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Ex. 9

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

Attorney for Plaintiff
PETROLIAM NASIONAL BERHAD

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

PETROLIAM NASIONAL BERHAD,
Plaintiff,
vs.
GODADDY.COM, INC.,
Defendant.

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

PETROLIAM NASIONAL BERHAD,
Plaintiff,
vs.
PETRONASTOWER.NET, an internet domain
name,
Defendant.

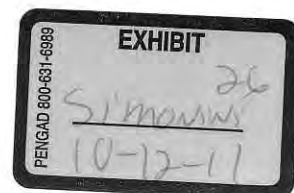
CASE NO: 10-CV-00431 EMC

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

***UNOPPOSED MOTION FOR ENTRY OF STIPULATED ORDER RELATING CASES
PENDING***

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

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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

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).¹ 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

24
25 ¹ For convenience, a complete copy of the Anticyberpiracy section (15 U.S.C. §
26 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.²

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 ² 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
28 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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NOTICE OF MOTION AND MOTION FOR ORDER TRANSFERRING DOMAIN NAME PURSUANT TO 15
U.S.C. § 1125(D)
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Ex. A

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

LAW OFFICES OF
PERRY R. CLARK

1245 HAMILTON AVE.
PALO ALTO, CA 94301
TELEPHONE: 650 248 5817
FACSIMILE: 650 618 8533
Email: perry@perryclarklaw.com

January 25, 2010

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

By Federal Express

To Whom It May Concern:

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

Best Regards,



Perry Clark

1 PERRY R. CLARK, State Bar No. 197101
2 Law Offices of Perry R. Clark
3 1245 Hamilton Ave.
4 Palo Alto, CA 94301
5 Telephone: (650) 248-5817
6 Facsimile: (650) 618 8533
7 perry@perryclarklaw.com

8 Attorney for Plaintiff
9 PETROLIAM NASIONAL BERHAD
10 (PETRONAS)

11
12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14

15 PETROLIAM NASIONAL BERHAD,)

16 Plaintiff,)

17 vs.)

18 PETRONASTOWER.NET, an internet domain)
19 name,)

20 Defendant.)
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CASE NO.: 09-CV-_____

***IN REM COMPLAINT FOR
VIOLATION OF 15 U.S.C. § 1125(D)
(CYBERPIRACY)***

DEMAND FOR JURY TRIAL

1 Plaintiff Petroliam Nasional Berhad (“Petronas”) for its *In Rem* Complaint against
2 Defendant PETRONASTOWER.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

9 2. Defendant PETRONASTOWER.NET is an internet domain name that serves as the
10 internet address for a website displaying obscene and highly offensive content. Plaintiff Petronas
11 has not authorized the use of its United States Trademark “PETRONAS” or any other of its marks
12 in connection with the domain name PETRONASTOWER.NET or the associated website.
13

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

16 4. GoDaddy.com, Inc. (“GoDaddy”) is the domain name registrar for
17 PETRONASTOWER.NET.

18 5. According to GoDaddy’s “WHOIS” database (available at
19 “http://who.godaddy.com/WhoIs.aspx?domain=petronastower.net&prog_id=godaddy”), the
20 registrant of PETRONASTOWER.NET is “Heiko Schoenekess, BPM 195226, 372 Old Street,
21 London, London EC1V 9AU, United Kingdom.”
22

23 **JURISDICTION AND VENUE**

24 6. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(b)
25 because this case arises under 15 U.S.C. § 1125(d).

26 7. This Court has *in rem* jurisdiction over the defendant domain name
27 PETRONASTOWER.NET under 15 U.S.C. § 1125(d).
28

1 8. Venue is proper in this judicial district pursuant to 15 U.S.C. § 1125(d)(2)(A)
2 because the domain name registry for PETRONASTOWER.NET is VeriSign, Inc., which is
3 located in this judicial district.

4 **INTRADISTRICT ASSIGNMENT**

5 9. This is an intellectual property case and, as a result, there is no basis for assignment
6 to any particular division pursuant to Civil L.R. 3-2(c).
7

8 **FACTUAL ALLEGATIONS**

9 10. Plaintiff Petronas, the acronym for Petroliam Nasional Berhad, was incorporated on
10 17 August 1974 under the Companies Act, 1965. It is wholly-owned by the Malaysian
11 government and is vested with the entire ownership and control of the petroleum resources in
12 Malaysia through the Petroleum Development Act of 1974.

