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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

Petroliam Nasional Berhad,

Plaintiff,

vs.

GoDaddy.com, Inc.,

Defendant.

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

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


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

Exhibit A

Domain Dossier Investigate domains and IP addresses

domain or IP address

- domain whois record DNS records traceroute
 network whois record service scan 

user: 58.71.153.30 [anonymous] 49/50
log in | get account



New: Compare web hosting plans across multiple providers: shared | VPS | dedicated

Address lookup

canonical name **petronastower.net.**

aliases

addresses **64.202.189.170**

Domain Whois record

Queried **whois.internic.net** with "**dom petronastower.net**"...

```
Domain Name: PETRONASTOWER.NET
Registrar: GODADDY.COM, INC.
Whois Server: whois.godaddy.com
Referral URL: http://registrar.godaddy.com
Name Server: NS39.DOMAINCONTROL.COM
Name Server: NS40.DOMAINCONTROL.COM
Status: clientDeleteProhibited
Status: clientRenewProhibited
Status: clientTransferProhibited
Status: clientUpdateProhibited
Updated Date: 02-may-2009
Creation Date: 08-may-2003
Expiration Date: 08-may-2010
```

>>> Last update of whois database: Thu, 26 Nov 2009 10:10:20 UTC <<<

Queried **whois.godaddy.com** with "**petronastower.net**"...

Registrant:

Heiko Schoenekess

Registered through: GoDaddy.com, Inc. (<http://www.godaddy.com>)
Domain Name: PETRONASTOWER.NET

Domain servers in listed order:
NS39.DOMAINCONTROL.COM
NS40.DOMAINCONTROL.COM

For complete domain details go to:

Network Whois record

Queried **whois.arin.net** with "**64.202.189.170**"...

OrgName: GoDaddy.com, Inc.
OrgID: GODAD

Username/Customer # Password **24/7 Sales & Support (480) 505-8877**

[Create Account](#) | [Forgot Password](#) | [Sign Out](#) [Deals of the Day](#) [USD](#) empty

HOME **Domain Auctions** **Marketplace** **Support & Community** **Media** **Bob's Video Blog** **My Account**

Domains **Hosting** **Email** **Site Builders** **Business** **SSL Certificates** **Resellers** **WHOIS Domain Check**

Show All My Products

PETRONASTOWER.NET

Check to add these alternate **PETRONASTOWER** domain names.

Select All

- .INFO \$0.69*/yr SAVE!
- .ORG \$9.99*/yr SAVE!
- .ME \$0.99*/yr SAVE!
- .MOBI \$7.99*/yr SAVE!
- .US \$3.99*/yr SAVE!
- .BIZ \$9.99*/yr SAVE!

Check to add these similar **PETRONASTOWER.NET** domain names.

Select All

- THEPETRONASTOWER... \$9.99*/yr SAVE!
- MYPETRONASTOWER.N... \$9.99*/yr SAVE!
- NEWPETRONASTOWER... \$9.99*/yr SAVE!
- FREEPETRONASTOWER... \$9.99*/yr SAVE!
- BESTPETRONASTOWER... \$9.99*/yr SAVE!
- SPETRONASTOWER.NE... \$9.99*/yr SAVE!
- ...RONASTOWERSITE.NET \$9.99*/yr SAVE!
- SITEPETRONASTOWER... \$9.99*/yr SAVE!
- ...RONASTOWERONLINE.NET \$9.99*/yr SAVE!
- ONLINEPETRONASTOW... \$9.99*/yr SAVE!
- ...RONASTOWERSTORE.NET \$9.99*/yr SAVE!
- STOREPETRONASTOWE... \$9.99*/yr SAVE!

Check to add these Premium domain names.

Select All

- MarvelTower.com \$480.00
- TowerNine.com \$1,495.00
- LyricTower.com \$1,595.00
- TowerAdvertising.com \$1,588.00
- TowerApartments.com \$2,388.00
- TowerBroadcasting.com \$1,588.00

ADD TO CART

*Plus **CANN** fee of \$0.18 per domain name year.
**CA domain names will be registered through Go Daddy Domains Canada, Inc., a CIRA certified registrar.

