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# Ex. 13

1 Perry R. Clark, Esq.  
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2 3457 Cowper St.  
Palo Alto, CA 94306  
3 Telephone: (650) 248-5817  
Facsimile: (650) 248-5816  
4 perry@perryclarklaw.com

5 Attorney for Plaintiff  
PETROLIAM NASIONAL BERHAD  
6

7  
8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 OAKLAND DIVISION

11 PETROLIAM NASIONAL BERHAD, ) CASE NO: 10-CV-03052 PJH  
 )  
12 Plaintiff, ) Date: September 15, 2010  
 ) Time: 9:00 a.m.  
13 vs. ) Location: Courtroom 3  
 ) Third Floor  
14 PETRONASTOWERS.NET, an internet domain )  
name, )  
15 )  
Defendant. )  
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19 **NOTICE OF MOTION AND**  
20 **MOTION FOR ORDER TRANSFERRING DOMAIN NAME**  
21 **PURSUANT TO 15 U.S.C. § 1125(D) AND**  
22 **FOR ENTRY OF JUDGMENT**  
23  
24

25 NOTICE OF MOTION AND MOTION FOR ORDER TRANSFERRING DOMAIN NAME PURSUANT TO 15  
U.S.C. § 1125(D) AND FOR ENTRY OF JUDGMENT  
Case No.: 10-CV-03052 PJH

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**I. NOTICE OF MOTION**

TO ALL PARTIES AND COUNSEL OF RECORD: Please take notice that Plaintiff Petroliam Nasional Berhad (“Plaintiff” or “Petronas”) will and hereby does makes this motion for an order transferring the domain name “PETRONASTOWERS.NET” to Plaintiff Petronas pursuant to 15 U.S.C. § 1125(D) and for entry of judgment. Please further take notice of the hearing date for this motion: September 15, 2010 at 9 a.m.

**II. STATEMENT OF RELIEF REQUESTED**

Plaintiff Petronas requests that this Court issue an order directing GoDaddy.Com, Inc. to transfer the domain name “PETRONASTOWERS.NET” to Plaintiff Petronas pursuant to 15 U.S.C. § 1125(D). Plaintiff Petronas further requests an order entering final judgment in Petronas’s favor in this action. On July 12, 2010, Plaintiff Petronas informed the registrant of the internet domain name “PETRONASTOWERS.NET” of its intent to pursue this action at the physical and email addresses provided GoDaddy and as required by 15 U.S.C. § 1125(D). Ex. A. Plaintiff Petronas has not received any communication from the registrant as of the date of this motion. Plaintiff Petronas also has served a copy of the motion and supporting papers as set forth in declaration of service attached as Ex. B on the registrant and counsel for the domain name registrar, GoDaddy.com, Inc. Plaintiff Petronas is unaware of any person or entity that does, or would, oppose the motion.

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

The “PETRONASTOWERS.NET” domain name should be transferred to Plaintiff Petronas under the Anticyberpiracy section of the Lanham Trademark Act, 15 U.S.C. § 1125(D)(2). A court may issue an order transferring a domain name pursuant to 15 U.S.C. § 1125(D)(2) where: (1) the domain name “violates any right of the owner of a mark registered in

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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 No.: 10-CV-03052 PJH

1 "PETRONASTOWERS.NET" domain name is associated with Petronas—which it is not.  
 2 *Automotive Gold, Inc. v. Volkswagen of America, Inc.*, 457 F.3d 1062, 1075-76 (9th Cir. 2006).  
 3 Moreover, the "PETRONASTOWERS.NET" domain name violates the rights of Petronas under  
 4 15 U.S.C. § 1125(a) by creating a "false designation of origin" as to the pornographic website  
 5 found at the "PETRONASTOWERS.NET" domain name because that site did not "originate"  
 6 with Petronas and, in fact, Petronas strongly objects to the site and its use of "PETRONAS."  
 7 *New West Corp. v. N.Y.M. Co. of California*, 595 F.2d 1194, 1201 (9th Cir. 1979) ("Whether we  
 8 call the violation infringement, unfair competition, or false designation of origin, the test is  
 9 identical—is there a likelihood of confusion?").

