DUPLICATE

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT WE D — JUDGE ALAN B. HABER

IMAGE ONLINE DESIGN, INC., ETC.,

Plaintiff,

vs.

INTERNET ASSIGNED NUMBER AUTH, et al.,

Defendants.

No. SC 046 960

TRANSCRIPT OF PROCEEDINGS

May 1, 1997

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LOS ANGELES, CALIFORNIA; THURSDAY, MAY 1, 1997

DEPARTMENT WE D JUDGE ALAN B. HABER

APPEARANCES:

Counsel for the Plaintiff, WILLIAM S. WALTER, Esq.

Counsel for the Defendants, DONALD A. DAUCHER, Esq., HARRIET S. POSNER, Esq., STUART LEVI, Esq.

THE COURT: Good morning. This is the matter of Image Online versus Internet.

Can I have the appearances, please, and then I'll deal with the pro hoc -- application.

MS. POSNER: Good morning, your Honor.

THE COURT: Good morning.

MS. POSNER: I'm Harriet Posner of Skadden Arps, and I was going to move the application -- My partner, Stuart Levi, from the New York office, who is seated to my right.

THE COURT: I take it there's no objection?

MR. WALTER: No objection.

THE COURT: All right. The --

MR. WALTER: Your Honor, William Walter on behalf of the Plaintiffs.

THE COURT: Yes.

MR. DAUCHER: Your Honor, Donald Daucher appearing on behalf of certain of the Defendants. Do you want me to name the Defendants?

THE COURT: I think the record should be complete.

MR. DAUCHER: All right.

THE COURT: I know who you represent, and I'm aware of who Ms. Posner and her associate, Mr. Levi represent. And

naturally, I know who Mr. Walter represents. But I think the record ought to be complete.

MR. DAUCHER: I represent John Pastel (phonetic), Joyce Reynolds, William Manning, Nahal Vol (phonetic) and the Internet Assigned Numbers Authority.

THE COURT: All right.

MR. LEVI: We represent -- I'm Stuart Levi, and -- New York office of Skadden Arps, and we represent the International Ad Hoc committee, Donald M. Heath and the Internet Society.

THE COURT: All right. I'll go ahead and sign the order and be done with it. The application is granted.

MS. POSNER: Thank you.

MR. LEVI: Thank you, your Honor.

THE COURT: You're welcome. I apologize for not having prepared -- I didn't have the time to prepare a written tentative ruling, which is my normal customary practice. And I have, since counsel were last here earlier this week, I have, other than my ex parte hours where I'm back in chambers, a good part of my time has been spent on the bench in hearing. So, this has been somewhat of an ordeal for me to make my way through -- it's not meant as a criticism, the volume of paperwork that I have been provided. But I've dutifully, I believe, read and considered the moving papers, the initial opposition briefs, along with the supplemental oppositions, which I received yesterday, in accordance with the time frame that I set.

And also, late yesterday I received by fax Mr.

Walter's supplemental declaration. So, I've read everything, some of the items more than once, principally because I do consider myself somewhat technologically challenged. And nevertheless, I have found the experience to be really fascinating. It's not as if the Internet is a strange phenomenon or concept for me, but I found myself having to immerse myself in getting an understanding of how the Internet operates. And I think I do have somewhat of an understanding.

The record should reflect, so there's no mistake about it, that this is the Plaintiff, Image Online's application for a temporary restraining order and a request to set the matter for an order to show cause re preliminary injunction.

This is my tentative ruling, and I will afford an opportunity to Mr. Walter to respond to the supplemental oppositions that were filed yesterday afternoon before I rule, to see if Mr. Walker has any matter or matters that he would like to bring to my attention. I think fairness requires that you have an opportunity to respond.

But my tentative ruling is to deny the request for the temporary restraining order and to take it one step further, decline to set the matter for an order to show cause re preliminary injunction.

And naturally, before I ultimately rule, if I follow through on my tentative ruling, I will naturally provide the findings that are necessary to so rule.

Mr. Walter, would you like to respond?

And let me just preface my further remarks by saying that I have certain matters, declarations and briefs I found myself having to review more than once. And I have devoted a lot of time to this and I found it interesting to do it and resent having to be under the pressure cooker to be prepared. I found it fascinating. But this is your opportunity to respond to any matters that were raised in the supplemental oppositions I received from both -- from all the Defendants yesterday afternoon.