13 11. Petronas's corporate mission centers on its responsibility to contribute to the well-
14 being of the people and the nations where it operates, in particular, the well-being of the
15 Malaysian people and the Malaysian nation, by developing and safeguarding Malaysia's national
16 petroleum resources. Petronas also serves the interests of the Malaysian nation and its people as
17 one of the leading multi-national oil and gas companies, whose success has earned it a ranking as
18 one of the Fortune Global 500 largest corporations in the world. As of 2009, Petronas has
19 operations in more thirty three (33) countries worldwide and employs approximately 30,000
20 people.
21

22 12. In 1996, Plaintiff Petronas completed construction of the Petronas Twin Towers
23 (the largest free standing towers in the world) in Kuala Lumpur, Malaysia's largest city and its
24 cultural, commercial, and educational center. The Petronas Twin Towers serve as headquarters for
25 Petronas and house the offices of many other major foreign and domestic corporations, including
26 IBM, Microsoft, Boeing, McKinsey & Co., and Reuters. The Petronas Twin Towers and the
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1 adjoining Suria KLCC mall complex house some of Malaysia's leading cultural facilities,
2 including an art museum (the Petronas Gallery), a symphony hall (the Petronas Philharmonic Hall,
3 home to the Malaysian Philharmonic Orchestra), a science and technology discovery center
4 (Petrosains), and a world-class aquarium (Aquaria KLCC, located in the adjoining Kuala Lumpur
5 Convention Center). Architecturally, the Petronas Twin Towers employ design motifs found in
6 Islamic art as a reflection of Malaysia's largely Muslim community. The basic floor plan of the
7 Petronas Twin Towers is created from two overlapping squares that form an eight-pointed star,
8 roughly in the shape of a *Rub el Hizb*, which is an Islamic symbol that can be used to facilitate the
9 recitation of the Qur'an.
10

11 13. As an iconic landmark that is famous around the world and one of the most visited
12 destinations in Southeast Asia, the Petronas Twin Towers are widely and inseparably identified
13 with Petronas, its brand, and the trademark "PETRONAS."
14

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

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

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

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

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.PETRONASTOWER.NET.” The domain name
5 “WWW.PETRONASTOWER.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.PETRONASTOWER.NET” domain name.

10 20. GoDaddy’s public records, known as “WHOIS” (“http:// who.godaddy.
11 com/WhoIs.aspx? domain=petronastower.net&prog_id=godaddy”), state that the registrant of the
12 “PETRONASTOWER.NET” domain name is “Heiko Schoenekess, BPM 195226, 372 Old Street,
13 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 “PETRONASTOWER.NET” domain name is “Schoenekess, Heiko
16 ddd_privat@hotmail.com, BPM 195226 372 Old Street, London, London EC1V 9AU, United
17 Kingdom, +44.2076636606.”

18 22. Plaintiff Petronas has been unable to locate the registrant of the
19 “WWW.PETRONASTOWER.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 “petronastower.net”
22 domain name, at the postal and email addresses he or she provided, on information and belief, to
23 the registrant, Go Daddy, as set forth above. Petronas also attempted to provide such notice by
24 telephoning the telephone numbers in the Go Daddy records but calls placed to those telephone
25 numbers were not answered.

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

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

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

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

RELIEF SOUGHT

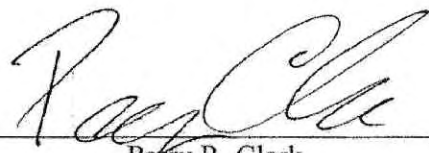
In light of the foregoing, Petronas respectfully requests the following relief:

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

2. Alternatively, the Court issues an order forever cancelling the domain name "PETRONASTOWER.NET."

Dated: January 24, 2010

By:



Perry R. Clark
Attorneys for Plaintiff
Petroliam Nasional Berhad

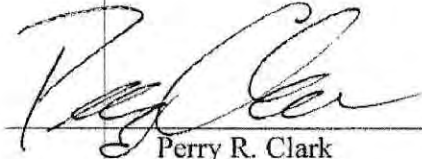
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JURY DEMAND

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

Dated: January 24, 2010

By:



Perry R. Clark
Attorneys for Plaintiff
Petroleum Nasional Berhad



FedEx Express
Customer Support Trace
3875 Airways Boulevard
Module H, 4th Floor
Memphis, TN 38116

U.S. Mail: PO Box 727
Memphis, TN 38194-4643
Telephone: 901-369-3600

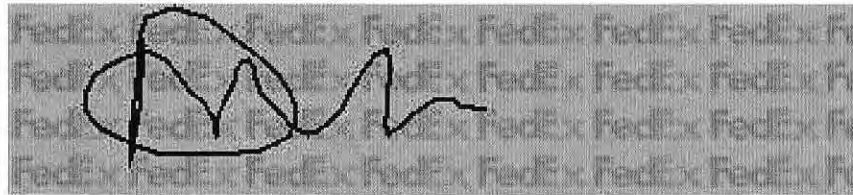
February 8,2010

Dear Customer:

The following is the proof-of-delivery for tracking number **871699934570**.

Delivery Information:

Status:	Delivered	Delivery location:	london
Signed for by:	.SMITH	Delivery date:	Jan 29, 2010 09:19
Service type:	Priority Envelope		



Shipping Information:

Tracking number:	871699934570	Ship date:	Jan 27, 2010
		Weight:	1.0 lbs/0.5 kg

Recipient:	Shipper:
london GB	PALO ALTO, CA US

Reference	00007 petronal
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Ex. B

NOTICE OF MOTION AND MOTION FOR ORDER TRANSFERRING DOMAIN NAME PURSUANT TO 15
U.S.C. § 1125(D)
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Perry R. Clark, Esq.
Law Offices of Perry R. Clark
1245 Hamilton Avenue
Palo Alto, CA 94301
Telephone: (650) 248-5817
Facsimile: (650) 248-5816
perry@perryclarklaw.com

Attorney for Plaintiff
PETROLIAM NASIONAL BERHAD

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PETROLIAM NASIONAL BERHAD,

Plaintiff,

vs.