10 Accordingly, the first requirement for the transfer of the "PETRONASTOWERS.NET"  
 11 domain name to Petronas under the Anticyberpiracy section of the Lanham is met because that  
 12 domain name infringes the trademark rights of Petronas.

13 **B. *In Personam* Jurisdiction Is Unavailable As To The Registrant of**  
 14 **"PETRONASTOWERS.NET"**

15 The second requirement for the transfer of "PETRONASTOWERS.NET" to Petronas is  
 16 met because in a civil action under 15 U.S.C. § 1125(d) the court would not have had *in*  
 17 *personam* jurisdiction over the registrant of the "PETRONASTOWERS.NET" domain name.  
 18 According to 15 U.S.C. § 1125(d)(2)(A)(ii)(I), an *in rem* action for the transfer of a domain name  
 19 is proper where "the owner [of the mark] . . . is not able to obtain *in personam* jurisdiction over a  
 20 person who would have been a defendant in a civil action [for cybersquatting] under [15 U.S.C.  
 21 § 1125(d)] paragraph (2)." 15 U.S.C. § 1125(d)(2)(A)(ii)(I).

22 Here, according to records of the registrar of the "PETRONASTOWERS.NET" domain  
 23 name (GoDaddy.com), the domain name was registered by "Heiko Schonenekeess" whose  
 24

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25 NOTICE OF MOTION AND MOTION FOR ORDER TRANSFERRING DOMAIN NAME PURSUANT TO 15  
 U.S.C. § 1125(D)  
 AND FOR ENTRY OF JUDGMENT  
 Case No.: 10-CV-03052 PJH

1 address is “BPM 195226, 372 Old Street, London, EclV 9AU, United Kingdom.” Ex. D. The  
2 internet registrant also provided an email address: “cc\_ltd@live.com.” Although Plaintiff  
3 Petronas tried repeatedly to locate and contact the registrant, including by Federal Express and  
4 email, it was unable to do so. Petronas was also unable to identify any grounds for the exercise  
5 of personal jurisdiction over the registrant. The registrant of the “PETRONASTOWERS.NET”  
6 domain name would be liable as a defendant in action for cybersquatting under 15 U.S.C. §  
7 1125(d). Because the registrant of the “PETRONASTOWERS.NET” domain could not be  
8 subjected to *in personam* jurisdiction, the second requirement of the Anticyberpiracy section has  
9 been met with respect to the “PETRONASTOWERS.NET” domain name.

10 **C. The Domain Registrar (GoDaddy) Certifies This Court’s Authority Over the**  
11 **Domain Name “PETRONASTOWERS.NET”**

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

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25 NOTICE OF MOTION AND MOTION FOR ORDER TRANSFERRING DOMAIN NAME PURSUANT TO 15  
U.S.C. § 1125(D)  
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Case No.: 10-CV-03052 PJH

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**D. Entry of Judgment**

In this action, Plaintiff Petronas seeks an order transferring the "PETRONASTOWERS.NET" domain name. Upon the issuance of such an order, the Court will have granted complete relief to Petronas and entry of judgment will be proper under Fed. R. Civ. P. 54. Accordingly, Plaintiff Petronas requests that in addition to an order transferring the "PETRONASTOWERS.NET" domain name, the Court also issue final judgment in favor of Petronas.

**IV. CONCLUSION**

For the foregoing reasons, Plaintiff Petronas respectfully requests an order directing GoDaddy.com to transfer the "PETRONASTOWERS.NET" domain name to Petronas and the entry of judgment in favor of Petronas. A proposed order and proposed final judgment are being filed with this motion.