MR. WALTER: Yes, your Honor. Let me indicate that when I reviewed the opposition, the one thing that struck me was on many of the critical points there was no reply whatsoever.

And our primary concern, of course, here today is with the possibility and the imminent danger of irreparable injury.

One of the key points in establishing that irreparable injury is the provisions within the memorandum of understanding itself that gives to the International Ad Hoc Committee power from this -- from the date that this agreement entered into force forward into the future until the core counsel of registers is established to create these new top level domains.

And it's very, very clear from the agreement itself, from section 9A that they had that power, that they can, in fact, create these new top level domains virtually imminently by entering them into the route server.

Donald Heath's declaration says some items to the

contrary. But I would indicate to the Court that it is not competent, because it is not -- the declaration is not under penalty of perjury under the laws of the State of California, pursuant to 2015.5. And so, I think that that declaration, at least for the purposes of this hearing, must be disregarded.

Our other area of concern, of course, is the statement made by Doctor Postel to the Wall Street Journal, to the effect that once there are a lot of people using these new names, everyone will have to play. And that, to us, is an indication of the irreparable injury that is pending. There is nothing in the opposing papers which replies to the unprecedented nature of this potential action, and unprecedented to the extent of damaging existing users to the Internet who would, in effect, become invisible to the Internet. These 3,700 registrations are really on the line in that regard.

Doctor Postel supplied no declaration with regard to the invisibility argument established by Mr. Steparoute (phonetic), Mr. Ratowsky (phonetic), et cetera.

There is really no reply to the fact that with -- that starting today there will be an acceptance of applications for these new top level domains or -- pardon me, people around the world will be preparing it. We have about eight days until that actually starts. And for that reason, there's simply no reply to that, whatsoever. So, the danger is imminent.

We have argued that there is confusion in the

marketplace just by taking these applications. There is no competent declaration to the contrary, to show that there would not be confusion.

When we get to the question of the source of IANA's authority, or the authority of the other parties, what we find is that while IANA indicates that it receives and operates under a government contract, that contract is not produced anywhere. There's no authority. While the responding papers indicate that we are confused on the issue of authority, I would submit to the Court that that confusion could have been remedied by citing the precise authority.

What we do know, and what there is no response to in these reply papers is that the Department of Defense, which originally had the relationship with -- considers this to be private litigation. The -- NASA, for example, also says that the federal government has taken no position.

We have the cable from the secretary of state indicating that there is no consensus or no authority for these actions. So, we have a situation in which no one can point to the authority for a group of four computer scientists to control what is, in essence, the bottleneck facility for access to the Internet.

Now, the reply papers indicate and are actually contradictory, because they suggest that there is a rough consensus for what the International Ad Hoc Committee is doing. And yet, they state in the IANA supplemental points and authorities that if the final report in the MOU are

found to enjoy consensus support in the community, they will be embraced and become practiced. If they do not, then they will not.

Now, the typical method of -- self-governance is through the process of rough consensus. There is really nothing in the declarations opposing our application to indicate that there is, in fact, rough consensus with regard to these different provisions that are within the MOU. And we need to recall that the MOU, in it's most dire terms, gives complete control over the entire access to the commercial Internet through the process of amendment to increase the number of registrations, gives complete control to IANA and the Internet society, yet nowhere do we see that there is any authority for that control. They have to consent to any amendment.

There is nothing in the opposing papers that demonstrates that dot web has not acquired a secondary meaning. There is no denial, for example, of the hyperlink from the IHAHCs web site directly to the dot web registry. There's no denial that the customers of Image Online Design would be damaged. There is no reply to clear California case law in Hair vs. McGuire, which we cite on page 15, that generic terms may be used to identify the business of a particular person and thereby acquire a secondary meaning in which even their subsequent use in a similar manner by another person, which tends to deceive and confuse the public will be enjoined.

We have provided declarations in behalf of one of

our customers, Mark Retan. And what he has indicated is certainly the presence of that confusion.

There's also no denial in these papers of the rule that has governed Internet self-governance, that the first come first serve governs and applies. And even the memorandum of understanding recognizes that rule as being valid. It's only very selective in how it applies it retroactively.

There's no indication in the reply papers that there has been any precedent for this type of damage. It just has never occurred in the Internet before.