GODADDY.COM, INC.,

Defendant.

CASE NO: 09-CV-5939 PJH

**UNOPPOSED AMINISTRATIVE
MOTION FOR ORDER RELATING
CASES**

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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 moves this Court to consider whether this action is related to Case No. C10-00431 EMC under Civil L.R. 3-12.

MOTION FOR ORDER RELATNG CASES

Plaintiff Petronas requests that this Court issue an order relating this action to Case No. C10-00431 EMC. Defendant GoDaddy does not oppose this motion.

Both of these actions concern the domain name “petronastower.net” and concern both of the parties in this action: Plaintiff Petronas and Defendant GoDaddy. In this action—which was filed first—Plaintiff Petronas alleges, among other things, that the “petronastower.net” domain name infringes its federally registered trademark “PETRONAS” and that Defendant GoDaddy is liable as a contributory infringer for its role in maintaining the registration of the “petronastower.net” domain name.

In the later filed case, Case No. C10-00431 EMC, Plaintiff Petronas seeks a judgment *in rem* under 15 U.S.C. § 1125(D) transferring the “petronastower.net” domain name to Plaintiff Petronas. Although GoDaddy is not a defendant in that case, GoDaddy is required under 15 U.S.C. § 1125(D) to deposit certain information with the Court regarding its control and authority over the disposition of the “petronastower.net” domain name due to GoDaddy’s position as the domain name registrar of the “petronastower.net” domain name. GoDaddy provided this information to Plaintiff Petronas on February 9, 2010 for filing with the Court.

A proposed stipulated order deeming this case related to Case No. C10-000431 EMC has been lodged and filed concurrently with this motion as required by Civil L.R. 7-12.

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Dated: March 24, 2010

LAW OFFICES OF PERRY R. CLARK

By: /s/ Perry R. Clark .

Perry R. Clark

Attorney for Plaintiff
PETROLIAM NASIONAL BERHAD

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Ex. C

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

§ 1125. — False designations of origin, false descriptions, and dilution forbidden.

From the U.S. Code Online via GPO Access
[wais.access.gpo.gov]
[Laws in effect as of January 24, 2002]
[Document not affected by Public Laws enacted between
January 24, 2002 and December 19, 2002]
[CITE: 15USC1125]

TITLE 15--COMMERCE AND TRADE

CHAPTER 22--TRADEMARKS

SUBCHAPTER III--GENERAL PROVISIONS

Sec. 1125. False designations of origin, false descriptions, and dilution forbidden

(a) Civil action

(1) Any person who, on or in connection with any goods or services, or any container for goods, uses in commerce any word, term, name, symbol, or device, or any combination thereof, or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which--

(A) is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person, or

(B) in commercial advertising or promotion, misrepresents the nature, characteristics, qualities, or geographic origin of his or her or another person's goods, services, or commercial activities,

shall be liable in a civil action by any person who believes that he or she is or is likely to be damaged by such act.

(2) As used in this subsection, the term ``any person'' includes any State, instrumentality of a State or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this chapter in the same manner and to the same extent as any nongovernmental entity.

(3) In a civil action for trade dress infringement under this chapter for trade dress not registered on the principal register, the person who asserts trade dress protection has the burden of proving that the matter sought to be protected is not functional.

(b) Importation

Any goods marked or labeled in contravention of the provisions of

this section shall not be imported into the United States or admitted to entry at any customhouse of the United States. The owner, importer, or consignee of goods refused entry at any customhouse under this section may have any recourse by protest or appeal that is given under the customs revenue laws or may have the remedy given by this chapter in cases involving goods refused entry or seized.

(c) Remedies for dilution of famous marks

(1) The owner of a famous mark shall be entitled, subject to the principles of equity and upon such terms as the court deems reasonable, to an injunction against another person's commercial use in commerce of a mark or trade name, if such use begins after the mark has become famous and causes dilution of the distinctive quality of the mark, and to obtain such other relief as is provided in this subsection. In determining whether a mark is distinctive and famous, a court may consider factors such as, but not limited to--

- (A) the degree of inherent or acquired distinctiveness of the mark;
- (B) the duration and extent of use of the mark in connection with the goods or services with which the mark is used;
- (C) the duration and extent of advertising and publicity of the mark;
- (D) the geographical extent of the trading area in which the mark is used;
- (E) the channels of trade for the goods or services with which the mark is used;
- (F) the degree of recognition of the mark in the trading areas and channels of trade used by the marks' owner and the person against whom the injunction is sought;
- (G) the nature and extent of use of the same or similar marks by third parties; and
- (H) whether the mark was registered under the Act of March 3, 1881, or the Act of February 20, 1905, or on the principal register.

