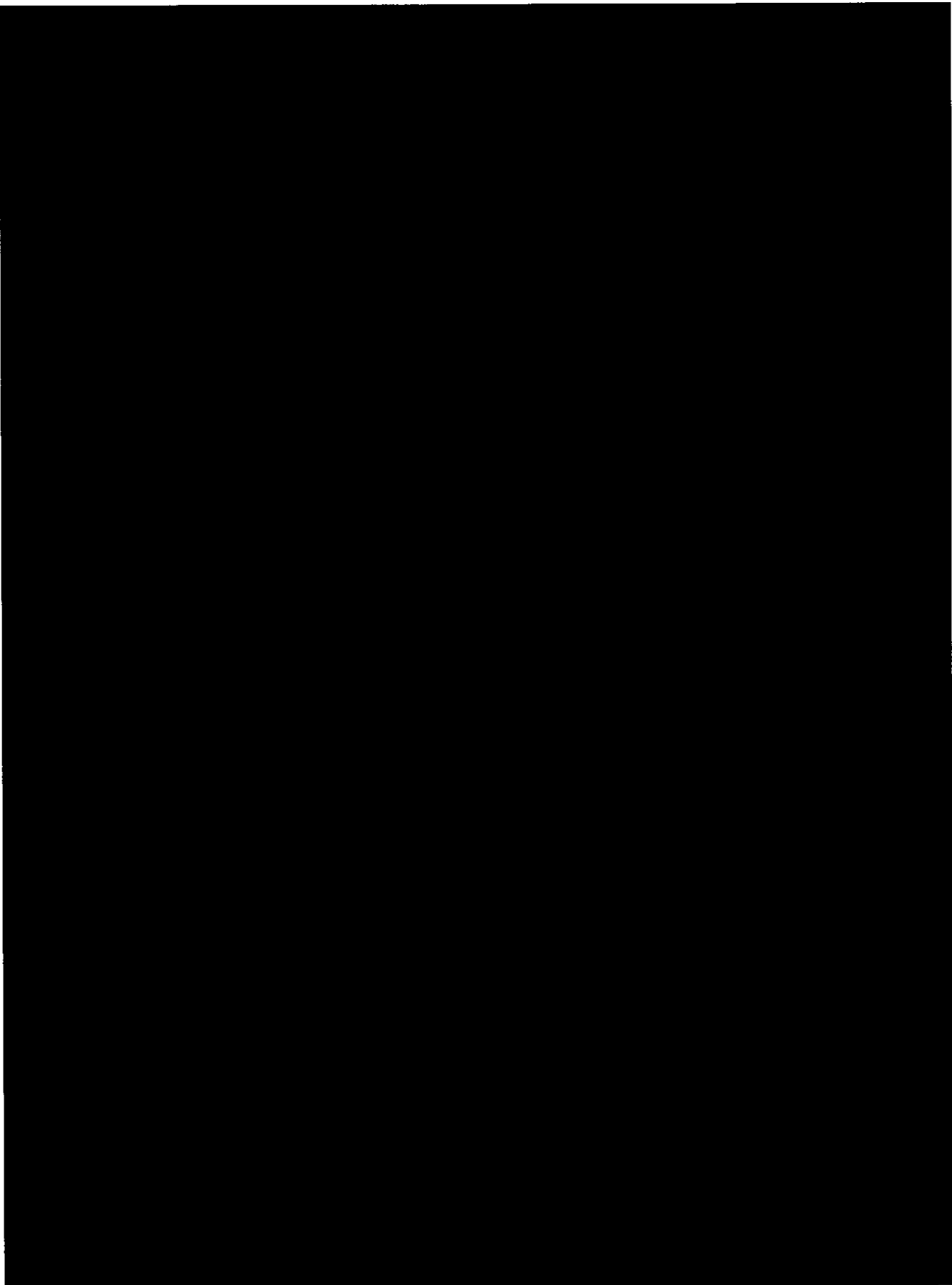




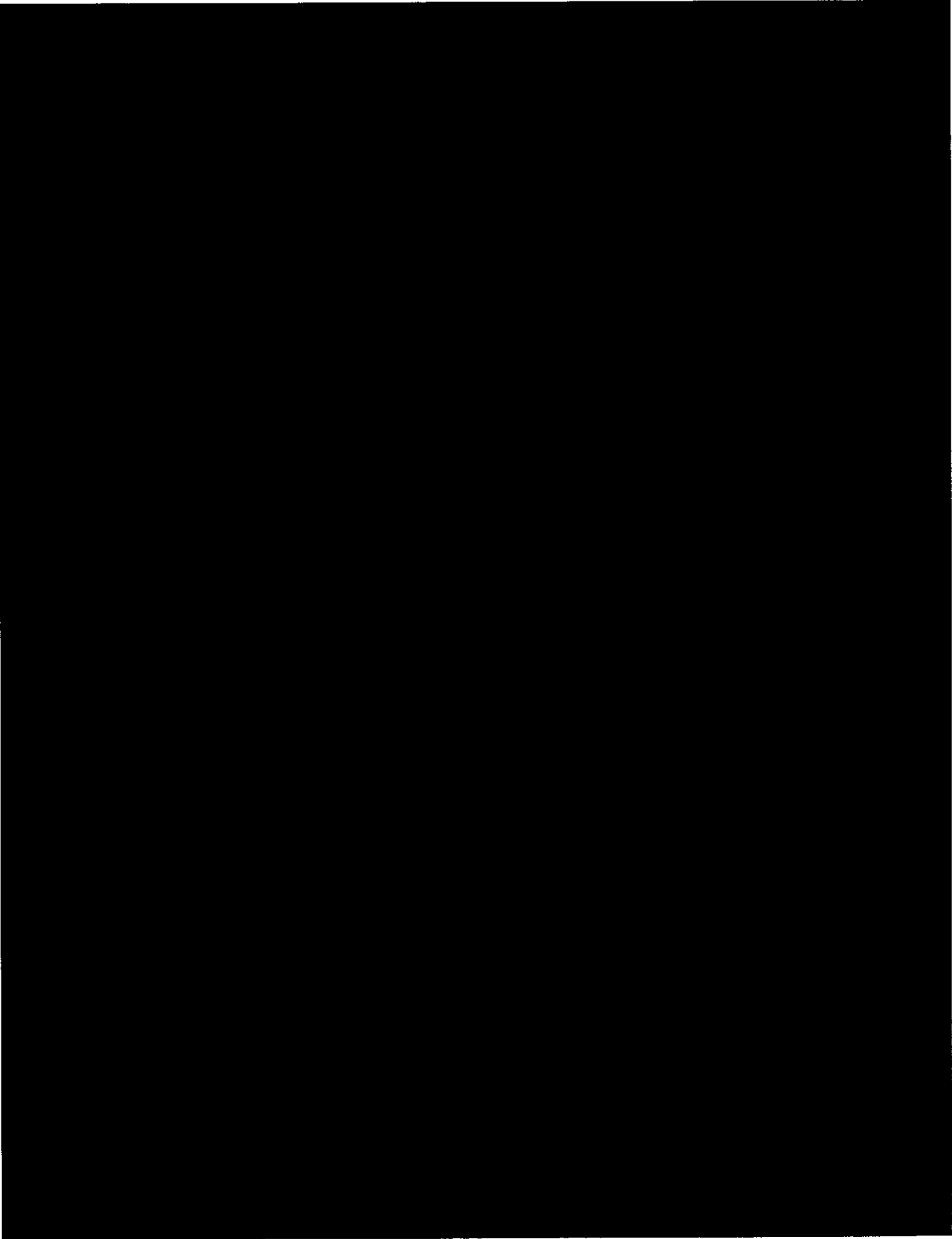