There are many other specific items with regard to the ownership of dot web, or the interest in dot web.

Now, one of the analogies that is made by the International Ad Hoc Committee is that claiming to own dot web is like owning an area code. That analogy, however, is very, very misleading.

If Image Online Design owned an area code, then everyone within that geographical area would have to get their telephone number from Image Online Design. However, operating a dot web registry does not require anyone to register a domain name with them, a second level domain name. There is no requirement. So, the -- comparing the dot web registry to the ownership of an area code is not at all correct. And the only support for that comes from a declaration prepared by Mr. Metzger, which is a string of quotations and opinions. Pardon me. Not really quotations. Shall I just say "Opinions?"

Mr. Metzger's declaration has no foundational facts to establish his education, his background or his knowledge. And therefore, there is no foundation for all of the many statements that are contained within his declaration. And for that reason, we would ask the Court to strike that declaration, as well, for the absence of any qualification for the opinions stated.

There is a --

THE COURT: I shouldn't make a presumption from the fact that he's a member of the IAHC? I should presume that perhaps he's a plumber?

MR. WALTER: Well, but does he really have the qualifications to make these particular statements?

And from the standpoint of -- particularly if the Court is inclined not to grant the order to show cause, then my concern is that you're doing so based upon a declaration whose foundational content is questionable.

THE COURT: No. I think it really goes to the weight. I think considering all the evidence I have as to the nature from other evidence presented to me as to the nature of the ad hoc committee, its function -- its connection to the Internet and the uncontroverted claim that he is a member of the committee, that a reasonable presumption is that he is knowledgeable as to matters involving the Internet and is, therefore, capable. Your argument really goes to the weight. I'm not going to strike the declaration.

MR. WALTER: All right. There are different sections, for example, in paragraph six, where he notes that the

National Science Foundation announced recently that it would not renew its cooperative agreement with Network Solutions, Inc.

But again, the statement is made, it is my understanding, that NSFAs decision, at least in part, on the support of the IAHCs efforts. I don't think that that is competent, or is there a proper qualification --

THE COURT: I think you're right. I think that there is a lack of personal knowledge on his part. It's his belief.

MR. WALTER: He's also then speculating after that if there were to be any delays in implementation of the IAHC plan, it is quite conceivable, that's all he says, quite conceivable, which is, I think, speculative, that a point could be reached where the new dot com names are not available, because either NSI -- the NSI cooperative agreement has expired, or there is no meaningful number of domain names that are available.

To say that dot web is generic and to look at, for example, the declaration by Diane Ozaki, relative to the --

THE COURT: The number of uses of web?

MR. WALTER: Yes.

THE COURT: Yes. I saw that.

MR. WALTER: The critical point to keep in mind here is that we're not talking about the use of web, we're talking about the use of dot web.

THE COURT: Yes. Forgive me. I shouldn't have used the term "web" so loosely. I should have said "dot web."

It will take me time.

MR. WALTER: No. Understood. And it's not -- And I'm not referring to your Honor's comments. I'm referring really to the declaration itself, which is not a search for dot web at all, it's a search for web itself on the Internet, which would include spider's webs, Charlotte's webs, all types of different usages that have absolutely no relationship or bearing to this case. It sounds like an intriguing concept to call it -- to call "web" generic, but we're talking about dot web. And in fact, you can't even do a search on Lexus for dot web, because -- I tried yesterday, because of the fact that the dot at the beginning of the term is not searchable. If it's a dot in the middle of a term where it's embedded, it is searchable. So, that declaration tells the Court nothing about the use of dot web.

We then have different references to Mr. Heath's declaration. I think I've already addressed the foundational question that we have regarding the adequacy of that declaration.

One of the arguments that the IHC makes is that the commerce clause, in effect, bars any preliminary injunction in this case. And the primary case that they rely upon is Partee vs. San Diego Chargers Football Company, a 1983 decision at 34 Cal3d 378. And they cite that for the purpose of arguing that the Cartwright Act did interfere with interstate commerce, in terms of regulating professional football.

There is, however, in footnote four at the end of that opinion, a very clear statement that this opinion has a limited scope. The Cartwright act remains vital. We do not mean to suggest the multi-state activities of other businesses may not be subject to state regulation upon due consideration of the commerce clause. Our holding is limited to the issue directly before us, the inapplicability of the Cartwright Act to professional football.

