

EXHIBIT 2

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PETROLIAM NASIONAL BERHAD,)	
)	
Plaintiff,)	
)	
vs.)	No. 09-CV-5939 PJH
)	
GODADDY.COM, INC.,)	
)	
Defendant.)	
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GODADDY.COM, INC.,)	
)	
Counterclaimant,)	
)	
vs.)	
)	
PETROLIAM NASIONAL BERHAD,)	
)	
Counterclaim Defendant.)	
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C O N F I D E N T I A L

VIDEOTAPED DEPOSITION OF TINA DAM

Los Angeles, California

Friday, November 11, 2011

Reported by: Deborah R. Meyers, CSR No. 8569

1 Q Do you recall any conversations with
2 Mr. Clark in between your retention as an expert and
3 your signing or execution of the report? You said
4 you spoke to him regularly --

5 A Sure.

6 Q -- for a period of days.

7 A Sure, about, like I said before, how does
8 registrations function, how does resolutions
9 function, how does the DNS function.

10 Q Okay. And did he offer you any other
11 direction beyond your initial conversation?

12 A Direction?

13 Q Instructions, guidance?

14 A No.

15 Q Did he offer you any assumptions to make
16 for purpose of preparing your report?

17 A No.

18 Q Did he contribute in whole or in part to
19 the preparation of the report?

20 A He contributed in part to it, yes.

21 Q And what was the manner of his contribution
22 to the report?

23 A Drafting sections of the report.

24 Q Okay. So the two of you drafted the report
25 together? Is that accurate?

1 A I would say Mr. Clark would do the draft,
2 and I would then make edits on it so that it would
3 become my report and my writing.

4 Q So you would speak to Mr. Clark, he would
5 draft the report, and then you would review it?

6 A Based on what I told him, and I would take
7 it then and edit it, yeah.

8 Q Okay. Were there portions of the report
9 that were deleted during the editing process and
10 didn't make it into the final report?

11 A There was -- I did a lot of edits on it,
12 yes, to make it technical, factual correct.

13 Q Are there any statements in the report that
14 are not yours?

15 A No.

16 Q Are the graphics in the report yours?

17 A Some of them are, yes.

18 Q And the others were prepared by whom?

19 A Provided by Mr. Clark and asking me if that
20 was an accurate illustration of what I had told him.

21 Q Did you have any other assistance from
22 other individuals --

23 A No.

24 Q -- the course of preparing the report?

25 A No.

1 Q Are the opinions in the report yours?

2 A I think you just asked that, and I said
3 yes.

4 Q I asked if the statements in the report
5 were yours.

6 A (Nods head up and down.)

7 Q Now I'm asking about the opinions.

8 A Oh, okay. Yes.

9 Q Did you carefully review all the documents
10 attached to the report?

11 A Yes.

12 Q Did you suggest the inclusion of any of the
13 exhibits to the report?

14 A Well, some of the screen shots are mine --

15 Q Okay.

16 A -- that I provided as evidence for how I
17 would provide a certain statement.

18 Q Okay.

19 A So yeah, those are mine.

20 Q Okay.

21 A I think I also referred Mr. Clark to a
22 couple of the RFCs, which are the technical
23 documents for how protocols function.

24 Q What does RFC stand for?

25 A Request for information. It's a little

1 misleading because it really -- RFCs really are --

2 oh, sorry, Request for Comments.

3 Q Okay.

4 A And it is a little misleading because RFCs
5 are technical standards.

6 Q Did you come to any conclusions in the
7 course of your work that are not reflected in the
8 expert report?

9 A No.

10 Q Are you able to approximate what portion of
11 the report was prepared by Mr. Clark and what
12 portion was prepared by you?

13 A I think -- I think that's probably hard to
14 say, but...

15 Q More than 50 percent?

16 A How do you -- how do you divide that up? I
17 mean, I redlined and edited all of it. There's
18 not -- it isn't like there's a section in here that
19 is his and a section that's mine. So I wouldn't
20 really --

21 Q In terms of the original drafting of the
22 text in your report, how much of it is yours and how
23 much would come from Mr. Clark?