YOU can negotiate anything.
6 quick tips for doing it right.
Plus ... a Smoking Hot Blonde!
"Informative and to the point..." - Belinda



\$1.99* DOMAINS

No quantity limit! With every new, non-domain product you buy**

Interested in this domain name?

Let our Domain Buy Service help you get it.

\$1.99 Domain Names

Register a domain name for only \$1.99 with each new, non-domain product.

World-Class Web Hosting

Fast, secure, reliable hosting featuring 99.9% uptime, free setup, 24/7 support & more!

Safe, Personalized Email

Get an easy-to-remember email address with built-in Fraud, Spam & Virus Protection.

WHOIS Underlying Registry Data:

Whois Server Version 2.0

Domain names in the .com and .net domains can now be registered with many different competing registrars. Go to <http://www.internic.net> for detailed information.

Domain Name: PETRONASTOWER.NET
 Registrar: GODADDY.COM, INC.
 Whois Server: whois.godaddy.com
 Referral URL: <http://registrar.godaddy.com>
 Name Server: NS39.DOMAINCONTROL.COM
 Name Server: NS40.DOMAINCONTROL.COM
 Status: clientDeleteProhibited
 Status: clientRenewProhibited
 Status: clientTransferProhibited
 Status: clientUpdateProhibited
 Updated Date: 02-may-2009
 Creation Date: 08-may-2003
 Expiration Date: 08-may-2010

>>> Last update of whois database: Fri, 18 Dec 2009 18:13:04 UTC <<<

NOTICE: The expiration date displayed in this record is the date the registrar's sponsorship of the domain name registration in the registry is currently set to expire. This date does not necessarily reflect the expiration date of the domain name registrant's agreement with the sponsoring registrar. Users may consult the sponsoring registrar's Whois database to view the registrar's reported date of expiration for this registration.

TERMS OF USE: You are not authorized to access or query our Whois database through the use of electronic processes that are high-volume and automated except as reasonably necessary to register domain names or modify existing registrations; the Data in VeriSign Global Registry Services' ("VeriSign") Whois database is provided by VeriSign for

use electronic processes that are automated and high-volume to access or query the Whois database except as reasonably necessary to register domain names or modify existing registrations. VeriSign reserves the right to restrict your access to the Whois database in its sole discretion to ensure operational stability. VeriSign may restrict or terminate your access to the Whois database for failure to abide by these terms of use. VeriSign reserves the right to modify these terms at any time.

The Registry database contains ONLY .COM, .NET, .EDU domains and Registrars.
[See Standard Whois](#)

Sign up for special offers:

Account Manager

- My Account
- My Renewals
- My Upgrades
- Account Settings
- Customer Information
- Order History
- Create Account

Shopping

- * Offer Disclaimers
- Domain Search
- Product Catalog
- Product Advisor
- Gift Cards
- Go Daddy Mobile
- Today's Offers

Resources

- Webmail
- WHOIS search
- ICANN Confirmation
- Affiliates
- Connect with Us
- Gadgets/Widgets
- Site Map

Help and Support

- Telephone Support & Sales
- Billing Support
- Email Our Support Team
- Frequently Asked Questions
- User's Guides
- Report Spam
- Test Our Products

About Go Daddy

- Careers
- Security Center
- Company Info
- News Center
- Customer Testimonials
- What's New
- Legal
- Marketing Proposals

GoDaddy.com is the world's No. 1 ICANN-accredited domain name registrar for .COM, .NET, .ORG, .INFO, .BIZ and .US domain extensions. Source: RegistrarSTATS.com

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Address: 14455 N Hayden Road
 Address: Suite 226
 City: Scottsdale
 StateProv: AZ
 PostalCode: 85260
 Country: US

NetRange: 64.202.160.0 - 64.202.191.255
 CIDR: 64.202.160.0/19
 NetName: GO-DADDY-SOFTWARE-INC
 NetHandle: NET-64-202-160-0-1
 Parent: NET-64-0-0-0-0
 NetType: Direct Allocation
 NameServer: CNS1.SECURESERVER.NET
 NameServer: CNS2.SECURESERVER.NET
 NameServer: CNS3.SECURESERVER.NET
 Comment:
 RegDate: 2002-10-22
 Updated: 2007-06-14