The Cartwright Act since has been interpreted, since Partee, by the way, as repeatedly holding that it is not preempted by the Sherman Act. And the Amaril (phonetic) case, 202 CalApp3d 137 is an example of that. So, I don't believe that the commerce clause argument is a basis for the Court to refrain from exercising jurisdiction.

Now, the International Ad Hoc Committee's points and authorities on page five indicate that a contract cannot be restrained of trade. And they cite the case of Kim vs. Cervos Naks, Inc., the citation I believe to be incorrect for the authority cited.

On page 1361 of that decision, the Court does not say that an agreement cannot be restrained of trade. Instead, it says the Cervo net agreement, of course, did involve some restraint on trade because it prohibited others from selling in the cafeteria. So, it does not stand for the proposition that an agreement itself cannot be restrained of trade. The Court goes on and says that was a reasonable agreement.

There is also no reply at all, factually or

otherwise, that the taking of dot web does not constitute unfair competition under section of the Business and Professions Code 17200. There is simply -- That is overlooked altogether.

This agreement itself ends up then being the product of one trade association, if you will, the product in conjunction with some international organizations who apparently have no authority from the member states to do what they have done. It ends up concentrating the power of -- even the power to amend within the hands of a very, very few people, rather than opening up the market and letting the registrars determine if they can compete.

I would also suggest that the foreign reach of the Cartwright Act is also well established, that just because an activity is engaged in offshore does not limit the applicability of the Cartwright Act. And the Amarel case that I think I made reference to earlier, is clear in that regard, because it dealt with the sale of rights to South Korea. And the claim was that the act did not include that kind of foreign dealing.

There is, I think, also nothing within the declarations to counter the statements by Mr. Stefferoute (phonetic), who is widely considered to be one of the founding fathers, if you will, of E-mail, that a lottery system itself will, by its very operation, exclude the most qualified competitors. They're selected by chance. And so, I certainly appreciate all of the Court's time and effort in going through this matter, but it strikes me that at this

juncture there really is not sufficient competent evidence to deny the order to show cause out of hand.

THE COURT: Well, I -- you used the term, "out of hand." I gave what I consider to be an appropriate amount of consideration to whether, in view of the fact that I -- my tentative ruling is to deny the request for a TRO, whether to set the matter for an order to show cause. This case is unusual in many respects, not just in the substantive respect, the content, but in terms of the procedural posture.

When I first encountered this case at the ex parte proceeding earlier this week, I hadn't really read the papers, but I had some idea after our informal discussion in chambers, of the nature of the relief sought, and did something that is somewhat unusual for a temporary restraining order application in several respects. One, I allowed, rather than stand on ceremony, or of the Superior Court rule, limiting to 15 pages, I indicated I would read your 40 plus page brief. And this is -- I hope you don't take it as a criticism, in reviewing the brief, when I looked at the number of single spaced references, mostly to the declarations that were contained -- that were attached as -- in support of the application, by the way, which is a violation of the Superior Court rules, you're not permitted to single space references, you probably came up with 60 to 70 actual pages if I really -- I didn't have the interest or the time in doing a proper calculation. But I assure you that you got about 60 pages worth in your moving papers, not

to mention the multiple declarations and the cases that I felt were appropriate that I read. That's what unusual aspect to the consideration of whether to set the matter for an OSC re preliminary injunction.

And secondly, this is a case where I have afforded the Defendants the opportunity to file further supplemental briefs. I believe that the matter is -- the issues are joined. I gave consideration to whether I felt anything more in the way of admissible competent evidence would be provided. And those are certainly two of the considerations in my coming to the conclusion that I didn't feel that it would be appropriate to set it for an OSC re preliminary injunction. I believe that it would be not an appropriate necessary use of the Court's time just on those grounds alone, not to mention the substantive reasons.

Would either of you like to respond to Mr. Walter's remarks?

MR. DAUCHER: Your Honor, I don't have a direct response to those remarks, no. But I do have one procedural thing to raise.

THE COURT: Yes?

MR. DAUCHER: I'm hoping that we can make an arrangement for this case to be dismissed after this hearing. But assuming that's not true, there are rules that we all play by when we do this. And I'm not even speaking of the 41 pages. I thought it appropriate that we not have Plaintiff go back and re-draft his papers to get down to 15, whatever --

THE COURT: No. I agree. I thought it would not be productive.