24 A The initial draft was provided by Mr. Clark
25 based on our calls.

1 Q Okay. But in terms of the end result, the
2 end report, what --

3 A That is mine.

4 Q And is 100 percent of the wording in that
5 final report that you signed wording that you came
6 up with originally, or is some part of it conceived
7 by Mr. Clark?

8 A That's impossible for me to say, but it
9 certainly is my opinions.

10 Q Why is it impossible for you to say?

11 A Well, I don't remember if like there's a
12 sentence that he wrote three of the words and I
13 edited three of the words. So I don't know. Can
14 you be a little bit more specific?

15 Q Sure. Are you familiar with the fact that
16 Petronas has retained another expert in connection
17 with this lawsuit?

18 A Yes.

19 Q And have you read the expert report
20 prepared by that expert witness as well?

21 A No.

22 MR. SLAFSKY: I'm going to mark as
23 Exhibit 4 a highlighted copy of the expert report of
24 Kevin Fitzsimmons in this matter.

25 (Defendant's Exhibit 4 was marked for

1 identification by the reporter and is
2 included herewith.)

3 BY MR. SLAFSKY:

4 Q Ms. Dam, if you'll just take a moment to
5 flip through the pages here, I'm going to represent
6 to you that this is a copy of the second expert
7 report in this matter without any of the exhibits
8 attached thereto and with the addition of
9 highlighting in a number of sections.

10 A Okay.

11 Q So let's turn to page 2 of this report.
12 There's a highlighted graphic and a number of
13 sections of text that are highlighted.

14 Do you recognize either the highlighted
15 graphic or the sections of text that have been
16 highlighted?

17 A Yeah, the graphic is the same as it's in my
18 expert report.

19 Q And does any of the text look familiar?

20 A Yeah. I'm guessing that you have
21 yellow-lined or highlighted text that is either the
22 same or similar in my expert report.

23 Q I think it's identical.

24 A Okay.

25 MR. CLARK: Actually, it's not, because the

1 hourly rates are different, and you have the hourly
2 rate on it.

3 BY MR. SLAFSKY:

4 Q I'm only referring specifically to page 2
5 here. And I'm not -- my intent here is not to
6 mislead you. My understanding is that the
7 highlighted text tracks language in your report as
8 well.

9 MR. CLARK: Well, let's be clear. Are you
10 saying it's the same?

11 MR. SLAFSKY: Correct.

12 MR. CLARK: Well, it's not the same.

13 THE WITNESS: Well, he's on page --

14 MR. SLAFSKY: What page are you on? Are
15 you on page 2?

16 MR. CLARK: I'm on page 1 right here.

17 MR. SLAFSKY: We're not talking about
18 page 1. I'm only referring to page 2. So I'm
19 only --

20 MR. CLARK: Oh, I see.

21 MR. SLAFSKY: -- referring to page 2.

22 MR. CLARK: Okay. Sorry. I thought you
23 were --

24 BY MR. SLAFSKY:

25 Q So again, my question is --

1 A Oh, it has a number.

2 MR. CLARK: So you're on page 2 of her
3 report?

4 MR. SLAFSKY: Page 2 of her report. No,
5 page 2 of the Fitzsimmons report is what I'm
6 referring to.

7 MR. CLARK: Oh, I'm sorry. I thought --

8 MR. SLAFSKY: This is --

9 MR. CLARK: -- you were on page 2 of her
10 report.

11 MR. SLAFSKY: -- Exhibit 4.

12 MR. CLARK: Okay.

13 MR. SLAFSKY: Let's just make sure we're on
14 the same page here.

15 Q So we're looking at Exhibit 4, which is a
16 highlighted expert report of Kevin Fitzsimmons, and
17 specifically we're looking at page 2.