Dated: August 10, 2010

LAW OFFICES OF PERRY R. CLARK

By:  /s/ Perry R. Clark  
Perry R. Clark

Attorney for Plaintiff  
PETROLIAM NASIONAL BERHAD

NOTICE OF MOTION AND MOTION FOR ORDER TRANSFERRING DOMAIN NAME PURSUANT TO 15 U.S.C. § 1125(D) AND FOR ENTRY OF JUDGMENT  
Case No.: 10-CV-03052 PJH

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# Ex. A

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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 No.: 10-CV-03052 PJH

LAW OFFICES OF  
**PERRY R. CLARK**

3457 Cowper St.  
PALO ALTO, CA 94306  
TELEPHONE: 650 248 5817  
FACSIMILE: 650 618 8533

July 12, 2010

**By Electronic Mail and Federal Express**

Heiko Schoenekess  
BPM 195226  
372 Old Street  
London EC1V 9AU  
United Kingdom

**Re: "PETRONASTOWERS.NET" DOMAIN NAME**

To Whom It May Concern:

Please take notice that your registration of the domain name "PETRONASTOWERS.NET" is a violation of 15 U.S.C. § 1125(D) and that we intend to proceed as counsel for Petroliam Nasional Berhad (Petronas) pursuant to that section as set forth in the enclosed complaint. We also have provided this notice to you by electronic mail at the email address ("cc\_ltd@live.com") maintained by GoDaddy.com, Inc., the registrar of "PETRONASTOWERS.NET."

Best Regards,



---

Perry Clark

1 PERRY R. CLARK, State Bar No. 197101  
Law Offices of Perry R. Clark  
2 3457 Cowper St.  
Palo Alto, CA 94306  
3 Telephone: (650) 248-5817  
Facsimile: (650) 618-8533  
4 perry@perryclarklaw.com

5 Attorney for Plaintiff  
PETROLIAM NASIONAL BERHAD  
6 (PETRONAS)

7  
8 UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
9

10	PETROLIAM NASIONAL BERHAD,	)	CASE NO.: 10-CV-_____
		)	
11	Plaintiff,	)	
		)	<b>IN REM COMPLAINT FOR</b>
12	vs.	)	<b>VIOLATION OF 15 U.S.C. § 1125(D)</b>
		)	<b>(CYBERPIRACY)</b>
13	PETRONASTOWERS.NET, an internet domain	)	
	name,	)	<b>DEMAND FOR JURY TRIAL</b>
14		)	
	Defendant.	)	
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1 Plaintiff Petroliam Nasional Berhad ("Petronas") for its *In Rem* Complaint against  
2 Defendant PETRONASTOWERS.NET, an internet domain name, alleges as follows:

3 **THE PARTIES**

4 1. Plaintiff Petronas is a corporation duly organized under the laws of Malaysia with a  
5 principal place of business located at Tower 1, Petronas Twin Towers, Kuala Lumpur City Centre,  
6 50088, Kuala Lumpur, Malaysia. Petronas is wholly-owned by the Government of Malaysia and  
7 is vested with the entire ownership and control of the petroleum resources of Malaysia.

8 2. Defendant PETRONASTOWERS.NET is an internet domain name that serves as  
9 the internet address for a website displaying obscene and highly offensive content. Plaintiff  
10 Petronas has not authorized the use of its United States Trademark "PETRONAS" or any other of  
11 its marks in connection with the domain name PETRONASTOWERS.NET or the associated  
12 website.

13 3. On information and belief, VeriSign, Inc. is the domain name registry for  
14 PETRONASTOWERS.NET.

15 4. GoDaddy.com, Inc. ("GoDaddy") is the domain name registrar for  
16 PETRONASTOWERS.NET.

17 5. According to GoDaddy's "WHOIS" database (available at  
18 "[http://who.godaddy.com/WhoIs.aspx?domain=petronastowers.net&prog\\_id=godaddy](http://who.godaddy.com/WhoIs.aspx?domain=petronastowers.net&prog_id=godaddy)"), the  
19 registrant of PETRONASTOWERS.NET is "Heiko Schoenekess, BPM 195226, 372 Old Streed,  
20 London, London EC1V 9AU, United Kingdom."

21 **JURISDICTION AND VENUE**

22 6. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(b)  
23 because this case arises under 15 U.S.C. § 1125(d).  
24  
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1 Petronas and house the offices of many other major foreign and domestic corporations, including  
2 IBM, Microsoft, Boeing, McKinsey & Co., and Reuters. The Petronas Twin Towers and the  
3 adjoining Suria KLCC mall complex house some of Malaysia's leading cultural facilities,  
4 including an art museum (the Petronas Gallery), a symphony hall (the Petronas Philharmonic Hall,  
5 home to the Malaysian Philharmonic Orchestra), a science and technology discovery center  
6 (Petrosains), and a world-class aquarium (Aquaria KLCC, located in the adjoining Kuala Lumpur  
7 Convention Center).