APP165

CONFIDENTIAL

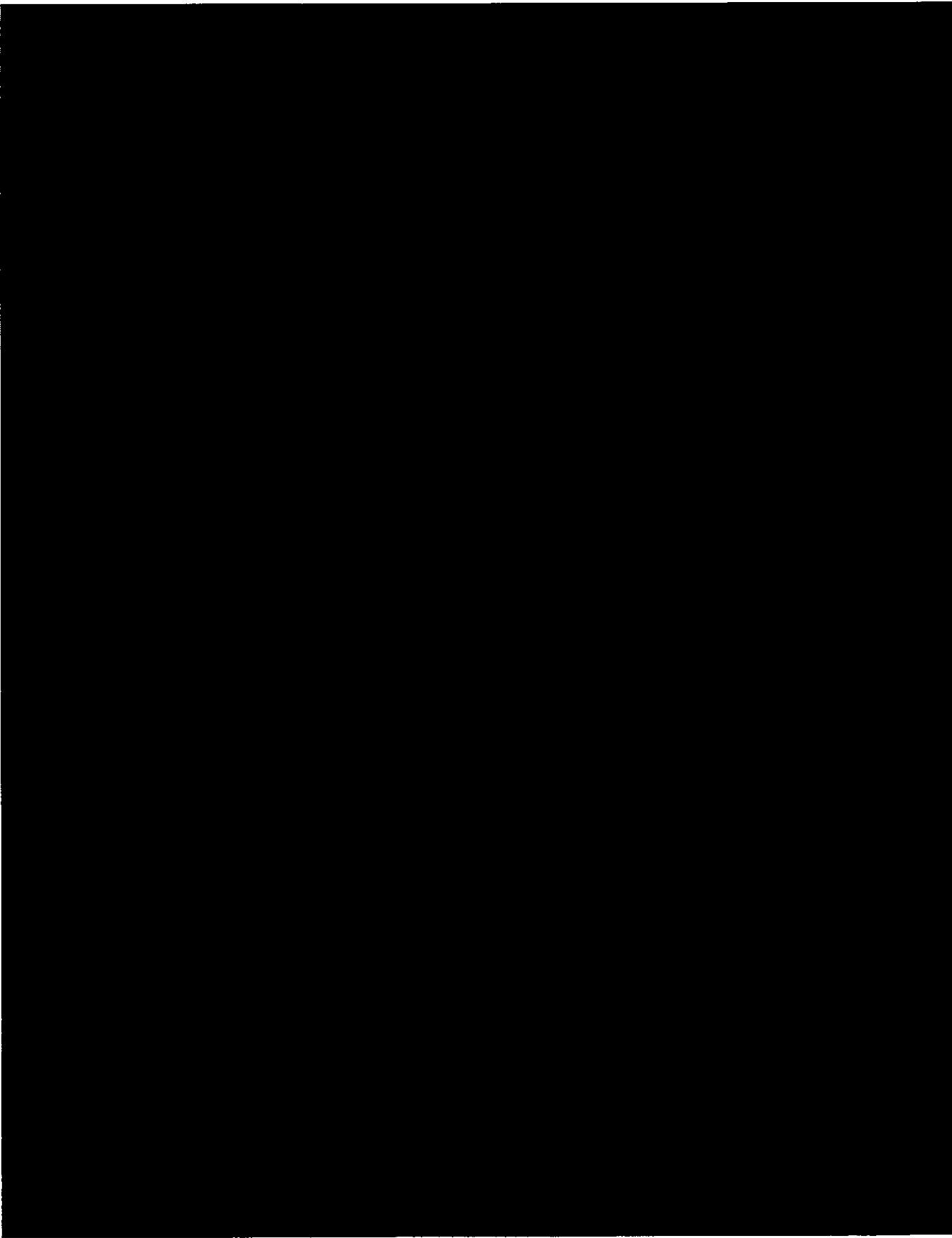
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APP166