18 And my question again is, you know, are you
19 familiar with the highlighted text?

20 A So what I said is I'm guessing, but I would
21 have to do a comparison of the two documents. But
22 I'm guessing that you have highlighted or
23 yellow-marked words that either are similar or the
24 same.

25 Q Let's turn to page 3 of the --

1 A Yes.

2 Q -- same exhibit, please.

3 Again, there's a highlighted graphic and
4 also some highlighted text.

5 A Uh-huh.

6 Q Do either the highlighted graphic or the
7 highlighted text look familiar?

8 A Uh-huh, sure.

9 Q Okay. And --

10 A The graph -- I think it's -- if it's not
11 the same, then at least it's similar. It's --
12 that's what a Whois data export looks like for .com.
13 Or actually, this is .net, but they are the same.

14 Q Okay. So at the bottom of page 3 of this
15 exhibit, there's a highlighted paragraph, and it
16 actually flips over to the next page, page 4.

17 A Uh-huh.

18 Q And there's also some highlighted text
19 there as well.

20 A Uh-huh.

21 Q Does that look familiar to you?

22 A Uh-huh, yes.

23 Q Why don't we look again at Exhibit 2, which
24 is your report. Strike that.

25 Why don't I mark as a new exhibit,

1 Exhibit 5, a highlighted copy of the Expert Witness
2 Report of Tina Dam.

3 (Defendant's Exhibit 5 was marked for
4 identification by the reporter and is
5 included herewith.)

6 BY MR. SLAFSKY:

7 Q And I'll just ask you to flip through this
8 report as well.

9 A Uh-huh.

10 Q And I'm going to represent to you that to
11 the best of my understanding, the highlighted
12 language in this document corresponds to highlighted
13 language in Exhibit 4 which we were just looking at.

14 Do you have any understanding why the
15 statements in your report would also appear in the
16 second report by Mr. Fitzsimmons?

17 A I think because they're factual correct.

18 Q Because they are factual?

19 A They're facts. They're facts about how --

20 Q Did you and Mr. Fitzsimmons speak in
21 connection with your projects?

22 A No, we did not.

23 Q So how would he have known what language
24 you were using?

25 A Well, so then, if it's about the exact same

1 language, probably because Mr. Clark would have
2 drafted something for Mr. Fitzsimmons as well as he
3 did for me.

4 Q Can you think of any other explanation?

5 A It could have been taken from -- I don't
6 know. It's general factual standard language. But
7 no, that would be my guess.

8 MR. CLARK: It's odd that you say these are
9 the same because they're not the same. But I'll let
10 you -- I mean, your representation is that they are.
11 So I guess we can correct that later.

12 BY MR. SLAFSKY:

13 Q If you just look at the top of the page 13
14 of Exhibit 5, which is the highlighted Dam report,
15 and you look at the first full paragraph that says,
16 "In my opinion, the domain name registrars," and
17 then there's a parenthetical --

18 A Uh-huh.

19 Q "do not play a direct or active role in the
20 process of domain name resolution." And it says,
21 "Their only function," and then it goes on.

22 A Uh-huh.

23 Q Then if you look at Exhibit 4, which is the
24 highlighted Fitzsimmons report --

25 A Uh-huh.

1 Q Have you done any consulting or
2 professional projects related to intellectual
3 property law?

4 A No.

5 Q Have you done any consulting or
6 professional projects related to cybersquatting?

7 A No.

8 Q Okay. Have you done any --

9 A I mean, not other than what is listed here,
10 right.

11 Q Okay. So I don't -- correct me if I'm
12 wrong here. I don't recall seeing any specific
13 references to cybersquatting.

14 A Okay. So I'll give you one that may not be
15 easy to see, but in the implementation of
16 internationalized domain names, that certainly was a
17 highly discussed and very relevant topic because
18 when you do introduce hundreds of thousands -- well,
19 it's about a hundred thousand characters to be used
20 in domain names other than the 37 that we've been
21 used to before IDNs were implemented, a lot of these
22 characters look alike. And that creates problems
23 with cybersquatting.