8 13. As an iconic landmark that is famous around the world and one of the most visited  
9 destinations in Southeast Asia, the Petronas Twin Towers are widely and inseparably identified  
10 with Petronas, its brand, and the trademark "PETRONAS."

11 14. Petronas owns all right and title to United States Trademark No. 2969707 for the  
12 mark "PETRONAS." Petronas also is the owner of the trademark "PETRONAS TWIN  
13 TOWERS," and others.

14 15. At all relevant times, Petronas uses its "PETRONAS" mark to, among other things,  
15 identify itself as the source of the goods and services it provides.

16 16. Petronas uses its mark, for example, in its internet domain names associated with  
17 Petronas's websites. Petronas's sole official website uses a domain name owned by Petronas that  
18 uses the PETRONAS mark exclusively, "www.petronas.com.my," (the "Official Petronas  
19 Website"). Petronas also owns several other domain names that operate "mirror" websites which  
20 redirect to the Official Petronas Website: "www.petronas.com," "www.petronas.org," and  
21 "www.petronas.my."

22 17. Petronas also uses the PETRONAS mark for the domain name associated with its  
23 official Petronas Twin Towers website containing information about the Petronas Twin Towers,  
24 "www.petronastwintowers.com.my." As with the Official Petronas Website, Petronas owns other  
25

1 domain names, such as “petronastwintowers.com,” which redirect web users to the official  
2 “www.petronastwintowers.com.my” website.

3 18. According to publicly available records, Go Daddy is the domain name registrar for  
4 the defendant domain name “WWW.PETRONASTOWERS.NET.” The domain name  
5 “WWW.PETRONASTOWERS.NET” is the internet address for a pornographic website that  
6 displays obscene and highly offensive content as soon as a computer user’s internet browser  
7 arrives at the site.

8 19. Petronas has never authorized the use of its PETRONAS mark, or any other  
9 Petronas mark, in the “WWW.PETRONASTOWERS.NET” domain name.

10 20. GoDaddy’s public records, known as “WHOIS” (“http://who.godaddy.com/  
11 WhoIs.aspx?domain=petronastowers.net&prog\_id=godaddy”), state that the registrant of the  
12 “PETRONASTOWERS.NET” domain name is “Heiko Schoenekess, BPM 195226, 372 Old  
13 Streed, London, London EC1V 9AU, United Kingdom.”

14 21. Go Daddy’s records also state that the “Administrative Contact” and the “Technical  
15 Contact” for the “PETRONASTOWERS.NET” domain name is “Schoenekess, Heiko  
16 cc\_ltd@live.com, BPM 195226 372 Old Streed, London, London EC1V 9AU, United Kingdom,  
17 +44.2076636606.”

18 22. Plaintiff Petronas has been unable to locate the registrant of the  
19 “WWW.PETRONASTOWERS.NET” domain name based on the information provided by the  
20 domain registrar, Go Daddy. Petronas has sent notice of its intent to proceed under 15 U.S.C.  
21 1125(d)(2)(A), as well as a copy of that section, to the registrant of the  
22 “PETRONASTOWERS.NET” domain name, at the postal and email addresses he or she provided,  
23 on information and belief, to the registrar, Go Daddy, as set forth above. Petronas also attempted  
24  
25

1 to provide such notice by telephoning the telephone numbers in the Go Daddy records but calls  
2 placed to those telephone numbers were not answered.

3 **CLAIM FOR RELIEF UNDER 15 U.S.C. 1125(d)(2)(A)**

4 23. Petronas incorporates and re-alleges the preceding paragraphs as if set forth fully  
5 herein.

6 24. The domain name "PETRONASTOWERS.NET" violates the rights of Petronas as  
7 the owner of the registered mark "PETRONAS" and marks protected under 15 U.S.C. §§ 1125(a)  
8 and (c).