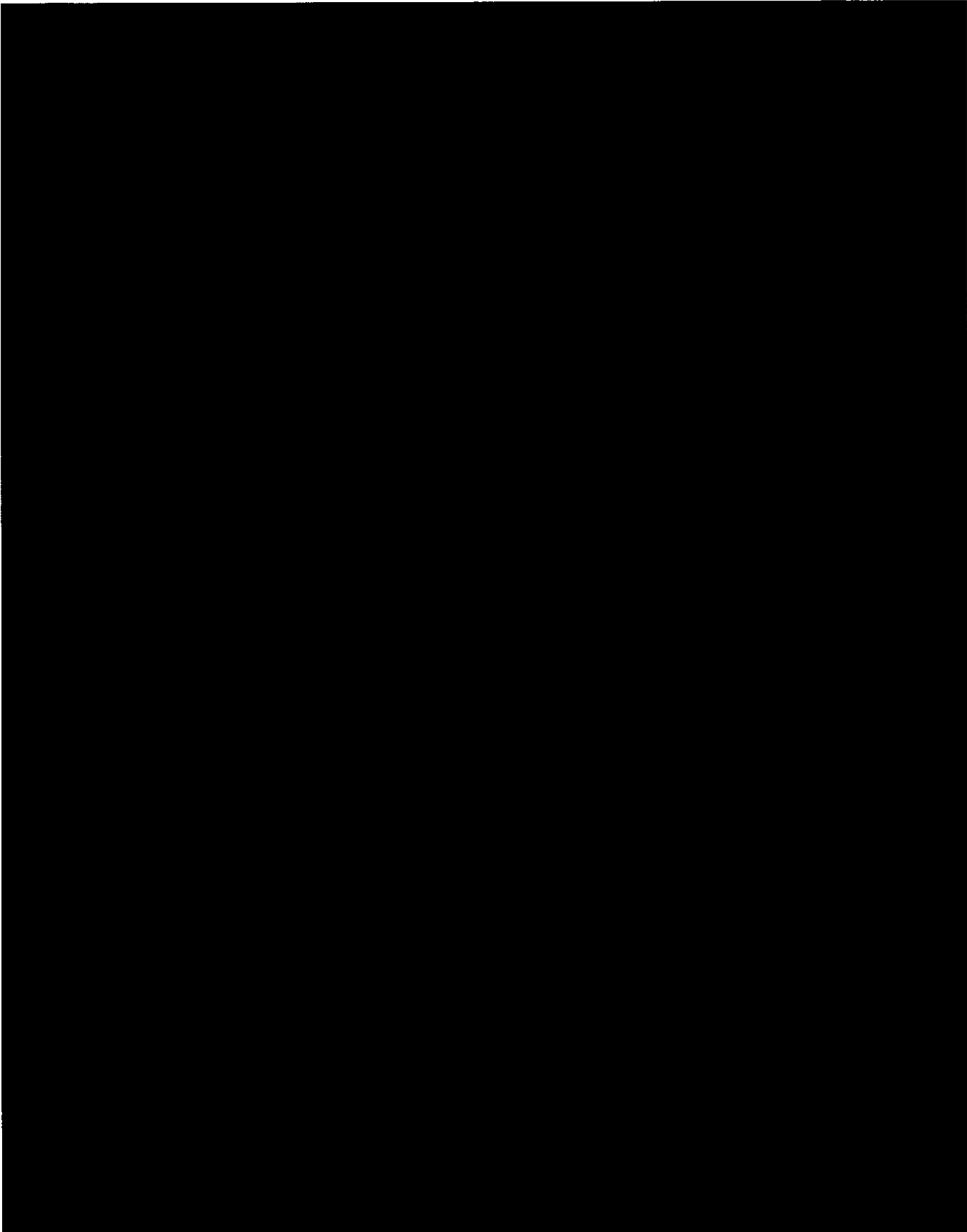
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