24 So, for example, I did some training to the
25 FBI and other law enforcement agencies, governments,

1 that you can't have -- so a good example that you
2 would have easier to understand is Cyrillic, like
3 the Russian characters, Greek, and Latin. Those
4 three alphabets -- Cyrillic, Greek, and Latin --
5 they have several characters that look similar. And
6 so if you mix them within one label, it means that
7 for an end user that would be confusing to look at.

8 They would think that -- for example, they
9 might think that it's Latin characters when in fact
10 it's half Latin, half Greek. So if they enter --
11 you know, if they enter it wrong or if they click on
12 a link and they think they're going somewhere and
13 they're not, that creates problems.

14 So certain regulations is in place for how
15 to manage that. That is all under what is called
16 the IDN guidelines. It's often been discussed that
17 that's a little bit misleading term, IDN guidelines,
18 for those requirements because it is legal
19 obligations of registries to follow, gTLD
20 registries, that is.

21 **Q** **Okay. Have you ever done any consulting or**
22 **professional projects with respect to the handling**
23 **of trademark complaints by registrars or registries?**

24 **A** **No.**

25 **Q** **Okay. Have you ever done any consulting or**

1 the same page here. I'm referring to publications.

2 So typically that would mean --

3 A A book or something?

4 Q -- an article, a book, an essay.

5 A No.

6 Q Have you published any reports about
7 trademark law?

8 A No.

9 Q Okay. Have you published any articles or
10 reports about intellectual property law?

11 A No.

12 Q Have you published any articles or reports
13 about cybersquatting?

14 A No, but I'm in the process of writing a
15 book about internationalized domain names, and that
16 will be a part of it.

17 Q Okay. And what are you going to say in
18 your book about cybersquatting?

19 A I'm going to talk about how it is -- how
20 different regulations are put in place to help solve
21 that problem with IDNs.

22 Q When do you expect your book to be
23 published?

24 A I have wanted to publish it for a long
25 time, but I'm not quite done yet.

1 Q Okay. Have you ever published any articles
2 or reports about the handling of trademark
3 complaints by registrars or registries?

4 A No.

5 Q Okay. And have you ever published any
6 articles or reports about routing or forwarding?

7 A No.

8 Q Okay. To the extent you've published
9 articles or reports in the manner that you testified
10 about earlier, were those articles or reports peer
11 reviewed by other professionals in the field?

12 A Typically, mostly, yeah, they would be.
13 My --

14 Q Who would have reviewed them?

15 A That would be my previous boss at ICANN.

16 Q And who was that?

17 A Potentially colleagues as well. My boss
18 was Kurt Pritz. And colleagues, all depending on
19 the nature of what I would write or the presentation
20 or what it was. Sometimes I would do it on my own.
21 Sometimes I would ask colleagues to provide input or
22 reviews, you know, aspects of it.

23 Q Have you ever given any public
24 presentations on dispute resolution for domain
25 names?

1 A Yeah. I would -- I would say that I have.
2 At least with that subject in it? Yes.

3 Q Okay. And can you describe to me what the
4 nature of those presentations would have been and
5 how many there were?

6 A I provided a lot of presentations around
7 the world basically at different Internet events
8 representing ICANN, talking about who ICANN is, what
9 they do, how different things function within the
10 organization and in the community.

11 Q And have you ever given any public
12 presentations about trademark law?

13 A No.

14 Q Have you ever given any public
15 presentations about intellectual property law?

16 A No.

17 Q Have you ever given any public
18 presentations about cybersquatting?

19 A As it relates to IDNs, yes.

20 Q Have you ever given any public
21 presentations about the handling of trademark
22 complaints by either registrars or registries?