MR. DAUCHER: I thought Ms. Posner and I remember the conversation in chambers the same way. And that is that counsel asked, "Can I submit more papers?" The answer to that was, "No," in chambers.

THE COURT: That's true.

MR. DAUCHER: The time was to allow the Defendants to submit what we submitted. We filed those in accordance with the time schedule and the rules.

At 3:53 yesterday afternoon, I got the supplemental declaration of Mr. Walter.

Now, I'm not moving at this time that that be stricken, or anything of the sort. But what I am suggesting is that if this case goes on, which I certainly hope it doesn't, that we've all got to start playing by what the orders and the rules are here. Otherwise, we're going to have a lot more problems downstream.

MR. LEVI: Your Honor, from our perspective, I'm happy to address any of Mr. Walter's points that you feel you need further elucidation on or argument on. If not, then I think our papers and the arguments made therein speak for themselves.

THE COURT: Well, there's only one thing that really drew my attention, the question of whether or not there is a protectable property interest in dot web. The analogy that was -- that's been used has been to that of an area code. I think I see why the analogy fails, though I'm not sure.

Maybe you can enlighten me.

MR. LEVI: Sure, your Honor. The idea behind the way the Internet domain name system works is that the generic top level domain names, dot com and the ones that are being proposed are really nothing more than database listings, directory listings, so that a user can find the site that he or she is looking for. If individuals were to own those, and there were to be no central control over those, then the system -- the database system, the directory system would fall apart.

There is a proprietary interest, arguably, in domain names when you take them as their entire string, in that --

THE COURT: You're talking about the second level?

MR. LEVI: The second level domain --

THE COURT: Yes.

MR. LEVI: -- in that, for example, we have our law firm, "Skadden.com," and we'd argue that we own "Skadden." We'd never argue that we own dot com, nor any other generic top level domain name, nor is it really conceivable how any one entity could exercise that sort of control on how the system flows.

MR. DAUCHER: Your Honor --

THE COURT: Yes?

MR. DAUCHER: -- I might make one further response to that question.

There is evidence in the record that it's the understanding of the Internet community that there is no

protectable property interest in the top level domain names, and that's found in Exhibit A to Mr. Postel's declaration, his draft procedures under which their first application -- they claim their first application was submitted.

Now, at page 11 of that, under "trademarks," is the following language. And this is in our papers, too, but that language I think reflects the understanding of the Internet community, reflects what Mr. Levi just said, which is,

> "Domain names are intended to be an addressee mechanism and are not intended to reflect trademarks, copyrights, or other intellectual property rights."

I believe that's the understanding of the Internet community. That's the answer.

THE COURT: Anything further? All right. I'm prepared to rule.

One, I find that the Plaintiff, Image Online, has not met its burden of proof to establish a reasonable likelihood of prevailing on the merits of Image Online's claims at the time of trial. Those claims are really -- there are three different claims or categories of claims. One is the breach of contract theory.

There's insufficient evidence presented to support that there was an enforceable agreement that was entered into between Plaintiff and the Defendants.

What's most interesting about the breach of contract/estoppel claim is that the claim made is that there

was a contract entered into, or that the Defendant should be estopped from denying that a contract was entered into with an entity that the Plaintiff claims has no authority to act. And in drawing that conclusion, I don't mean to oversimplify and sound cute about the inconsistency, but there's a real internal inconsistency in the breach of contract position and again, the failure to establish the elements of a contract.

The second category of claims really has to do with the unfair competition. There we have the claim of Image Online that they have a proprietary and protectable interest in dot web.

I find the evidence insufficient to support either factually, or as a matter of law, that the Plaintiff has established that it has protectable proprietary interest in the term -- or the word -- term "dot web," considering the nature of the interweb and the usage of the term, vis a vis, the interweb -- the Internet.