OrgAbuseHandle: ABUSE51-ARIN
 OrgAbuseName: Abuse Department
 OrgAbusePhone: +1-480-624-2505
 OrgAbuseEmail: abuse@godaddy.com

OrgNOCHandle: NOC124-ARIN
 OrgNOCName: Network Operations Center
 OrgNOCPhone: +1-480-505-8809
 OrgNOCEmail: noc@godaddy.com

OrgTechHandle: NOC124-ARIN
 OrgTechName: Network Operations Center
 OrgTechPhone: +1-480-505-8809
 OrgTechEmail: noc@godaddy.com

ARIN WHOIS database, last updated 2009-11-25 20:00

DNS records

name	class	type	data	time to live
petronastower.net	IN	SOA	server: ns39.domaincontrol.com	86400s (1.00:00:00)
			email: dns.jomax.net	
			serial: 2007040100	
			refresh: 28800	
			retry: 7200	
			expire: 604800	
			minimum ttl: 86400	
petronastower.net	IN	MX	preference: 0	3600s (01:00:00)
			exchange: smtp.secureserver.net	
petronastower.net	IN	A	64.202.189.170	3600s (01:00:00)
petronastower.net	IN	NS	ns39.domaincontrol.com	3600s (01:00:00)
petronastower.net	IN	NS	ns40.domaincontrol.com	3600s (01:00:00)
petronastower.net	IN	MX	preference: 10	3600s (01:00:00)
			exchange: mailstore1.secureserver.net	
170.189.202.64.in-addr.arpa	IN	PTR	pwfwd-v01.prod.mesa1.secureserver.net	3600s (01:00:00)

Tracing route to **petronastower.net [64.202.189.170]**...

hop	rtt	rtt	rtt	ip address	fully qualified domain name
1	0	0	0	70.84.211.97	61.d3.5446.static.theplanet.com
2	0	0	0	70.87.254.1	po101.dsr01.dllstx5.theplanet.com
3	0	0	0	70.85.127.105	po51.dsr01.dllstx3.theplanet.com
4	0	0	0	70.87.253.9	et3-1.ibr04.dllstx3.theplanet.com
5	0	0	0	64.208.170.197	gigabitethernet7-3.ar2.dal2.gblx.net
6	92	68	53	64.209.110.218	
7	*	*	*		
8	*	*	*		
9	*	*	*		
10	*	*	*		

Trace aborted

Service scan

FTP - 21 Error: TimedOut
SMTP - 25 Error: TimedOut
HTTP - 80 HTTP/1.1 302 Moved Temporarily
Content-Length: 0
Location: /?d0426df0
POP3 - 110 Error: TimedOut
IMAP - 143 Error: TimedOut

-- end --

URL for this output | [return to CentralOps.net](http://centralops.net), a service of Hexillion

Exhibit B

PRINT**REQUEST FOR TRADEMARK CLAIMS**

Trademark Tracking ID: 415576

Add your identification and E-mail this form to trademarkclaims@godaddy.com or FAX form to Trademark Department at 480-247-4137

The trademark department cannot process your request without the "Trademark Claims Tracking ID" listed at the top.

If you (the "Complaining Party") would like to submit a trademark claim for violation of a mark on which the Complaining Party holds a valid, registered trademark or service mark, GoDaddy.com, Inc. requests that the Complaining Party substantiate such claim by providing GoDaddy.com, Inc. with the following information via email to trademarkclaims@godaddy.com. The words "Trademark Claims" should appear in the subject line. The Complaining Party should understand that GoDaddy.com, Inc., an ICANN accredited registrar, and its customers are bound by the UDRP. Nothing in this Policy should be construed to supersede the UDRP, nor the obligation of GoDaddy.com, Inc. and its customers to abide by it in the context of domain name disputes.