23 A No.

24 Q And have you ever given any public
25 presentations about routing or forwarding?

1 Q What happens if they rule for the party
2 that initiated the proceeding? What happens?

3 A The party who initiated the proceedings
4 then can take over the domain name and become the
5 registrant.

6 Q Okay. Do you have any familiarity with the
7 Anticybersquatting Consumer Protection Act?

8 A I know of it.

9 Q Okay. And what do you know of it?

10 A Just that it's in place to protect against
11 cybersquatting.

12 Q Okay. And have you reviewed it before?

13 A I may have reviewed it at some point. I
14 haven't recently.

15 Q Okay. So did you review it in connection
16 with your work for this lawsuit?

17 A I did not.

18 Q Okay. Have you ever reviewed the
19 legislative history behind the statute? I'm going
20 to refer to it as the ACPA because it's shorter.
21 Have you ever reviewed the legislative history for
22 the ACPA?

23 A No.

24 Q Have you ever reviewed any of the court
25 decisions interpreting the ACPA?

1 **A No.**

2 Q Okay. Have you ever studied or considered
3 the legal protections under US law for either
4 registries or registrars?

5 A If I have studied it?

6 Q Or considered.

7 A Do you mean in school or --

8 Q No.

9 A -- classes or --

10 Q In the course of your professional career.

11 A Depends on what you mean by "study." Have
12 I like --

13 Q I said "studied or considered."

14 A Yeah, I have considered studying it.

15 Q So to be clear, so I wasn't asking if you
16 considered studying it. I asked if you studied or
17 if you considered, did you give thought to, the
18 legal protections under US law for either registries
19 or registrars?

20 A To some extent, yes.

21 Q Okay. And what was the context of that?

22 A Just by nature of interest.

23 **Q Do you have any opinions about the legal**
24 **protections under US law for either registries or**
25 **registrars?**

1 A I think it's difficult.

2 Q What is difficult?

3 A It's difficult to provide enough protection
4 without providing so much protection that it's a
5 constraint or barrier to business.

6 Q So the question of how much protection to
7 provide registries or registrars is a difficult one?
8 Is that what you're saying?

9 A And registrants. Yeah, I think so.

10 Q Do you have any understanding why there are
11 legal protections in place under United States law
12 for either registries or registrars?

13 A For why there are legal protection in
14 place? Yeah.

15 Q What is your legal understanding of why
16 there are legal protections in place in this manner?

17 A Well, they are setting up business in an
18 area where cybersquatting takes place, and by nature
19 of that, it's good for them to have protection.

20 Q And why is it good for them to have
21 protection?

22 A Otherwise they would be liable for a lot of
23 different things that --

24 Q And is that an undesirable outcome, if
25 they're liable for a lot of different things?

1 A Some of it could be, yeah.

2 Q And why is that?

3 A Because if you -- so in the case of domain
4 name registrations, the fact that some people will
5 register domain names that infringe upon others'
6 rights, if a registrar would have to review every
7 single registration that is made, that would be a
8 burden, and it would not enable the automated system
9 that is in place today, which means, in turn,
10 registrars would either not have a viable business,
11 or they would have to charge a lot more than they do
12 today.

13 Q And what would the ramifications of that
14 be?

15 A It would be more expensive to make a domain
16 name registration, and registrars would need to hire
17 a lot of staff to sit and manually review every
18 single one.

19 Q Okay. And do you think that would be a
20 reasonable scenario?

21 A If they had to do that?

22 Q Yeah.

23 A No.

24 Q Why is that?

25 A I just -- I don't think that would be

1 useful in terms of providing domain name
2 registrations. It takes a long time for end users.
3 It's not very useful. The technology is there to
4 make it automated. The protocols are in place. So
5 I don't think having manual review of everything in
6 terms of domain name registrations is a useful thing
7 to do.

8 Q Okay. Do you have any understanding
9 concerning how registries handle trademark
10 complaints?

11 A How registries handle it?

12 Q Yeah.

13 A A little bit.

14 Q And can you tell me?

15 A They have what is often referred to -- some
16 of them -- some of them don't. But some of them
17 have what is often referred to as take-down
18 procedures where in certain cases they will take
19 down a domain name.