9 25. Petronas has been unable to find (or establish personal jurisdiction over) the  
10 registrant of the domain name "PETRONASTOWERS.NET" by using the diligence described in  
11 15 U.S.C. §§ 1125(d)(2)(A)(ii)(II)(aa).

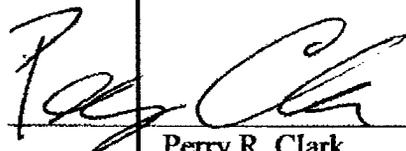
12 **RELIEF SOUGHT**

13 In light of the foregoing, Petronas respectfully requests the following relief:

14 1. The Court issue an order that Go Daddy, as the domain name registrar immediately  
15 transfer all right, title, and interest in the domain name "PETRONASTOWERS.NET" to Petronas;

16 2. Alternatively, the Court issues an order forever cancelling the domain name  
17 "PETRONASTOWERS.NET."

18 Dated: July 12, 2010

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21 By: 

Perry R. Clark  
Attorneys for Plaintiff  
Petroleum Nasional Berhad

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**JURY DEMAND**

1. Plaintiff Petronas respectfully demands a jury trial on all issues so triable

Dated: July 12, 2010

By:   
Perry R. Clark  
Attorneys for Plaintiff  
Petroleum Nasional Berhad

1 Perry R. Clark, Esq.  
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4 perry@perryclarklaw.com

5 Attorney for Plaintiff  
PETROLIAM NASIONAL BERHAD

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7

8

UNITED STATES DISTRICT COURT

9

NORTHERN DISTRICT OF CALIFORNIA

10

OAKLAND DIVISION

11

PETROLIAM NASIONAL BERHAD, )

CASE NO: 10-CV-03052 PJH

12

Plaintiff, )

**CERTIFICATE OF SERVICE**

13

vs. )

14

PETRONASTOWERS.NET, an internet domain )

name, )

15

Defendant. )

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**CERTIFICATE OF SERVICE**

Case No.: 10-CV-03052 PJH

1 I, Perry Clark, state that I served Plaintiff's NOTICE OF MOTION AND MOTION FOR  
2 ORDER TRANSFERRING DOMAIN NAME PURSUANT TO 15 U.S.C. § 1125(D) AND  
3 FOR ENTRY OF JUDGMENT all exhibits thereto ("Motion") as follows:

- 4 1. I placed a copy of the motion in a Federal Express envelope with postage pre-paid  
5 for FedEx Express addressed to:  
6 Heiko Schoneneckess  
7 BPM 195226  
8 372 Old Street  
9 London Ec1V 9AU  
10 United Kingdom  
11 Tel.: +44.2076636606
- 12 2. I deposited the Federal Express envelope identified in Paragraph 1 (above) in a  
13 Federal Express drop box on August 10, 2010.
- 14 3. I emailed a pdf copy of the motion to "[cc\\_ltd@live.com](mailto:cc_ltd@live.com)" on August 10, 2010.
- 15 4. I emailed a copy of the motion to counsel for GoDaddy, "[jslafsky@wsgr.com](mailto:jslafsky@wsgr.com)" on  
16 August 10, 2010.
- 17 5. I placed a copy of the motion in a U.S. Mail envelope with first class postage pre-  
18 paid addressed to:  
19 John Slafsky, Esq.  
20 Wilson Sonsini Goodrich & Rosati PC  
21 650 Page Mill Road  
22 Palo Alto, CA 94303

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25 NOTICE OF MOTION AND MOTION FOR ORDER TRANSFERRING DOMAIN NAME PURSUANT TO 15  
U.S.C. § 1125(D)  
AND FOR ENTRY OF JUDGMENT  
Case No.: 10-CV-03052 PJH

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6. I deposited the U.S. Mail envelope identified in Paragraph 5 (above) in a U.S. Mailbox on August 10, 2010.

I declare under penalty of perjury that the forgoing is true and correct.

Dated: August 10, 2010

By: /s/ Perry R. Clark  
Perry R. Clark

NOTICE OF MOTION AND MOTION FOR ORDER TRANSFERRING DOMAIN NAME PURSUANT TO 15  
U.S.C. § 1125(D)  
AND FOR ENTRY OF JUDGMENT  
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