Domain Information:

Domain Name: PETRONASTOWER.NET

Contact Information:

Requestor First Name: Perry

Requestor Last Name: Clark

E-mail: pclark@kirkland.com

Phone Number: 650 859 7070

Trademark Registration#: 2969707

Additional Information:

Please immediately disable the website "petronastower.net".

To be considered effective, a notification of a claimed trademark violation must be provided via email to GoDaddy.com, Inc. and must include the following information:

1. Sufficient evidence that the party posting the trademark that is claimed to be infringing is a GoDaddy.com, Inc. customer.
2. The trademark, service mark, trade dress, name, or other indicia of origin ("mark") that is claimed to be infringed.
3. The name, post office address and telephone number of the owner of the mark identified above.
4. The goods and/or services covered by or offered under the mark identified in B above.
5. The date of first use of the mark identified above.
6. The date of first use in interstate commerce of the mark identified above.
7. The mark the Complaining Party believes is an infringement of its mark.
8. The goods and/ or services covered by or offered under the mark claimed to be infringing.
9. The precise location of the mark that is claimed to be infringing, including electronic mail address, etc. A good faith certification, signed under penalty of perjury, stating:
 1. The mark [identify mark] infringes the rights of another party,
 2. The name of such said party,
 3. The mark [identify mark] being infringed, and
 4. That use of the mark [identify mark] claimed to be infringing at issue is not defensible.

Upon receipt of the appropriate information identified in Section 1 above, for trademark claims, GoDaddy.com, Inc. will initiate an investigation. While GoDaddy.com, Inc. is investigating the claim, GoDaddy.com, Inc. , at its sole discretion and without any legal obligation to do so, may notify the posting party it will lock down the posting party's domain name(s), redirect the posting party's DNS, and/or if it is solely stored on a GoDaddy.com, Inc. server, temporarily remove or deny access to the challenged material.

If GoDaddy.com, Inc. concludes that the Complaining Party has raised a legitimate trademark claim, it may, at its sole discretion and without any legal obligation to do so, continue to suspend the posting party's GoDaddy.com, Inc. account and/or if it is solely stored on a GoDaddy.com, Inc. server, deny access to the challenged material. If GoDaddy.com, Inc. concludes that the Complaining Party has not raised a legitimate claim or if it is not clear whether the Complaining Party has raised a legitimate claim, GoDaddy.com, Inc. will restore access to the challenged material.

Notification to GoDaddy.com, Inc. customers and account holders: It is GoDaddy.com, Inc. 's policy to provide for the termination, in appropriate circumstances, of GoDaddy.com, Inc. customers and account holders who are repeat infringers of copyrighted works, trademarks or any other intellectual property.

Signed: 

Date: 12/15/09

Printed Name: PERRY CLARK

Trademark Claim Tracking ID: 415576

CLOSE WINDOW

PRINT

GO DADDY UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY

(As Approved by ICANN on October 24, 1999)

1. PURPOSE

This Uniform Domain Name Dispute Resolution Policy (the "Policy") has been adopted by the Internet Corporation for Assigned Names and Numbers ("ICANN"), is incorporated by reference into your Registration Agreement, and sets forth the terms and conditions in connection with a dispute between you and any party other than us (the registrar) over the registration and use of an Internet domain name registered by you. Proceedings under Paragraph 4 of this Policy will be conducted according to the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules of Procedure"), which are available at [dispute policy](#), and the selected administrative-dispute-resolution service provider's supplemental rules.

2. YOUR REPRESENTATIONS

By applying to register a domain name, or by asking us to maintain or renew a domain name registration, you hereby represent and warrant to us that (a) the statements that you made in your Registration Agreement are complete and accurate; (b) to your knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party; (c) you are not registering the domain name for an unlawful purpose; and (d) you will not knowingly use the domain name in violation of any applicable laws or regulations. It is your responsibility to determine whether your domain name registration infringes or violates someone else's rights.