20 Q The registries will?

21 A Yes.

22 Q And do you know what those certain cases
23 are where they'll take down a domain name?

24 A Where they find that criminal conduct has
25 taken place in -- either by use of that domain name

1 or anything on that -- on a website of that domain
2 name.

3 Q And by criminal conduct, do you have in
4 mind any examples of the types of crimes that would
5 give rise to that action?

6 A It could be, for example, attacks on the
7 DNS, attacks on registries or registrars, servers,
8 that sometimes comes from sites or domains that have
9 been registered.

10 Q Do you have any understanding concerning
11 how domain name registrars handle trademark
12 complaints?

13 A To some extent.

14 Q Okay. And is it similar to what you
15 described or different?

16 A To what I described when?

17 Q In your answer to my question about
18 registries, my prior question.

19 A No, I think it's different.

20 Q Okay. And how is it different?

21 A I think, for example, you know -- well, for
22 example, UDRP cases, the results will go to the
23 registrar and ask the registrar to take action as
24 directed by the result.

25 Q Okay.

1 Q In connection with your preparation of the
2 report in this matter, did you review the website of
3 any other domain name registrars?

4 A No.

5 Q In connection with your preparation of the
6 report in this matter, did you review any of the
7 court filings in this matter?

8 A Not other than what is in the exhibits.

9 MR. SLAFSKY: I'm going to mark as
10 Exhibit 8 a copy of the First Amended Complaint in
11 this matter.

12 (Defendant's Exhibit 8 was marked for
13 identification by the reporter and is
14 included herewith.)

15 BY MR. SLAFSKY:

16 Q So I just want to confirm. I don't believe
17 this document is identified as an exhibit to your
18 expert report. Is this something that you've seen
19 before?

20 A You know, a lot of these look the same to
21 me, and I don't remember these case numbers, but --
22 so if you don't mind, I would ask Mr. Clark --

23 Q Well --

24 A -- to let me know if it was part of them or
25 not.

1 MR. CLARK: It's not.

2 THE WITNESS: So if it's not, then no. I
3 have not seen it before.

4 BY MR. SLAFSKY:

5 Q Okay. Likewise, I'm going to mark as
6 Exhibit 9 a copy of the Amended Answer and
7 Counterclaim in this matter and ask you to look at
8 it and see if it is familiar at all.

9 (Defendant's Exhibit 9 was marked for
10 identification by the reporter and is
11 included herewith.)

12 BY MR. SLAFSKY:

13 MR. SLAFSKY: Perry, did I give you a copy?

14 MR. CLARK: Of the counterclaim? I don't
15 think so.

16 THE WITNESS: So I'm going to say again,
17 being not familiar with lawsuits or law cases, you
18 know, they -- they just unfortunately look really
19 similar to me. So I'm going to have to ask
20 Mr. Clark if this was part of the material or not.
21 So I'm sorry. I can't answer that for you directly.

22 BY MR. SLAFSKY:

23 Q Okay. Most of the documents in this
24 lawsuit, most of the court filings, are part of the
25 public record. Can I infer from your statements

1 that you didn't independently review the court file
2 that's public about the claims or defenses in this
3 lawsuit?

4 A Yeah, that's right. Before I was retained
5 by Mr. Clark and after we had had the first call, I
6 did a Google search just out of curiosity. I didn't
7 really go to any extent of looking for it, just very
8 briefly. And I didn't -- nothing came up. So I
9 have not gone and searched for it or seen anything
10 independently.

11 Q Okay. Do you recall anything in particular
12 that came up in that Google search that you
13 reviewed?

14 A Nothing.

15 Q Okay. Are you familiar with the phrase
16 "domain name resolution"?

17 A Yes.

18 Q And what does that mean?

19 A It has to do with -- for example, if you
20 sat at your computer and you want to go to -- and
21 read the day's news, so maybe you want to go to
22 cnn.com, you type in "cnn.com" in your browser, and
23 your browser displays the page of cnn.com.