(2) In an action brought under this subsection, the owner of the famous mark shall be entitled only to injunctive relief as set forth in section 1116 of this title unless the person against whom the injunction is sought willfully intended to trade on the owner's reputation or to cause dilution of the famous mark. If such willful intent is proven, the owner of the famous mark shall also be entitled to the remedies set forth in sections 1117(a) and 1118 of this title, subject to the discretion of the court and the principles of equity.

(3) The ownership by a person of a valid registration under the Act of March 3, 1881, or the Act of February 20, 1905, or on the principal register shall be a complete bar to an action against that person, with respect to that mark, that is brought by another person under the common law or a statute of a State and that seeks to prevent dilution of the distinctiveness of a mark, label, or form of advertisement.

- (4) The following shall not be actionable under this section:
- (A) Fair use of a famous mark by another person in comparative commercial advertising or promotion to identify the competing goods or services of the owner of the famous mark.
 - (B) Noncommercial use of a mark.
 - (C) All forms of news reporting and news commentary.

(d) Cyberpiracy prevention

(1)(A) A person shall be liable in a civil action by the owner of a mark, including a personal name which is protected as a mark under this section, if, without regard to the goods or services of the parties, that person--

- (i) has a bad faith intent to profit from that mark, including a

personal name which is protected as a mark under this section; and

(ii) registers, traffics in, or uses a domain name that--

(I) in the case of a mark that is distinctive at the time of registration of the domain name, is identical or confusingly similar to that mark;

(II) in the case of a famous mark that is famous at the time of registration of the domain name, is identical or confusingly similar to or dilutive of that mark; or

(III) is a trademark, word, or name protected by reason of section 706 of title 18 or section 220506 of title 36.

(B) (i) In determining whether a person has a bad faith intent described under subparagraph (A), a court may consider factors such as, but not limited to--

(I) the trademark or other intellectual property rights of the person, if any, in the domain name;

(II) the extent to which the domain name consists of the legal name of the person or a name that is otherwise commonly used to identify that person;

(III) the person's prior use, if any, of the domain name in connection with the bona fide offering of any goods or services;

(IV) the person's bona fide noncommercial or fair use of the mark in a site accessible under the domain name;

(V) the person's intent to divert consumers from the mark owner's online location to a site accessible under the domain name that could harm the goodwill represented by the mark, either for commercial gain or with the intent to tarnish or disparage the mark, by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the site;

(VI) the person's offer to transfer, sell, or otherwise assign the domain name to the mark owner or any third party for financial gain without having used, or having an intent to use, the domain name in the bona fide offering of any goods or services, or the person's prior conduct indicating a pattern of such conduct;

(VII) the person's provision of material and misleading false contact information when applying for the registration of the domain name, the person's intentional failure to maintain accurate contact information, or the person's prior conduct indicating a pattern of such conduct;

(VIII) the person's registration or acquisition of multiple domain names which the person knows are identical or confusingly similar to marks of others that are distinctive at the time of registration of such domain names, or dilutive of famous marks of others that are famous at the time of registration of such domain names, without regard to the goods or services of the parties; and

(IX) the extent to which the mark incorporated in the person's domain name registration is or is not distinctive and famous within the meaning of subsection (c) (1) of this section.

(ii) Bad faith intent described under subparagraph (A) shall not be found in any case in which the court determines that the person believed and had reasonable grounds to believe that the use of the domain name was a fair use or otherwise lawful.

(C) In any civil action involving the registration, trafficking, or use of a domain name under this paragraph, a court may order the forfeiture or cancellation of the domain name or the transfer of the domain name to the owner of the mark.

(D) A person shall be liable for using a domain name under subparagraph (A) only if that person is the domain name registrant or that registrant's authorized licensee.

(E) As used in this paragraph, the term ``traffics in'' refers to transactions that include, but are not limited to, sales, purchases, loans, pledges, licenses, exchanges of currency, and any other transfer

for consideration or receipt in exchange for consideration.

(2)(A) The owner of a mark may file an in rem civil action against a domain name in the judicial district in which the domain name registrar, domain name registry, or other domain name authority that registered or assigned the domain name is located if--

(i) the domain name violates any right of the owner of a mark registered in the Patent and Trademark Office, or protected under subsection (a) or (c) of this section; and

(ii) the court finds that the owner--

(I) is not able to obtain in personam jurisdiction over a person who would have been a defendant in a civil action under paragraph (1); or

(II) through due diligence was not able to find a person who would have been a defendant in a civil action under paragraph (1) by--

(aa) sending a notice of the alleged violation and intent to proceed under this paragraph to the registrant of the domain name at the postal and e-mail address provided by the registrant to the registrar; and

(bb) publishing notice of the action as the court may direct promptly after filing the action.

(B) The actions under subparagraph (A)(ii) shall constitute service of process.

(C) In an in rem action under this paragraph, a domain name shall be deemed to have its situs in the judicial district in which--

(i) the domain name registrar, registry, or other domain name authority that registered or assigned the domain name is located; or

(ii) documents sufficient to establish control and authority regarding the disposition of the registration and use of the domain name are deposited with the court.

