

Microsoft

CERTIFIED

Systems Administrator

SECURITY

From: Malaysia Computer Emergency Response Team <mycert@mycert.org.my>
Sent: Friday, December 4, 2009 12:52 AM
To: abuse@godaddy.com
Cc: soc@us-cert.gov
Subject: Re: [MyCERT-200912011065922] : Reporting Incident : Domain Infringement

-----BEGIN PGP SIGNED MESSAGE-----

Hash: SHA1

Dear abuse@godaddy.com,
Regarding the above matter, the problem has still not yet rectified.
Appreciate your prompt action to rectify the problem immediately.

Kindly retain the above subject header containing:[MyCERT-200912011065922] to ensure effective response.

Regards,

- -Juanita

Malaysia Computer Emergency Response Team <mycert@mycert.org.my> wrote:

> Dear Abuse Team,
>
> MyCERT received a report from an organization regarding a domain registered
> under your administration that host a fake website of the original website which
> is can be found at www.petronas.com.
>
> Domain: petronastower.net
> URL : http://www.petronastower.net
> IP : 64.202.189.170
>
> Domain Name: PETRONASTOWER.NET
> Registrar: GODADDY.COM, INC.
> Whois Server: whois.godaddy.com
> Referral URL: http://registrar.godaddy.com
> Name Server: NS39.DOMAINCONTROL.COM
> Name Server: NS40.DOMAINCONTROL.COM
> Status: clientDeleteProhibited
> Status: clientRenewProhibited
> Status: clientTransferProhibited
> Status: clientUpdateProhibited
> Updated Date: 02-may-2009
> Creation Date: 08-may-2003
> Expiration Date: 08-may-2010
>
>
> The domain is hosting pornographic web contents from http://www.camfunchat.com
> which can be used for fraudulent purposes and this can create a likelihood of
> confusion to their clients.
>
> As of at this time, MyCERT has confirmed that the above disputed site is still

> active online. We would appreciate your assistance to investigate on the above
> site and to close the domain as soon as possible.
>
> We appreciate your prompt response.
>
> -----
> Kindly retain the above subject header containing:[MyCERT-200912011065922] to
> ensure effective response.
> -----
>
> Regards,
> -Juanita
>
> =====Whois=====
> OrgName: GoDaddy.com, Inc.
> OrgID: GODAD
> Address: 14455 N Hayden Road
> Address: Suite 226
> City: Scottsdale
> StateProv: AZ
> PostalCode: 85260
> Country: US
>
> NetRange: 64.202.160.0 - 64.202.191.255
> CIDR: 64.202.160.0/19
> NetName: GO-DADDY-SOFTWARE-INC
> NetHandle: NET-64-202-160-0-1
> Parent: NET-64-0-0-0-0
> NetType: Direct Allocation
> NameServer: CNS1.SECURESERVER.NET
> NameServer: CNS2.SECURESERVER.NET
> NameServer: CNS3.SECURESERVER.NET
> Comment:
> RegDate: 2002-10-22
> Updated: 2007-06-14
>
> OrgAbuseHandle: ABUSE51-ARIN
> OrgAbuseName: Abuse Department
> OrgAbusePhone: +1-480-624-2505
> OrgAbuseEmail: abuse@godaddy.com
>
> OrgNOCHandle: NOC124-ARIN
> OrgNOCName: Network Operations Center
> OrgNOCPhone: +1-480-505-8809
> OrgNOCEmail: noc@godaddy.com
>
> OrgTechHandle: NOC124-ARIN
> OrgTechName: Network Operations Center
> OrgTechPhone: +1-480-505-8809

> OrgTechEmail: noc@godaddy.com

> =====

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> Malaysia Computer Emergency | E-mail: mycert@mycert.org.my
 > Response Team | Cyber999 Hotline: 1 300 88 2999
 > (MyCERT) | Fax: (603) 8945 3442
 > CyberSecurity Malaysia | Phone: (603) 8992 6969
 > Level 7, Sapura@Mines | Office hour: 0830-1730 MYT (Mon-Fri)
 > 7, Jln Tasik, The Mines | 24x7 Phone: 019-266 5850
 > Resort City, 43300 Seri Kembangan | SMS: 019-281 3801
 > Selangor. MALAYSIA | URL: http://mycert.org.my/