24 The steps that takes place from the point
25 in time where you enter or click on a web address to

1 A But certainly, you know, for any new domain
2 name registrations, ISPs would have to find
3 information of where to locate the addresses for
4 those somewhere, and that happens in zone files.

5 Q Okay. And what is a name server?

6 A A name server is basically a computer. I
7 mean it's a server, but it's a computer that holds
8 information about addresses for a domain name.

9 Q Okay. And what role does the name server
10 play in this process called domain name resolution?

11 A Similar to that of the server. You know,
12 the server that holds the zone file also can be
13 called a name server.

14 Q Can domain name resolution take place
15 without a name server?

16 A Do you mean at all or -- can you specify a
17 little bit?

18 Q Can the process of domain name resolution
19 take place, as a general matter, without a name
20 server?

21 A Being in place?

22 Q Yeah.

23 A No.

24 Q And why is that?

25 A That's how the DNS is set up.

1 Q Okay. How is a name server connected to a
2 domain name registration?

3 A So a domain name needs to hold information
4 about what name server, you know, is authoritative
5 for the addresses for the domain name. So in terms
6 of the Web server, the mail server, and so forth.

7 Q And how is that name server information
8 associated with a domain name registration?

9 A It's not.

10 Q It's not?

11 A No.

12 Q So how is that name server information
13 associated with a domain name?

14 A Well, at a particular domain name, it would
15 have to hold information about what name servers to
16 have.

17 Q And where does that information come from?

18 A It can come from either the registrant or
19 the registrar.

20 Q And but for the registrant or the registrar
21 providing that information, can a domain name
22 resolve?

23 A Without the information for the name server
24 provided, can it resolve?

25 Q Yeah.

1 **A** **No.**

2 **Q** **And how is it that a registrant, a**
3 **customer, can associate that information with a**
4 **domain name?**

5 **A** **You can -- it depends on the registrar;**
6 **right? But you would typically log into your**
7 **account with the registrar, and there's a place**
8 **there where you can put name server information.**

9 **Q** **Okay. Just want to clarify that you're**
10 **referring to the -- you're referring to interaction**
11 **between the registrant and the registrar? Is that**
12 **what you're talking about when you refer to the**
13 **online account?**

14 **A** **Well, so you would go to the registrar's**
15 **website, log into your account with that registrar.**

16 **Q** **Okay.**

17 **A** **And you could there, you know, put**
18 **information about the name servers.**

19 **Q** **And then what does the registrar do with**
20 **that information about the name servers?**

21 **A** **They put it on the file for the domain**
22 **name.**

23 **Q** **Okay. And does that typically happen in an**
24 **automated manner?**

25 **A** **Yeah.**

1 Q And when the registrar puts the information
2 on the account for the domain name, what happens
3 next?

4 A I'm not sure what you mean.

5 Q Does the registrar, for example, have to
6 provide that information to a registry?

7 A Yes.

8 Q Okay. And why is that important?

9 A Because that information needs to sit in
10 the zone file that the registry hosts and the
11 registry needs to have that updated information in
12 place --

13 Q Okay.

14 A -- in order for users to be able to go to
15 the right place.

16 Q Okay. And can resolution of the domain
17 name happen if the registrar does not provide that
18 information to the registry?

19 A No.

20 Q Can routing of the domain name happen if
21 the registrar does not provide that information to
22 the registry?

23 A What kind of routing?

24 Q Domain name routing.

25 A Can you be more specific?

1 Q Sure, pointing a domain name at an IP
2 address or associating a domain name with an IP
3 address.

4 A No, that cannot happen without there being
5 an authoritative server that provides that address.

6 Q Okay. And can domain name forwarding
7 happen if the registrar does not provide information
8 to the registry?

9 A Well, it wouldn't be forwarding to the
10 right place.

11 Q Okay. So it wouldn't happen in the way its
12 intended to happen?

13 A Right.

14 Q Can you describe to me your understanding
15 of the concept of domain name forwarding?

16 A Sure. So if you have -- I'll do it based
17 on an example. If you have your company at a
18 certain website, and let's say maybe you want to
19 change company name. So you make a new domain name
20 registration. And then once you've done that, you
21 go into your settings for that domain name
22 registration and you say I would like that to
23 forward to the old address, for example.