(D)(i) The remedies in an in rem action under this paragraph shall be limited to a court order for the forfeiture or cancellation of the domain name or the transfer of the domain name to the owner of the mark. Upon receipt of written notification of a filed, stamped copy of a complaint filed by the owner of a mark in a United States district court under this paragraph, the domain name registrar, domain name registry, or other domain name authority shall--

(I) expeditiously deposit with the court documents sufficient to establish the court's control and authority regarding the disposition of the registration and use of the domain name to the court; and

(II) not transfer, suspend, or otherwise modify the domain name during the pendency of the action, except upon order of the court.

(ii) The domain name registrar or registry or other domain name authority shall not be liable for injunctive or monetary relief under this paragraph except in the case of bad faith or reckless disregard, which includes a willful failure to comply with any such court order.

(3) The civil action established under paragraph (1) and the in rem action established under paragraph (2), and any remedy available under either such action, shall be in addition to any other civil action or remedy otherwise applicable.

(4) The in rem jurisdiction established under paragraph (2) shall be in addition to any other jurisdiction that otherwise exists, whether in rem or in personam.

(July 5, 1946, ch. 540, title VIII, Sec. 43, 60 Stat. 441; Pub. L. 100-667, title I, Sec. 132, Nov. 16, 1988, 102 Stat. 3946; Pub. L. 102-542, Sec. 3(c), Oct. 27, 1992, 106 Stat. 3568; Pub. L. 104-98, Sec. 3(a), Jan. 16, 1996, 109 Stat. 985; Pub. L. 106-43, Secs. 3(a)(2), 5, Aug. 5, 1999, 113 Stat. 219, 220; Pub. L. 106-113, div. B, Sec. 1000(a)(9)

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Ex. D

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

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Perry R. Clark, State Bar No. 197101
Zhuanjia Gu, State Bar No. 244863
KIRKLAND & ELLIS LLP
950 Page Mill Road
Palo Alto, CA 94303
Telephone: (650) 859 7070
Facsimile: (650) 859 7000
pclark@kirkland.com
zgu@kirkland.com

Attorneys For Plaintiff
PETROLIAM NASIONAL BERHAD

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

PETROLIAM NASIONAL BERHAD,

Plaintiff,

v.

GODADDY.COM, INC.

Defendant.

NO. 09-CV-_____

**DECLARATION IN SUPPORT OF
PLAINTIFF'S MOTION FOR TEMPORARY
RESTRAINING ORDER**

Declaration

1 I, Priya Manokaran, declare as follows:

2 1. I am employed by Petroliam Nasional Berhad, also known as Petronas, as the Legal
3 Officer in the Intellectual Property and Technology Unit of Corporate Services and Technology,
4 Legal and Corporate Affairs Division.

5 2. Petronas is a fully-integrated oil and gas corporation and is among the Fortune Global
6 500 listing of the largest corporations in the world. Petronas's business encompasses the full
7 spectrum of oil and gas operations in the areas of upstream oil and gas exploration and production,
8 downstream oil refining, marketing and distribution of petroleum products, trading, gas processing
9 and liquefaction, gas transmission pipeline network operations, marketing of liquefied natural gas,
10 petrochemical manufacturing and marketing, shipping, and property investment.

11 3. Petronas has operations in more than 33 countries worldwide and employs approximately
12 16,000 people.

13 4. Petronas's official corporate website is "www.petronas.com.my" ("Official Petronas
14 Website"). There is an official U.S.-based "mirror" website at "www.petronas.com,"
15 "www.petronas.org," and "www.petronas.my."

16 5. Petronas uses the "petronastwintowers.com.my" domain name for the official website of
17 the Petronas Twin Towers and uses "petronastwintowers.com" to redirect to
18 "petronastwintowers.com.my". The Petronas Twin Towers, which house Petronas's headquarters,
19 are one of the most well known landmarks in Asia and are extremely closely identified with
20 Petronas. The Petronas Twin Towers attract visitors from Malaysia and the rest of the world for the
21 commercial, cultural, and other offerings housed at the Petronas Twin Towers. The
22 "petronastwintowers.com.my" website is intended to provide information to as many people as
23 possible about the Petronas Twin Towers.

24 6. The Official Petronas Website is perhaps the most widely viewed manifestation of the
25 Petronas corporate identity. Petronas uses the Official Petronas Website to, among other things,
26 project a corporate image that reflects the values of the employees, management, and shareholders of
27 Petronas, including the people of Malaysia who, through the Government of Malaysia, own a stake
28 in the company. Petronas also uses the Official Petronas Website to provide news and information

Declaration

-2-

OPPAPP000164

1 about its business, communicate with customers, potential customers, and employees, recruit and
2 hire employees for its locations around the world, advertise its products, and promote its brand.

3 7. On or about November 26, 2009, Petronas learned that a person or persons unknown to
4 Petronas had registered the domain name "www.petronastower.net" and was operating a website
5 using that domain name without Petronas's knowledge or consent.