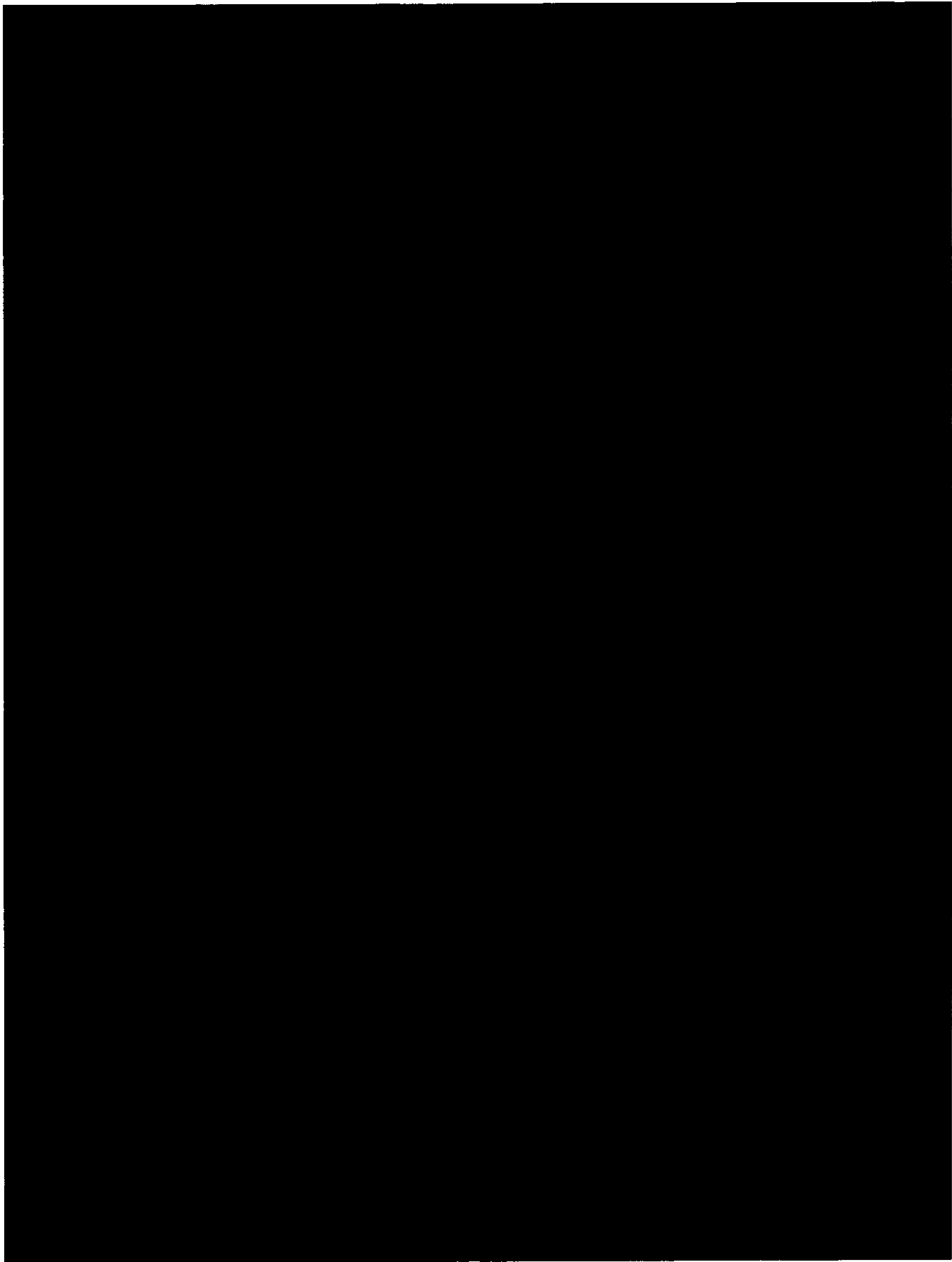