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-----BEGIN PGP SIGNATURE-----

Version: GnuPG v2.0.11 (FreeBSD)

iEUEARECAAYFAksYzcEACgkQ0BAFclK27XHaLQCXZM3le+6Mebn9Pui3gRk2KAGj
 rACfcRRCDd6YLCq4FWIQZusJOGSGSVY=
 =VqCM

-----END PGP SIGNATURE-----

From: Malaysia Computer Emergency Response Team <mycert@mycert.org.my>
Sent: Sunday, December 6, 2009 6:03 PM
To: abuse@godaddy.com
Cc: soc@us-cert.gov
Subject: Re: [MyCERT-200912011065922] : Reporting Incident : Domain Infringement

-----BEGIN PGP SIGNED MESSAGE-----

Hash: SHA1

Dear abuse@godaddy.com,

Regarding the above matter, we see that the problem of the reported website under your administration is still not been rectified.

For your information, this is the second time we are notifying you.

We appreciate your prompt action to rectify the problem immediately as we need to update our complainant accordingly.

Kindly retain the above subject header containing:[MyCERT-200912011065922] to ensure effective response.

Regards,

--Juanita

Malaysia Computer Emergency Response Team <mycert@mycert.org.my> wrote:

> Dear abuse@godaddy.com,

>

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> Appreciate your prompt action to rectify the problem immediately.

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> Kindly retain the above subject header containing:[MyCERT-200912011065922] to ensure effective response.

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> Regards,

> -Juanita

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> Malaysia Computer Emergency Response Team <mycert@mycert.org.my> wrote:

>

>> Dear Abuse Team,

>>

>> MyCERT received a report from an organization regarding a domain registered

>> under your administration that host a fake website of the original website which

>> is can be found at www.petronas.com.

>>

>> Domain: petronastower.net

>> URL : http://www.petronastower.net

>> IP : 64.202.189.170

>>

>> Domain Name: PETRONASTOWER.NET

> > Registrar: GODADDY.COM, INC.
> > Whois Server: whois.godaddy.com
> > Referral URL: http://registrar.godaddy.com
> > Name Server: NS39.DOMAINCONTROL.COM
> > Name Server: NS40.DOMAINCONTROL.COM
> > Status: clientDeleteProhibited
> > Status: clientRenewProhibited
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> > Updated Date: 02-may-2009
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> > The domain is hosting pornographic web contents from http://www.camfunchat.com
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> > As of at this time, MyCERT has confirmed that the above disputed site is still
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> > Regards,
> > -Juanita
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> > =====Whois=====
> > OrgName: GoDaddy.com, Inc.
> > OrgID: GODAD
> > Address: 14455 N Hayden Road
> > Address: Suite 226
> > City: Scottsdale
> > StateProv: AZ
> > PostalCode: 85260
> > Country: US
> >
> > NetRange: 64.202.160.0 - 64.202.191.255
> > CIDR: 64.202.160.0/19
> > NetName: GO-DADDY-SOFTWARE-INC
> > NetHandle: NET-64-202-160-0-1
> > Parent: NET-64-0-0-0-0
> > NetType: Direct Allocation
> > NameServer: CNS1.SECURESERVER.NET

> > NameServer: CNS2.SECURESERVER.NET
 > > NameServer: CNS3.SECURESERVER.NET
 > > Comment:
 > > RegDate: 2002-10-22
 > > Updated: 2007-06-14
 > >
 > > OrgAbuseHandle: ABUSE51-ARIN
 > > OrgAbuseName: Abuse Department
 > > OrgAbusePhone: +1-480-624-2505
 > > OrgAbuseEmail: abuse@godaddy.com
 > >
 > > OrgNOCHandle: NOC124-ARIN
 > > OrgNOCHandle: Network Operations Center
 > > OrgNOCHandle: +1-480-505-8809
 > > OrgNOCHandle: noc@godaddy.com
 > >
 > > OrgTechHandle: NOC124-ARIN
 > > OrgTechName: Network Operations Center
 > > OrgTechPhone: +1-480-505-8809
 > > OrgTechEmail: noc@godaddy.com