6 8. Since at least November 26, 2009, the "www.petronastower.net" website has displayed
7 highly offensive obscene and pornographic material. As a result, any person directing a web
8 browser to, or otherwise accessing, the "www.petronastower.net" website will be exposed to the
9 highly offensive and pornographic material displayed on the "www.petronastower.net" website.

10 9. On or about November 26, 2009, Petronas learned that the domain name
11 "petronastower.net" had been registered with Go Daddy.com, Inc.

12 10. On or about November 26, 2009, Petronas repeatedly informed Go Daddy of the
13 unauthorized use of the "petronastower.net" domain name and that pornographic material was being
14 displayed on the website associated with that domain name and requested that the website be
15 removed. Ex. A at 1-2. These requests were sent by Petronas to the Go Daddy email addresses
16 "abuse@godaddy.com" and "support@godaddy.com." *Id.*

17 11. On or about December 1, 2009, the GoDaddy.com "Spam and Abuse Department"
18 responded with an email to Petronas stating that it is "prohibited from becoming involved in domain
19 name ownership disputes" and refusing to take any action with respect to the "petronastower.net"
20 website or domain name. Ex. A at 1. According to Go Daddy, any issues with the "wording of the
21 domain name itself will need to be sent to either the registrant, through an arbitration forum such as
22 the World Intellectual Property Organization, or the local court system." *Id.*

23 12. Petronas owns all right, title, and interest in U.S. Trademark No. 2969707 for
24 "PETRONAS." Attached hereto as Ex. B is a true and correct copy of the U.S. Patent and
25 Trademark Office's listing of Petronas's U.S. Trademark No. 2969707.

26 13. Petronas has not authorized the use of the PETRONAS mark in connection with the
27 "petronastower.net" domain name or website.

28

Declaration

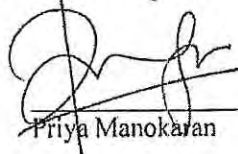
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I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct. This declaration is being executed in Kuala Lumpur, Malaysia.

Dated: December 17, 2009



Priya Manokaran

Declaration



United States Patent and Trademark Office

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Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Tue Dec 15 04:04:28 EST 2009

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSER Dict	SEARCH OG	BOTTOM	HELP	PREV LIST	CURR LIST
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Please logout when you are done to release system resources allocated for you.

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Word Mark **PETRONAS**

Goods and Services

IC 001. US 001 005 006 010 026 046. G & S: Chemicals and petrochemicals for use in the manufacture of pharmaceuticals, cosmetics, detergents, packaging, wire and cable installation, cassette tapes, pipes, toys, films, floorings, synthetic rubber, paints and coatings, adhesives, fuel additives and lubricants, textiles, agriculture, electrical and electronic components, automotive parts, aerospace and aviation, building and construction materials, plastics, foods, and diagnostic equipment; chemical and petrochemical in the nature of methanol, ethylene, methyl tertiary butyl ether (MTBE), vinyl chloride monomer, polyvinyl chloride, polyethylene, polypropylene, propylene, ethyl benzene, and styrene monomer all for use in industrial, forestry, agricultural, horticultural, and scientific applications; photographic chemicals; artificial and synthetic resins for use in the manufacture of fibers, polymers and coatings, and molding compounds; plastic molding compounds for use in plastic extrusion operations plastic molding compounds for use the manufacture of molded plastic articles and plastic sheets and films; composts; manures; fertilizers for agricultural and domestic use; glue for industrial purposes, adhesives for general industrial use, contact cements; gases for heating, lighting, steam generating, cooking, refrigeration, drying and ventilating for industrial use in liquid and gaseous forms; oil dispersants; chemicals for separating oils; hydraulic fluids for general use; chemical additives for use in the manufacture of fuels, lubricants, gasoline and drilling lubricants; drilling muds for use in oil well drilling, coolants for vehicle engines, heat transfer fluids for industrial use, hydraulic fluids for general use, acidulated water for recharging accumulators and batteries; chemical additives for use with internal combustion engines. chemical additives for fuel saving treatments, catalysts for use in the oil processing industry, oil for preservation of masonry

IC 004. US 001 006 015. G & S: Transmission fluids, cutting oil for industrial metalworking, Crude oil, natural gasoline, fuel oil and general purpose greases, all purpose lubricants; gasoline; fuel gas; fuel oils; fuel alcohol; diesel fuel; gas; gasoline as lubricant; kerosene, unleaded fuel; oil gas; paraffin; petroleum; petroleum ether, fuels in liquid, gaseous and solid form, dust lying and absorbing

compositions for use on unpaved roads; non-chemical additives for oils and fuels; petroleum jelly for industrial purposes, tallow, automatic transmission fluids; methanol petrochemicals for use in fuel, petroleum based dust suppressing compositions for use in manufacture

IC 011. US 013 021 023 031 034. G & S: Air conditioners, water distillation units, flares, gas and petrol burners for industrial purposes; gas regulators, heat exchangers, heat pumps, pasteurizers for use in food and beverage industry; electric radiators not for motors or engines, solar collectors for heating solar furnaces, water filters

Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code 01.15.08 - Raindrop (a single drop); Single drop (rain, tear, etc.); Teardrop (a single drop)
26.03.17 - Concentric ovals; Concentric ovals and ovals within ovals; Ovals within ovals; Ovals, concentric
26.03.21 - Ovals that are completely or partially shaded
26.03.28 - Miscellaneous designs with overall oval shape, including amoeba-like shapes and irregular ovals; Oval shape (miscellaneous overall shape)

Serial Number 78100185

Filing Date December 28, 2001

Current Filing Basis 44E

Original Filing Basis 1B;44E

Published for Opposition August 24, 2004

Registration Number 2969707

Registration Date July 19, 2005

Owner (REGISTRANT) Petroliam Nasional Berhad CORPORATION MALAYSIA Petronas Twin Towers, Tower 1 Kuala Lumpur City Centre 50088 Kuala Lumpur MALAYSIA

Attorney of Record Brian E. Banner

Description of Mark The mark consists of The design portion of the mark to the right of the word "PETRONAS" is the fanciful representation of a drop of oil in the color green and green is claimed as a part of the mark.

Type of Mark TRADEMARK

Register PRINCIPAL

Live/Dead Indicator LIVE

TESS HOME	NEW USER	STRUCTURED	FREE FORM	BROWSE/Dict	SEARCH OG	TOP	HELP	PREV LIST	CURR LIST
NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

[HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

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Ex. E

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 Perry R. Clark 197101
Jia Jia Gu 244863
2 perry.clark@kirkland.com
zhuanjia.gu@kirkland.com
3 KIRKLAND & ELLIS LLP
950 Page Mill Road
4 Palo Alto, California 94304
Telephone: (650) 859-7000
5 Facsimile: (650) 859-7500

6 Sarah L Forney 254769
7 sarah.forney@kirkland.com
KIRKLAND & ELLIS LLP
8 555 California Street
San Francisco, California 94104
9 Telephone: (415) 439-1400
Facsimile: (415) 439-1500

10 Attorneys for Plaintiff

11
12 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA
13 **SAN FRANCISCO DIVISION**

14 Petroliam Nasional Berhad,

15 Plaintiff,

16 vs.

17 GoDaddy.com, Inc.,

18 Defendant.
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CASE NO. 09-CV-

**CLARK DECLARATION IN SUPPORT
OF MOTION FOR TEMPORARY
RESTRAINING ORDER**

Hearing Date: December 18, 2009

1 I, Perry Clark, declare as follows:

2 1. I am a lawyer at the law firm of Kirkland & Ellis LLP, 950 Page Mill Road,
3 Palo Alto, California, 94304, and a member in good standing of the Bar of the State of California. I
4 am admitted to practice in the United States District Court for the Northern District of California.
5 Kirkland & Ellis LLP has been retained as counsel for Petroliam Nasional Berhad (“PETRONAS”)
6 in the present action. I am making this declaration in support of Petronas’ Motion for a Temporary
7 Restraining Order.
8

9 2. On December 14, 2009, I contacted GoDaddy via telephone to inform it of
10 “petronastower.net” (the “Infringing Domain Name”) and associated offensive website (“Infringing
11 Website”) and to request that the Infringing Domain Name and Infringing Website be disabled.
12

13 3. Specifically, Petronas’s counsel called the telephone number for the “Abuse
14 Department” (480 624 2505) listed in GoDaddy’s public database of information related to its
15 domain names. Ex. A.

16 4. I informed the operator in GoDaddy’s Abuse Department that the “petronastower.net”
17 domain name that GoDaddy had registered infringed Petronas’s United States trademark and
18 requested that the domain name be disabled.

19 5. The operator in GoDaddy’s Abuse Department stated that GoDaddy did not respond
20 to allegations of trademark infringement unless they were submitted in writing according to
21 GoDaddy’s “Trademark and/or Copyright Infringement Policy.”
22

23 6. On December 16, 2009, I sent a formal Notice of Trademark Infringement and a
24 request that the Infringing Website be disabled as required by GoDaddy’s “Trademark and/or
25 Copyright Infringement Policy.” Ex. B. This included a signed declaration identifying the address
26 of the offensive Infringing Website, the registrant information for the Infringing Website as obtained
27 from GoDaddy’s WHOIS database, and information regarding Petronas’ trademark rights, including
28

1 Petronas's registration of U.S. Trademark No. 2969707 for "PETRONAS." *Id.*

2 7. GoDaddy responded on December 16, 2009 with an email stating that it would not
3 disable the Infringing Domain Name or Infringing Website and that any disputes over the
4 "ownership or wording of the domain name itself will need to be sent to either the registrant, through
5 an arbitration forum such as the World Intellectual Property Organization, or the local court system."
6

7 Ex. C.

8 8. On December 16, 2009, I attempted to contact the registrant of the Infringing Domain
9 Name by using the email and telephone number provided by GoDaddy. Ex. D. The email address
10 provided for the registrant by GoDaddy for the Infringing Domain Name was