APP168

CONFIDENTIAL

GD-000573

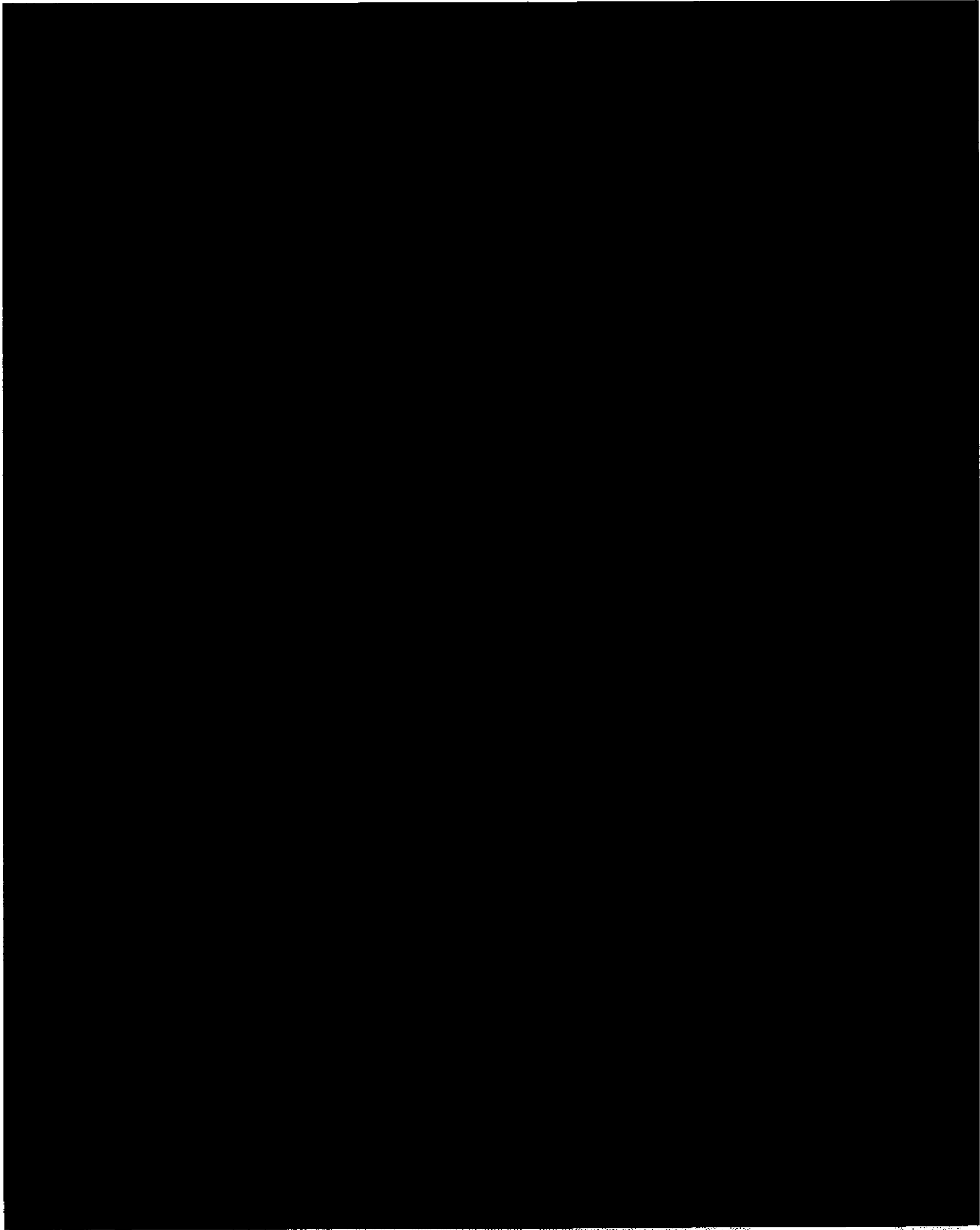




APP170

CONFIDENTIAL

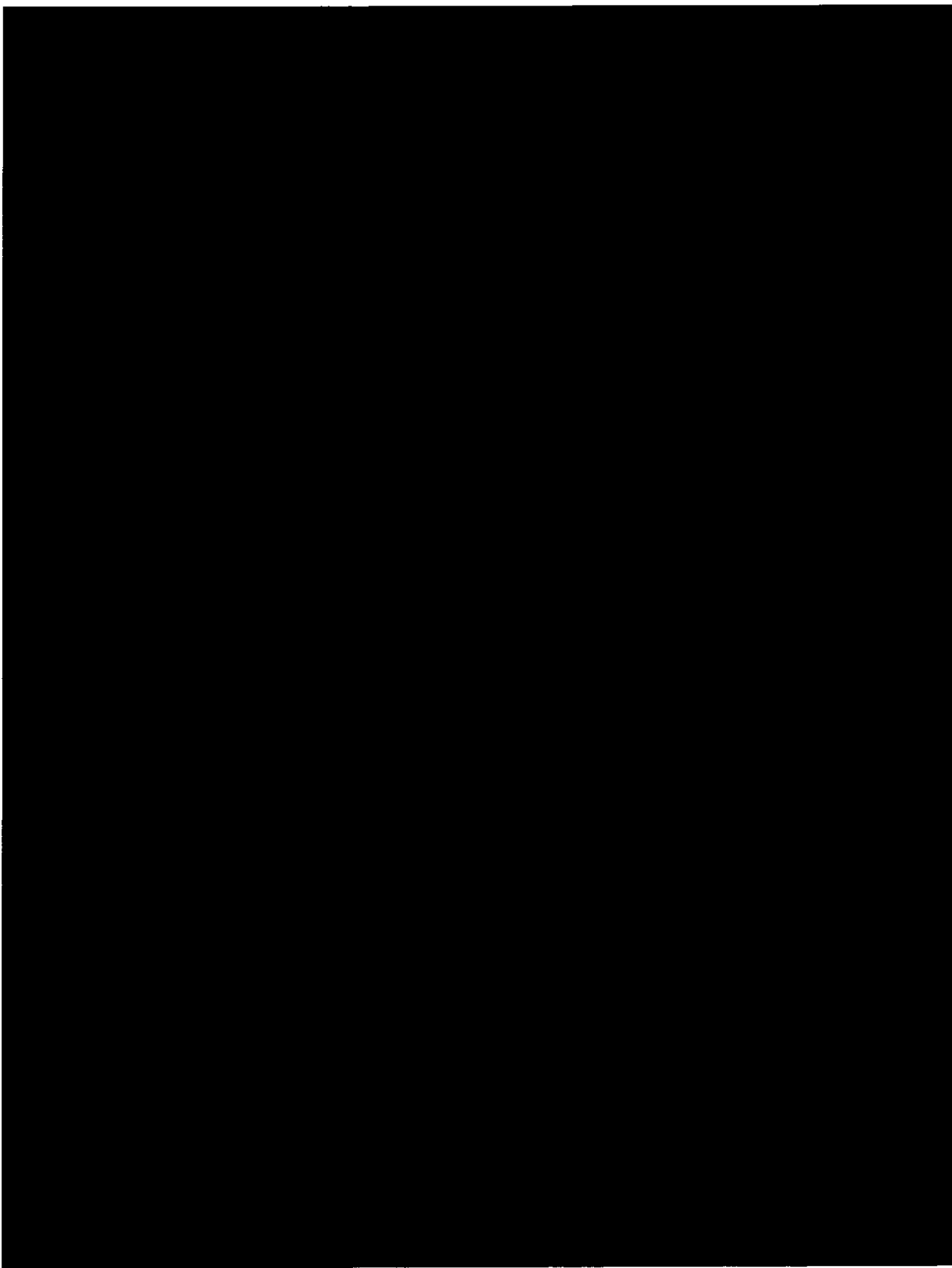
GD-000575



APP171

CONFIDENTIAL

GD-000576

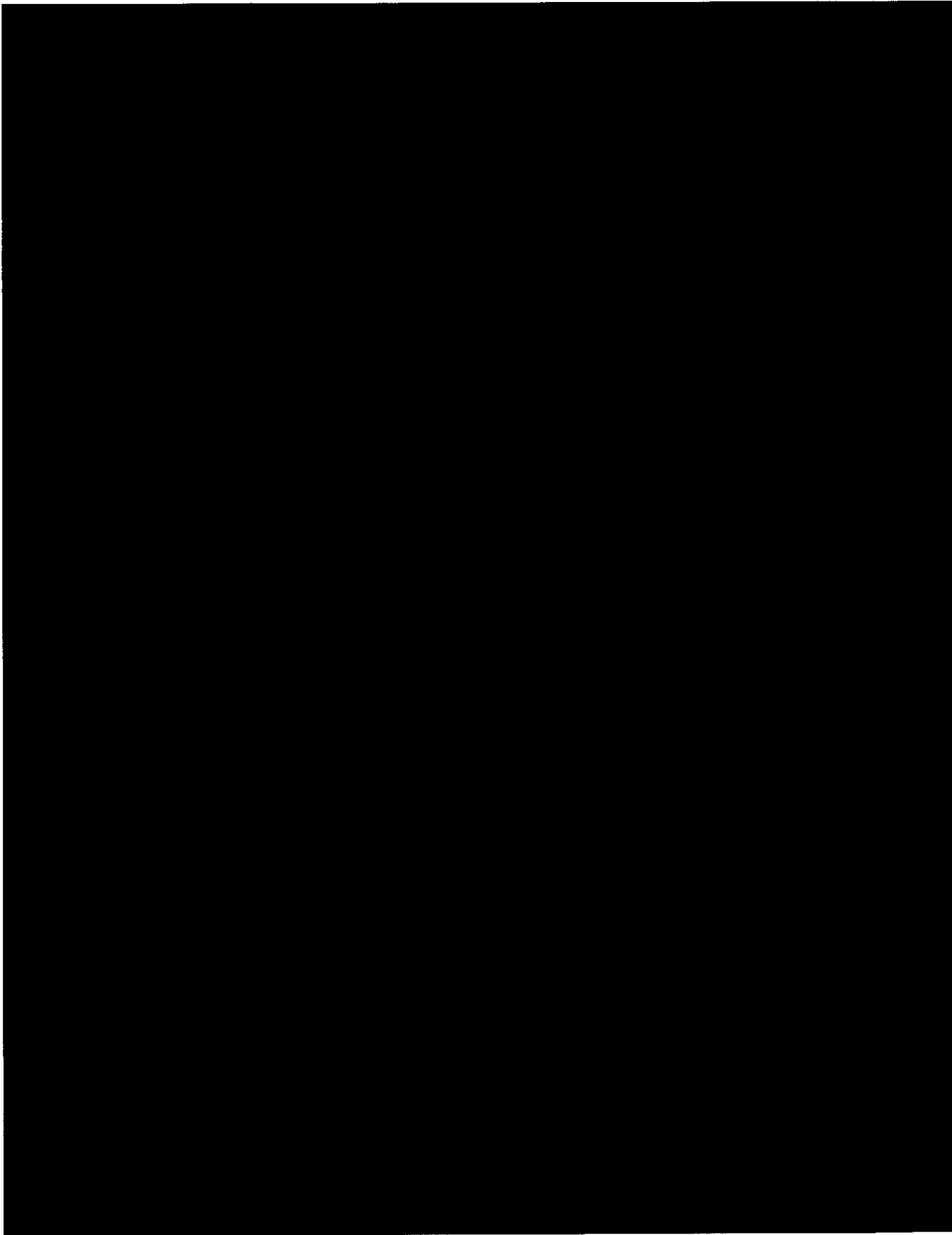


APP172

CONFIDENTIAL

GD-000577





APP173

CONFIDENTIAL

GD-000578

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

PETROLIAM NASIONAL BERHAD  
(PETRONAS),

Plaintiff,

CASE NO. 09-CV-5939PJH

vs.

GODADDY.COM, INC.,

Defendant.

\_\_\_\_\_ /

::: CONFIDENTIAL :::

30(b)(6) DEPOSITION OF JESSICA HANYEN

DATE: Wednesday, October 12, 2011

TIME: 11:58 a.m.

LOCATION: BALLARD SPAHR, LLP  
1 East Washington Street, Suite 2300  
Phoenix, Arizona 85004

REPORTED BY: JANICE HARRINGTON, RPR, CRR, CLR  
AZ Certified Court Reporter No. 50844  
Registered Professional Reporter  
Certified Realtime Reporter  
Certified LiveNote Reporter

MBreporting

111 Deerwood Road, Suite 200

San Ramon, California 94583