24 Q Okay. And in your experience, is domain
25 name forwarding an unusual practice?

1 A No.

2 Q Can you think of any other common uses for
3 domain name forwarding other than the scenario you
4 just described?

5 A Email, email forwarding.

6 Q Okay. Any other examples come to mind?

7 A I mean, there can be different reasons why
8 you want to do the forwarding. Is that what you
9 mean?

10 Q I'm just looking for some illustrative
11 examples based on your general experience in the
12 domain name community, the marketplace.

13 A And there can be many different reasons to
14 do forwarding. Certainly it is what cybersquatters
15 do.

16 Q Okay.

17 A It can be, you know, rebranding of your
18 company. It can be, you know, changing, you know,
19 anything that you want in terms of the address for
20 your finding information. I mean, there can be just
21 tons of different reasons for why you would want to
22 do forwarding.

23 Q And you stated earlier that you've
24 registered a number of domain names yourself. Have
25 you ever used domain name forwarding?

1 **THE WITNESS:** Okay. So it was good for him
2 because he could go out to potential customers and
3 partners and whatnot with a business card with his
4 new company name on it without having to set up a
5 new website yet.

6 BY MR. SLAFSKY:

7 Q Okay. Thank you.

8 A So that was helpful.

9 Q I'm going to take a look at Exhibit 2,
10 which is your expert report without the exhibits.

11 A Yes.

12 **Q On the bottom of page 3, you refer to the**
13 **usual process where a registrant submits a request**
14 **for a domain name to a registrar.**

15 A Uh-huh.

16 **Q And in subsection 3, you describe various**
17 **kinds of information that a registrant would provide**
18 **to a registrar.**

19 A Uh-huh.

20 **Q You refer to the registrant's**
21 **administrative and technical contact name and**
22 **contact information. Does that include billing**
23 **information typically?**

24 A Yeah.

25 **Q Okay. You refer to the registrant entering**

1 and authorizing charges on his or her credit card
2 information.

3 A Uh-huh.

4 Q Is there any other information that a
5 registrant typically provides the registrar in the
6 course of this process?

7 A No.

8 Q What about name server information? Is
9 that something that is provided?

10 A They can.

11 Q When you say "they can," are you referring
12 to the registrant or the registrar?

13 A I thought you were asking about the
14 registrant.

15 Q I was, but I didn't understand what you
16 referred to by "they." So I'm asking you just to
17 clarify.

18 A Okay. The registrant.

19 Q Okay. So you said that the registrant can
20 provide name server information. If the registrant
21 doesn't provide name server information, does the
22 registrar provide name server information?

23 A Yeah.

24 Q Are there any situations in which neither
25 the registrant nor the registrar provide name server

1 REPORTER'S CERTIFICATION

2 I, Deborah R. Meyers, a Certified
3 Shorthand Reporter, do hereby certify:

4 I am the deposition officer that
5 stenographically recorded the testimony in the
6 foregoing deposition;

7 That prior to being examined, the witness
8 named in the foregoing proceedings was by me duly
9 sworn;

10 That the dismantling of the transcript
11 will void the reporter's certificate.

12 I further certify that I am neither
13 counsel for, nor related to, any party to said
14 proceedings, nor in any way interested in the
15 outcome thereof.

16 Before completion of the deposition,
17 review of the transcript [] was [XX] was not
18 requested. If requested, any changes made by the
19 deponent (and provided to the reporter) during the
20 period allowed are appended hereto.

21

22 IN WITNESS WHEREOF, I have hereunto
23 subscribed my name this 14th day of November, 2011.

24

25

DEBORAH R. MEYERS, CSR 8569