11 "ddd_private@hotmail.com." *Id.*

12 9. I informed the registrant via email of the Infringing Domain Name and the offensive
13 Infringing Website. Ex. E. I requested that the registrant immediately cease and desist from further
14 use of the domain name, and also requested that the registrant transfer ownership of the domain
15 name to Petronas. *Id.* Petronas did not receive a response to its email.
16

17 10. I called the telephone number but it was answer with a recorded message asking for a
18 "10-Digit YAK message to be followed by the hash sign."
19

20 11. Pursuant to Fed. R. Civ. P. 65(b), the undersigned counsel (Perry R. Clark) certifies
21 that he made the following efforts to provide notice of this motion for a temporary restraining order
22 to the Plaintiff. First, he called the GoDaddy Abuse Department on December 18, 2009 at (480) 624
23 2505 and informed the operator of this motion. The operator directed that notice be emailed to
24 "legal@godaddy.com." Second, Mr. Clark sent an email to "legal@godaddy.com" providing notice
25 of this motion and the telephone number and email address at which Mr. Clark could be reached.
26 Ex. F. Finally, Mr. Clark sent a copy of this notice of motion, motion, and supporting papers to
27 "legal@godaddy.com."
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DATED: December 18, 2009

Respectfully submitted,



Perry R. Clark
KIRKLAND & ELLIS LLP
950 Page Mill Road
Palo Alto, California 94304
Telephone: (650) 859-7000
Facsimile: (650) 859-7500



**Perry Clark/Palo
Alto/Kirkland-Ellis**

12/16/2009 09:45 AM

To ddd_privat@hotmail.com

cc

bcc

Subject PETRONASTOWER.NET

We represent Petroliam Nasional Berhad, or Petronas, in connection with the infringement of its trademarks by the website "petronastower.net."

We have been directed to you by Go Daddy, Inc., the registrar of the domain name, as well as Capital for Growth GmbH, who is affiliated with the webmaster Visit-X.net. Both of these parties have identified Heiko Schoenekess BPM 195226, 372 Old Street, London, London EC1V 9AU, United Kingdom, as the owner and registrant of the "petronastower.net" website.

The "petronastower.net" domain name, and its use as a website, infringe on the trademarks of Petronas. Accordingly, we request that you immediately cease and desist from any use of the "petronastower.net" website. We further request that you contact me immediately to discuss the transfer of the registration of the "petronastower.net" domain name to Petronas.

Best Regards,
Perry Clark
KIRKLAND & ELLIS.LLP
950 Page Mill Road
Palo Alto, CA 94303
Office: 650 859 7070
Mobile: 650 248 5817



Perry Clark/Palo
Alto/Kirkland-Ellis
12/18/2009 08:51 AM

To legal@godaddy.com
cc
bcc
Subject NOTICE OF MOTION FOR TEMPORARY RESTRAINING
ORDER

Please take notice that Petroliam Nasional Berhad, ("Petronas") intends to move for a temporary restraining order in United States District Court of the Northern District of California today, December 18, 2009, as soon as the matter can be heard. We will forward the formal moving papers as soon as they are completed.

Perry Clark
KIRKLAND & ELLIS LLP
950 Page Mill Road
Palo Alto, CA 94303
Telephone: 650 248 5817

OPPAPP000175

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Ex. F

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

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PETROLIAM NASIONAL
BERHAD,

Plaintiff

v.

PATRONASTOWER.NET, an
internet domain name

Defendant.

CIVIL ACTION NO. C10-00431EMC

REGISTRAR'S CERTIFICATE

I, Laurie Anderson, a representative of GoDaddy.com, Inc. ("Go Daddy"), an ICANN-accredited registrar of Internet domain names under the top level domains .com, .org. and .net, among others, hereby declare:

1. I have personal knowledge of the facts stated herein, and would testify to such facts if so called to testify.

2. Go Daddy is the registrar of the domain name at issue in this case, patronastower.net (the "Domain Name").

3. On or about February 8, 2010, Go Daddy received written notification of a filed, stamped copy of the Complaint in the instant case.

4. The Complaint alleges that the Domain Name infringes on the registered trademark of the plaintiff.

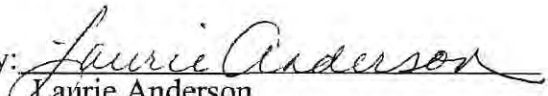
1 5. Accordingly, Go Daddy placed the Domain Names under registrar lock. The
2 registrar lock prevents the Domain Name from being transferred, modified or otherwise
3 managed or manipulated.

4 6. Furthermore, Go Daddy will not modify the status of the Domain Name unless
5 and until the case is resolved or Go Daddy is instructed to do so by Order of the court in the
6 instant case.

7 7. Therefore, the Domain Name should be construed to be under the dominion and
8 control of this Court until such time as Go Daddy receives further instruction with regard to
9 the Domain Name.

10 8. I declare under penalty of perjury under the laws of the United States of America
11 that the foregoing is true and correct.

12
13 **DATED** this 9th day of February, 2009.

14
15
16 By: 
17 Laurie Anderson
18 Disputes Manager
19 GoDaddy.com, Inc.