3. CANCELLATIONS, TRANSFERS, AND CHANGES

We will cancel, transfer or otherwise make changes to domain name registrations under the following circumstances:

- a. subject to the provisions of Paragraph 8, our receipt of written or appropriate electronic instructions from you or your authorized agent to take such action;
- b. our receipt of an order from a court or arbitral tribunal, in each case of competent jurisdiction, requiring such action; and/or
- c. our receipt of a decision of an Administrative Panel requiring such action in any administrative proceeding to which you were a party and which was conducted under this Policy or a later version of this Policy adopted by ICANN. (See Paragraph 4(i) and (k) below.)

We may also cancel, transfer or otherwise make changes to a domain name registration in accordance with the terms of your Registration Agreement or other legal requirements.

4. MANDATORY ADMINISTRATIVE PROCEEDING

This Paragraph sets forth the type of disputes for which you are required to submit to a mandatory administrative proceeding. These proceedings will be conducted before one of the administrative-dispute-resolution service providers listed at <http://www.icann.org/udrp/approved-providers.htm> (each, a "Provider").

- a. **Applicable Disputes.** You are required to submit to a mandatory administrative proceeding in the event that a third party (a "complainant") asserts to the applicable Provider, in

compliance with the Rules of Procedure, that

- i. your domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- ii. you have no rights or legitimate interests in respect of the domain name; and
- iii. your domain name has been registered and is being used in bad faith.

In the administrative proceeding, the complainant must prove that each of these three (3) elements are present.

b. Evidence of Registration and Use in Bad Faith. For the purposes of Paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- i. circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- ii. you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- iii. you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- iv. by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.

c. How to Demonstrate Your Rights to and Legitimate Interests in the Domain Name in Responding to a Complaint. When you receive a complaint, you should refer to Paragraph 5 of the Rules of Procedure in determining how your response should be prepared. Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii):

- i. before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
- ii. you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- iii. you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

d. Selection of Provider. The complainant shall select the Provider from among those approved by ICANN by submitting the complaint to that Provider. The selected Provider will administer the proceeding, except in cases of consolidation as described in Paragraph 4(f).

e. Initiation of Proceeding and Process and Appointment of Administrative Panel. The Rules of Procedure state the process for initiating and conducting a proceeding and for appointing the panel that will decide the dispute (the "Administrative Panel").

f. Consolidation. In the event of multiple disputes between you and a complainant, either you or the complainant may petition to consolidate the disputes before a single Administrative Panel. This petition shall be made to the first Administrative Panel appointed to hear a pending dispute between the parties. This Administrative Panel may consolidate before it any or all such disputes in its sole discretion, provided that the disputes being consolidated are governed by this Policy or a later version of this Policy adopted by ICANN.

g. Fees. All fees charged by a Provider in connection with any dispute before an Administrative Panel pursuant to this Policy shall be paid by the complainant, except in cases where you elect to expand the Administrative Panel from one to three panelists as provided in Paragraph 5(b)(iv) of the Rules of Procedure, in which case all fees will be split evenly by you and the complainant.

h. Our Involvement in Administrative Proceedings. We do not, and will not, participate in the administration or conduct of any proceeding before an Administrative Panel. In addition, we will not be liable as a result of any decisions rendered by the Administrative Panel.

i. Remedies. The remedies available to a complainant pursuant to any proceeding before an Administrative Panel shall be limited to requiring the cancellation of your domain name or the transfer of your domain name registration to the complainant.

j. Notification and Publication. The Provider shall notify us of any decision made by an Administrative Panel with respect to a domain name you have registered with us. All decisions under this Policy will be published in full over the Internet, except when an Administrative Panel determines in an exceptional case to redact portions of its decision.