> > =====
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> > -----+-----
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 > > CyberSecurity Malaysia | Phone: (603) 8992 6969
 > > Level 7, Sapura@Mines | Office hour: 0830-1730 MYT (Mon-Fri)
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 Version: GnuPG v2.0.11 (FreeBSD)
 iEYEARECAAYFAkscYmwACgkQ0BAFclK27XFVwCeOdTv0tEmxzs6LJiPNHNa5Yiv
 OxUAn0Ps1T7qvPqB1+DcCergZWRyblBA
 =/i11
 -----END PGP SIGNATURE-----

1 JOHN L. SLAFSKY, State Bar No. 195513
 DAVID L. LANSKY, State Bar No. 199952
 2 HOLLIS BETH HIRE, State Bar No. 203651
 WILSON SONSINI GOODRICH & ROSATI
 3 Professional Corporation
 4 650 Page Mill Road
 Palo Alto, CA 94304-1050
 5 Telephone: (650) 493-9300
 Facsimile: (650) 493-6811
 6 jslafsky@wsgr.com
 dlansky@wsgr.com
 7 hhire@wsgr.com

8 Attorneys for Defendant / Counterclaimant
 9 GODADDY.COM, INC.

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA

12	PETROLIAM NASIONAL BERHAD,)	CASE NO.: 09-CV-5939 PJH
)	
13	Plaintiff,)	
)	
14	vs.)	GO DADDY'S RESPONSE TO
)	PLAINTIFF'S SECOND SET OF
15	GODADDY.COM, INC.,)	INTERROGATORIES (NOS. 9-20)
)	
16	Defendant.)	
)	
17)	
18	_____)	
)	
19	GODADDY.COM, INC.,)	
)	
20	Counterclaimant,)	
)	
21	vs.)	
)	
22	PETROLIAM NASIONAL BERHAD,)	
)	
23	Counterclaim Defendant.)	
)	
24	_____)	

25
 26
 27
 28

1 Pursuant to Federal Rule of Civil Procedure 33, Defendant / Counterclaimant
 2 GoDaddy.com, Inc. ("Go Daddy"), by and through its undersigned counsel, hereby responds to
 3 the Second Set of Interrogatories ("Requests") by Plaintiff / Counterclaim Defendant Petroliam
 4 Nasional Berhad ("Plaintiff" or "Petronas").

5 No admissions of any nature whatsoever are implied by, or should be inferred from, these
 6 Responses. Each of these Responses is based on Go Daddy's understanding of each individual
 7 interrogatory and, to the extent that Plaintiff asserts an interpretation of any interrogatory that is
 8 inconsistent with that understanding, Go Daddy reserves the right to supplement these
 9 Responses.

10 **GENERAL OBJECTIONS**

11 Go Daddy makes the following general objections, whether or not separately set forth in
 12 response to each interrogatory. Although Go Daddy may repeat some of these general objections
 13 in a specific response because they are particularly applicable, such specific citations are not to
 14 be construed as a waiver of any other general objections applicable to the interrogatory. These
 15 general objections are incorporated in each response to each interrogatory as if fully set forth in
 16 each of the individual responses below.

17 **GENERAL OBJECTION NO. 1:**

18 Go Daddy objects to the Requests, and to each and every individual interrogatory, to the
 19 extent they seek information protected by the attorney-client privilege, work product doctrine,
 20 and/or any other applicable privilege or protection. Without prejudice to this objection, Go
 21 Daddy will provide responses to the Requests to the extent that such responses do not waive such
 22 privileges or protections.

23 **GENERAL OBJECTION NO. 2:**

24 All responses to the Requests are based upon the information presently known to Go
 25 Daddy and are given without prejudice to Go Daddy's right to adduce evidence discovered or
 26 analyzed subsequent to the date of these responses. Go Daddy expressly reserves the right to
 27 revise and supplement its responses to the Requests.

