

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Jeffrey A. LeVee (State Bar No. 125863)
Eric P. Enson (State Bar No. 204447)
Kelly M. Watne (State Bar No. 307563)
JONES DAY
555 South Flower Street
Fiftieth Floor
Los Angeles, CA 90071.2300
Telephone: +1.213.489.3939
Facsimile: +1.213.243.2539
Email: jlevee@JonesDay.com

Attorneys for Defendant
INTERNET CORPORATION FOR ASSIGNED
NAMES AND NUMBERS

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, WESTERN DISTRICT**

REGISTRY, LLC, RADIX DOMAIN
SOLUTIONS PTE. LTD., and DOMAIN
VENTURE PARTNERS PCC LIMITED,

Plaintiffs,

v.

INTERNET CORPORATION FOR
ASSIGNED NAMES AND NUMBERS,

Defendant.

FILED
Superior Court of California
County of Los Angeles
07/10/2023

David W. Slayton, Executive Officer / Clerk of Court
By: S. Hwang Deputy

CASE NO. 20STCV42881

Assigned to Hon. Lisa K. Sepe-Wiesenfeld

~~PROPOSED~~ FINAL JUDGMENT

Complaint Filed: November 9, 2020
FAC Filed: March 4, 2023

1 On November 9, 2020, Plaintiffs Fegistry, LLC, Radix Domain Solutions PTE. LTD., and
2 Domain Venture Partners PCC Limited (“Plaintiffs”) filed their Complaint in this action against
3 Defendant the Internet Corporation for Assigned Names and Numbers (“ICANN”). After the
4 above-entitled Court sustained ICANN’s Demurrer to Plaintiffs’ Complaint on January 18, 2022
5 without prejudice, Plaintiffs filed a First Amended Complaint (“FAC”) on March 4, 2022. The
6 FAC alleged causes of action for: (1) breach of contract; (2) fraud-in-the-inducement; (3) deceit
7 (violation of Civil Code §§1709, 1710, et seq.); (4) grossly negligent misrepresentations; (5)
8 gross negligence; (6) public benefit bylaw enforcement (Cal. Corp. § 14623); and (7) unfair
9 competition (violation of Cal. Bus. and Prof. Code §§ 17200, 17500 et seq.).

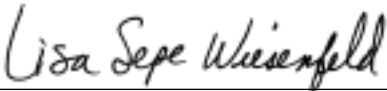
10 On May 30, 2023, the above-entitled Court issued a ruling on Defendant ICANN’s
11 Demurrer to Plaintiffs’ FAC, sustaining the Demurrer without leave to amend. The Court held
12 that Plaintiff’s claims are barred by the covenant not to sue (the “Covenant”) contained in
13 ICANN’s Applicant Guidebook, which prohibits new gTLD applicants from suing ICANN for
14 any claims that “arise out of, are based upon, or are in any way related to” their new gTLD
15 applications. The Court held that the allegations in the FAC arise out of, are based upon, and/or
16 relate to Defendant’s review of Plaintiffs’ applications for .HOTEL; thus, the Covenant is
17 applicable and bars Plaintiffs’ lawsuit. The Court further held that the Covenant is enforceable
18 because: (1) the Covenant does not exempt ICANN from liability; (2) Plaintiffs’ contention that
19 their claims relate to the public interest is not persuasive; and (3) Plaintiffs’ argument that the
20 Covenant is unenforceable because it was procured by fraud is unsupported in that Plaintiffs fail
21 to identify any misrepresentation that induced Plaintiffs to submit their applications.

22 Separately, the Court held that all of Plaintiffs’ causes of action remain deficient in the
23 FAC such that the Court’s prior analysis in sustaining ICANN’s Demurrer to Plaintiff’s original
24 Complaint remains in effect and is incorporated herein. Finally, the Court ruled that “Plaintiffs
25 fail to show that there is a reasonable possibility of successful amendment. [] It does not appear
26 that there are any facts which Plaintiffs may include to cure the defects present in the FAC.
27 Accordingly, Defendants’ Demurrer is SUSTAINED without leave to amend.”
28

1 **IT IS HEREBY ORDERED AND ADJUDGED BY THE COURT** that judgment is
2 entered in favor of Defendant ICANN and against Plaintiffs on all claims, that Plaintiffs take
3 nothing by their First Amended Complaint, that ICANN is permitted to recover its costs of suit
4 (to be determined following ICANN's application to the Court), and that the First Amended
5 Complaint is dismissed with prejudice.

6 **IT IS SO ORDERED.**

7
8 Dated: 07/10/2023, 2023



Honorable Lisa K. Sepe-Wiesenfeld
Judge of Superior Court

9
10
11 Prepared by:

12 JONES DAY
13 555 South Flower Street, Fiftieth Floor
14 Los Angeles, CA 90071
15 Telephone: (213) 489-3939
16 Facsimile: (213) 243-2539

17 By: /s/ Eric P. Enson
18 Eric P. Enson
19 Attorney for Defendant
20 INTERNET CORPORATION FOR
21 ASSIGNED NAMES AND NUMBERS
22
23
24
25
26
27
28