k. Availability of Court Proceedings. The mandatory administrative proceeding requirements set forth in Paragraph 4 shall not prevent either you or the complainant from submitting the dispute to a court of competent jurisdiction for independent resolution before such mandatory administrative proceeding is commenced or after such proceeding is concluded. If an Administrative Panel decides that your domain name registration should be canceled or transferred, we will wait ten (10) business days (as observed in the location of our principal office) after we are informed by the applicable Provider of the Administrative Panel's decision before implementing that decision. We will then implement the decision unless we have received from you during that ten (10) business day period official documentation (such as a copy of a complaint, file-stamped by the clerk of the court) that you have commenced a lawsuit against the complainant in a jurisdiction to which the complainant has submitted under Paragraph 3(b)(xiii) of the Rules of Procedure. (In general, that jurisdiction is either the location of our principal office or of your address as shown in our Whois database. See Paragraphs 1 and 3(b)(xiii) of the Rules of Procedure for details.) If we receive such documentation within the ten (10) business day period, we will not implement the Administrative Panel's decision, and we will take no further action, until we receive (i) evidence satisfactory to us of a resolution between the parties; (ii) evidence satisfactory to us that your lawsuit has been dismissed or withdrawn; or (iii) a copy of an order from such court dismissing your lawsuit or ordering that you do not have the right to continue to use your domain name.

5. ALL OTHER DISPUTES AND LITIGATION

All other disputes between you and any party other than us regarding your domain name

registration that are not brought pursuant to the mandatory administrative proceeding provisions of Paragraph 4 shall be resolved between you and such other party through any court, arbitration or other proceeding that may be available.

6. OUR INVOLVEMENT IN DISPUTES

We will not participate in any way in any dispute between you and any party other than us regarding the registration and use of your domain name. You shall not name us as a party or otherwise include us in any such proceeding. In the event that we are named as a party in any such proceeding, we reserve the right to raise any and all defenses deemed appropriate, and to take any other action necessary to defend ourselves.

7. MAINTAINING THE STATUS QUO

We will not cancel, transfer, activate, deactivate, or otherwise change the status of any domain name registration under this Policy except as provided in Paragraph 3 above.

8. TRANSFERS DURING A DISPUTE

Transfers of a Domain Name to a New Holder

You may not transfer your domain name registration to another holder (i) during a pending administrative proceeding brought pursuant to Paragraph 4 or for a period of fifteen (15) business days (as observed in the location of our principal place of business) after such proceeding is concluded; or (ii) during a pending court proceeding or arbitration commenced regarding your domain name unless the party to whom the domain name registration is being transferred agrees, in writing, to be bound by the decision of the court or arbitrator. We reserve the right to cancel any transfer of a domain name registration to another holder that is made in violation of this subparagraph.

Changing Registrars

You may not transfer your domain name registration to another registrar during a pending administrative proceeding brought pursuant to Paragraph 4 or for a period of fifteen (15) business days (as observed in the location of our principal place of business) after such proceeding is concluded. You may transfer administration of your domain name registration to another registrar during a pending court action or arbitration, provided that the domain name you have registered with us shall continue to be subject to the proceedings commenced against you in accordance with the terms of this Policy. In the event that you transfer a domain name registration to us during the pendency of a court action or arbitration, such dispute shall remain subject to the domain name dispute policy of the registrar from which the domain name registration was transferred.

9. POLICY MODIFICATIONS

We reserve the right to modify this Policy at any time with the permission of ICANN. We will post our revised Policy at this location at least thirty (30) calendar days before it becomes effective. Unless this Policy has already been invoked by the submission of a complaint to a Provider, in which event the version of the Policy in effect at the time it was invoked will apply to you until the dispute is over, all such changes will be binding upon you with respect to any domain name registration dispute, whether the dispute arose before, on or after the effective date of our change. In the event that you object to a change in this Policy, your sole remedy is to cancel your domain name registration with us, provided that you will not be entitled to a refund of any fees you paid to us. The revised Policy will apply to you until you cancel your

domain name registration.

Revised: 7/21/2008

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United States Patent and Trademark Office

Home | Site Index | Search | FAQ | Glossary | Guides | Contacts | eBusiness | eBiz alerts | News | Help

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	BROWSE DICT	SEARCH OG	BOTTOM	HELP	TESS HELP	CURR LIST
PREVIOUS	SEARCH	RESULTS	NEXT DOC	LAST DOC					

Logout Please logout when you are done to release system resources allocated for you.