28

1 **GENERAL OBJECTION NO. 3:**

2 Go Daddy objects to the Requests, and to each and every individual interrogatory, to the
3 extent they seek information outside of Go Daddy's possession, custody, or control, on the
4 grounds that any such request is overbroad and unduly burdensome, seeks to impose discovery
5 obligations in excess of those imposed by the Federal Rules of Civil Procedure, and would
6 subject Go Daddy to unreasonable annoyance, burden, and expense.

7 **GENERAL OBJECTION NO. 4:**

8 Go Daddy objects to the Requests, and to each and every individual interrogatory, as
9 unduly burdensome, oppressive and in violation of the Federal Rules of Civil Procedure to the
10 extent they purport to require Go Daddy to respond on behalf of, or conduct any inquiry or
11 investigation with respect to, any party other than Go Daddy. Go Daddy will only answer the
12 request on its own behalf.

13 **GENERAL OBJECTION NO. 5:**

14 Go Daddy objects to the Requests to the extent that they seek information that is neither
15 relevant, admissible, nor reasonably calculated to lead to the discovery of admissible evidence,
16 and to the extent that they require Go Daddy to make legal conclusions.

17 **GENERAL OBJECTION NO. 6:**

18 Go Daddy objects to the Requests, and to each and every individual interrogatory, as
19 overbroad and unduly burdensome to the extent they do not include a limitation or proposed
20 definition of a relevant time period.

21 **GENERAL OBJECTION NO. 7:**

22 Go Daddy objects to the Requests, and to each and every individual interrogatory, to the
23 extent they are not consistent with or do not meet the requirements of Federal Rules of Civil
24 Procedure. Go Daddy's agreement to endeavor to answer the Requests, and each and every
25 individual interrogatory, is not, and should not be construed as, Go Daddy's waiver of its right to
26 object to these or any other requests as violative of the Federal Rules of Civil Procedure.

27 **GENERAL OBJECTION NO. 8:**

28 Go Daddy objects to the Requests, and to each and every individual interrogatory

1 contained therein, to the extent they seek information related to experts. Go Daddy will provide
2 information related to experts consistent with the Court's schedule for expert discovery.

3 **GENERAL OBJECTION NO. 9:**

4 Go Daddy specifically reserves all objections as to the competence, relevancy,
5 materiality, and admissibility of its documents and interrogatory responses or the subject matter
6 thereof, and all rights to object on any ground to the use of any document or interrogatory
7 response, or the subject matter thereof, in any subsequent proceeding, including without
8 limitation the trial of this or any action. Go Daddy's Responses are made expressly subject to,
9 and without in any manner waiving, any and all objections to the competency, relevance,
10 materiality and/or admissibility of any of the matters encompassed in the following Responses.

11 **SPECIFIC RESPONSES AND OBJECTIONS**

12 Go Daddy expressly incorporates the above General Objections as though set forth fully
13 in response to each of the following individual interrogatories and, to the extent they are not
14 raised in any particular response, Go Daddy does not waive those objections. An answer to an
15 interrogatory shall not be deemed a waiver of any applicable specific or general objection.
16 Likewise, an answer to an interrogatory shall not be deemed an admission of any assertions
17 contained in that interrogatory.

18 **INTERROGATORY NO. 9:**

19 Please describe in detail what GoDaddy did regarding the domain name
20 "petronastower.net" after it was contacted on November 26, 2009, December 14, 2009, and
21 December 16, 2009 concerning the domain name "petronastower.net," including by identifying
22 all persons with knowledge of the foregoing and by describing all documents related to the
23 foregoing.

24 **RESPONSE TO INTERROGATORY NO. 9:**

25 In addition to the General Objections, Go Daddy objects to this interrogatory on the
26 grounds that it is cumulative, vague, ambiguous and unintelligible, particularly with respect to
27 the phrases "what GoDaddy did regarding the domain name" and "after it was contacted."

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

1 Since April 1, 2007, Go Daddy has served as the registrar for the domain name
2 “petronastower.net.” As part of its registrar services, Go Daddy provided routing services,
3 pointing the domain name to the name servers or website of the registrant’s choosing. At times,
4 Go Daddy routed or “forwarded” the domain name to a pre-existing website, automatically at the
5 request of the domain name registrant.