::: APPEARANCES :::

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FOR PETROLIAM NASIONAL BERHAD (PETRONAS) PLAINTIFF:

Law Offices of Perry R. Clark  
By: Perry R. Clark, Attorney At Law  
825 San Antonio Road  
Palo Alto, California 94303  
(650) 248-5817  
perry@perryclarklaw.com

FOR GODADDY.COM, INC., DEFENDANT:

Wilson Sonsini Goodrich & Rosati  
By: David L. Lansky, Attorney At Law  
650 Page Mill Road  
Palo Alto, California 94304-1050  
(650) 320-4776  
dlansky@wsgr.com:

1                   ::: INDEX OF EXAMINATIONS :::

2	EXAMINATION BY:	PAGE
3		
4	MR. CLARK	5

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                  ::: INDEX OF REQUESTS :::

8

PAGE   LINE   REQUEST

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1 Q. Okay. And the section of that says,  
2 "Determine if the website is hosted at one of the Go  
3 Daddy group's companies by checking the IP address."  
4 Do you see that?

5 A. Yes.

6 Q. How would someone at Go Daddy applying  
7 this policy determine if a website is hosted at one  
8 of the Go Daddy group companies?

9 A. We would basically do what's called a  
10 Whois look up. And it is not one that's specific to  
11 the registrant information like a standard one. This  
12 one is specific for hosting. That would tell us what  
13 company that the domain name or the website is hosted  
14 with.

15 If it was showing that it was hosted with  
16 a Go Daddy IP address once we did that look-up, we  
17 would then check our tools to see if we can identify  
18 the account which would tell us with 100% certainty  
19 that it is hosted with our company.

20 Q. Okay. And then on Section 1.1.1 which is  
21 not hosted, send "Not hosted template to the  
22 complainant." Do you see that?

23 A. Yes.

24 Q. If Go Daddy applying this policy  
25 determines that the website is not hosted at Go