Start List At: OR **Jump** to record: **Record 1 out of 2**

TARR Status	ASSIGN Status	TDR	TTAB Status	(Use the "Back" button of the Internet
-------------	---------------	-----	-------------	-----------------------------------------

Browser to return to TESS)



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 LIST	SEARCH OG	TOP	HELP	PRIVACY POLICY	CURR LIST
PREVIOUS	NEXT	FIRST	LAST	NEXT DOC	LAST DOC				

Exhibit C



<trademarkclaims@godaddy.com>

12/16/2009 09:21 AM

To "Perry Clark" <pclark@kirkland.com>

cc

bcc

Subject RE: TRADEMARK CLAIMS: Notification of Trademark Infringement by Domain Name "petronastower.net"

Dear Perry Clark,

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

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

Please feel free to contact us if we can provide further assistance.

Regards,

Domain Services
Go Daddy Software, Inc.

----- Original Message -----

Subject: TRADEMARK CLAIMS: Notification of Trademark Infringement by Domain Name "petronastower.net"

From: "Perry Clark" <pclark@kirkland.com>

Date: Wed, December 16, 2009 10:09 am

To: TrademarkClaims@godaddy.com

Pursuant to Section A(2) of the "Go Daddy Trademark and/or Copyright Infringement Policy" (attached), this email serves as notification of a claim for trademark infringement. Attached to this email please find the "Request for Trademark Claims" required by Section A(1) of the agreement. **The "Trademark Tracking ID" is 415576.**

The following information is provided in the order it is listed in Section A(2) of the agreement:

Evidence that the infringer of the trademark is a Go Daddy customer is that WHOIS lists the following information with respect to the domain name "petronastower.net":

Heiko Schoenekess
BPM 195226

372 Old Street
London, London EC1V 9AU
United Kingdom
Registered through: GoDaddy.com, Inc. (<http://www.godaddy.com>)
Domain Name: PETRONASTOWER.NET
Created on: 08-May-03
Expires on: 08-May-10
Last Updated on: 02-May-09

The infringed trademark is U.S. Trademark Registration Number 2969707 "PETRONAS." See attached U.S. Patent and Trademark Office Record.

The mark applies in, at least, the United States. The mark is also registered in other countries.

The owner of the mark is Petroliam Nasional Berhad, Petronas Twin Towers, Tower 1 Kuala Lumpur City Centre 50088 Kuala Lumpur MALAYSIA.

The goods and services covered by the mark are: 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, 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, 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.

The mark has been used in interstate commerce since at least 2001.

It is unclear what goods or services are being offered under the mark that is infringed.

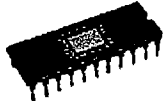
The precise location of the infringing mark is "petronastower.net."

Under penalty of perjury, I certify in good faith that the "petronastower.net" infringes the trademark "Petronas," which is owned by Petronas and the use of the mark in "petronastower.net" is not defensible.

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

The information contained in this communication is confidential, may be attorney-client privileged, may constitute inside information, and is intended only for the use of the addressee. It is the property of Kirkland & Ellis LLP or Kirkland & Ellis International LLP. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by return e-mail or by e-mail to postmaster@kirkland.com, and destroy this communication and all copies thereof, including all attachments.

Exhibit D



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

12/16/2009 09:45 AM

To ddd_privat@hotmail.com

cc

bcc

Subject PETRONASTOWER.NET

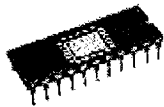
We represent Petroliam Nasional Berhad, or Petronas, in connection with the infringement of its trademarks by the website "petronastower.net."

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

Exhibit E



Perry Clark/Palo
Alto/Kirkland-Ellis
12/17/2009 02:10 PM

To "Sarah Forney" <sforney@kirkland.com>
cc
bcc
Subject Fw: PETRONASTOWER.NET

Who	Date	Time	WS	CS
!	Perry Clark	12/17/2009	02:10 PM	

Perry Clark

----- Original Message -----

From: Perry Clark

Sent: 12/16/2009 09:45 AM PST

To: ddd_privat@hotmail.com

Subject: PETRONASTOWER.NET

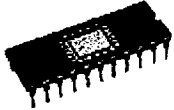
We represent Petroliam Nasional Berhad, or Petronas, in connection with the infringement of its trademarks by the website "petronastower.net."

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.

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

Exhibit F



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