6 After receiving a routine report of “website domain name abuse” from Low Keng Mun at
7 iPerintis on November 26, 2009, via its abuse email address, abuse@godaddy.com, Go Daddy
8 followed its Standard Operating Procedure in responding to the inquiry. Specifically, Go Daddy
9 responded via email on December 1, 2009, indicating that it would work with law enforcement
10 to address any illegal content it may be hosting on its customer’s websites, but:

11 [a]ny disputes over the ownership or wording of the domain name itself
12 will need to be sent to either the registrant, through an arbitration forum
13 such as World Intellectual Property Organization (<http://www.wipo.int/>),
or the local court system. Per ICANN regulations, domain registrars are
prohibited from becoming involved in domain ownership disputes.

14 Additionally, Go Daddy suggested contacting invalidwhois@secureserver.net in the event
15 Petronas was having difficulty locating the registrant.

16 After receiving a routine trademark complaint on December 16, 2009 from Petronas’s
17 counsel, Perry Clark, via Go Daddy’s general trademark dispute email address,
18 TrademarkClaims@godaddy.com, Go Daddy followed its Trademark Policy and Standard
19 Operating Procedure. In particular, Go Daddy investigated the claim to determine whether Go
20 Daddy was providing any website hosting or other services to the registrant of the domain name.
21 After confirming that Go Daddy served merely as the registrar for the domain name (and did not
22 provide website hosting or other ancillary services), Go Daddy again followed its Trademark
23 Policy and Standard Operating Procedure, and informed Petronas’s counsel by e-mail – the same
24 day the complaint was made – that:

25 [a]lthough the domain PETRONASTOWER.NET is registered through
26 our company, the domain is forwarding to a website that is hosted
27 elsewhere. Any issues regarding the content of the website will need to be
addressed to the owner of the site either directly, or to the hosting
provider.

28

1 We can only process claims of trademark infringement against the content
 2 of the websites that we host. ICANN, the managing body of the internet,
 3 domain name registrars, specifically prohibits domain registrars from
 4 becoming involved in disputes over domain ownership in their Uniform
 Domain Name Dispute Resolution Policy. Any disputes over the
 ownership or wording of the domain name itself will need to be sent either
 to the owner, or through an arbitration forum, or the local court system.

5 On January 24, 2010, Petronas filed an *in rem* action under the Lanham Act against the
 6 petronastower.net domain name. In connection with that lawsuit, Go Daddy cooperated with
 7 Petronas to provide the necessary registrar's certificate. After the domain name registrant failed
 8 to respond to the *in rem* complaint, the Court ordered transfer of the domain name on May 13,
 9 2010. Go Daddy transferred the petronastower.net domain name to counsel for Petronas, Perry
 10 Clark, on May 18, 2010. The domain name is still registered by Mr. Clark with Go Daddy.

11 Go Daddy has already identified persons with knowledge and produced documents
 12 relating to the foregoing in response to prior discovery requests. Persons with relevant
 13 knowledge include Rod Simonini, Matthew Bilunes, Jessica Hanyen, and Laurie Anderson.

14 **INTERROGATORY NO. 10:**

15 If GoDaddy contends that it did not have a bad faith intent to profit from the registration
 16 or maintenance of the domain names "petronastower.net" and "petronastowers.net" or any
 17 trademark of Petronas, please identify and describe in detail the basis for any such contention,
 18 including by identifying all persons with knowledge of the foregoing and by describing all
 19 documents related to the foregoing.

20 **RESPONSE TO INTERROGATORY NO. 10:**

21 In addition to the General Objections, Go Daddy objects to this interrogatory on the
 22 grounds that it is cumulative, calls for legal conclusions, and is vague, ambiguous and
 23 unintelligible.

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

25 Go Daddy's intent has been to provide registrar services concerning the domain names
 26 "petronastower.net" and "petronastowers.net." Go Daddy did not profit from the domain name
 27 registrations, except to the extent it, or any other registrar, would profit from the registration fee
 28 required from all domain name registrants. Go Daddy does not charge or collect any additional