The third category has to do with the anti-competition, the anti-trust theories. Here, I find that the evidence provided by the Defendants supports the Defendant's claim that the proposed memorandum of understanding -- I don't know if it's a fait accompli at this point. I realize the meaning is taking place now, or may be concluded, but at least for my purposes is a proposed memorandum of understanding. As I understand the memorandum of understanding, the memorandum is promotive of competition. And I would categorize it as pro competition. It's purpose

is certainly -- does not appear to be to stifle competition. And even assuming that the elements of the combination have been established, at least for the purposes of the temporary restraining order application, any appropriate application of the anti-trust rule of reason considering, as applied to the Internet, suggests to me that there's certainly justification for the combination acting as it is. And in particular, it's very difficult for me to ignore the evidence before me that those that are involved, at least these Defendants, have no proprietary or profit motive in their undertakings, whereas the Plaintiff has.

Furthermore, I find that the evidence is just not sufficient to support the claim of the Plaintiff, that either any of these Defendants, whether it be the IANA or the Ad Hoc Committee, or the Internet Society are acting in an anti-competitive manner.

There again, the anomaly we have here is that if the Plaintiff had its way, it would be willing to enter into an agreement with a combination that it believes is acting to restrain trade.

I further find that if the Plaintiff does have legal rights against any of these Defendants, that their remedy, if any, is -- can be compensated in monetary damages.

There's also been a failure on the Plaintiff to establish irreparable harm justifying the imposition of injunctive relief. Even assuming if I'm -- that my analysis is incorrect that the Plaintiff does not have an adequate

legal remedy, that's to say monetary damages, what I have done is -- what I'm obligated to do, and that is to weigh the equities and consider the harm to the Plaintiff if injunctive relief is not granted versus the harm to the Defendants, and each and all of them, if injunctive relief is granted. And when I refer to Defendants, "and each and all of them," I'm referring, even though the Internet itself -- I don't know how you could make the Internet itself a Defendant, but I -- what I've considered in terms of the damage to the Defendants, by extension, is the damage to the Internet system. And I've weighed the respective harms if I don't grant injunctive relief as the Plaintiff requested, and the harm if I do.

And the disruption to the Internet -- to the -- and the potential destabilization and disruption to the Internet so far outweighs the potential harm that there is harm to the Plaintiff, that frankly, I don't even think it's a close call when I weigh the equities and find the equities favor not granting injunctive relief.

And I must tell you, notwithstanding, Mr. Walter, your argument in connection with the extent of the interstate commerce clause and the ability of the Cartwright Act, to act as a long arm of California law and extend overseas, I do have, as I understand, the -- and it's not that I came upon this myself, it's clearly in one of the briefs, the reference to the -- to what appears to be congressional policy, although not the force of law, but that congress prefers that the Internet not be fettered with

the -- with governmental regulation, either by the federal government or the state government.

I do have a great deal of concern about a California trial court involving itself when considered with all the other -- the global implications, the fact that -- of the Internet, the fact that there is no, per se, regulatory body, I concern myself when I gave consideration to the matter of potential disruption of the Internet and destabilization of the Internet to the question of whether or not there ought to be enforcement of a state law in this case, 17200 of the Business and Professions Code or, for that matter, the Cartwright Act, to the activities of the Internet. It certainly caused me to hesitate as to the appropriateness, in view of what appears to be clear cut congressional policy.

So, for all of those reasons, the temporary restraining order is denied. And for the reasons that I've indicated earlier, I don't feel it's appropriate to set this matter for an order to show cause re preliminary injunction. That should take care of it.

MS. POSNER: Thank you very much.

MR. DAUCHER: Thank you, your Honor.

THE COURT: I'd like one of the Defendants to give notice, written notice of ruling.

MS. POSNER: I'll give notice, your Honor.

(Proceedings in the above-entitled matter were concluded.)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. WE D HON. ALAN B. HABER, JUDGE

IMAGE ONLINE DESIGN, INC., ETC.,

Plaintiff,

vs. No. SC 046 960

INTERNET ASSIGNED NUMBER AUTHORITY, et al.,

Defendants.

STATE OF CALIFORNIA )
) ss.
COUNTY OF LOS ANGELES )

I, HORACE W. BRIGGS, a duly designated transcriber, do hereby declare and certify under penalty of perjury that I have caused to be transcribed the portion of tape 1 which was duly recorded in the Superior Court of the State of California, County of Los Angeles, Department WE D, on the 1st day of May, 1997, in the above-mentioned case, and that the foregoing 22 pages comprise a true and correct, accurate transcription of the aforementioned tape.

Dated this 9th day of May, 1997.

Horace W. Briggs
Transcriber