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9
10 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
11 IN AND FOR THE COUNTY OF LOS ANGELES

12
13 KARL AUERBACH, an individual,
14 Petitioner,
15 v.
16 INTERNET CORPORATION FOR
17 ASSIGNED NAMES AND NUMBERS, a
18 California Nonprofit Public Benefit
19 Corporation,
20 Respondent

) Case No.: BS 074771
)
)
)
) *D*
) ~~PROPOSED~~ PEREMPTORY WRIT OF
) MANDAMUS
) [THE HONORABLE DZINTRA JANAUS]
) HEARING DATE: July 29, 2002
) TIME: 9:30 a.m.
) DEPT: 85
)
)

BY FAX

21 The people of the State of California

22 To INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

23 (ICANN), Respondent:

24 Judgment having been entered in this action, ordering that a peremptory writ of
25 mandamus be issued from this Court.

Filed By
Fax & File

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YOU ARE HEREBY COMMANDED ~~immediately~~ ^{SD} upon receipt of this writ to ~~take the~~

~~immediately to make available to Petitioner for inspection and copying~~ ^{as follows} all corporate records of

Respondent ~~which Petitioner sets forth in Paragraph 16 of his Petition (as follows), or which~~

~~Petitioner may request access to from time to time, as follows:~~

a. All requested documents that ICANN believes are not confidential (that is, subject to legal privilege, privacy interests or legitimate corporate confidentiality concerns) and that currently exist in electronic format shall be sent in electronic form by ICANN to counsel for Petitioner no later than ~~close of business~~ ^{noon} on August 2, 2002

b. All requested documents that ICANN believes are not confidential that do not currently exist in electronic form shall be made available to Petitioner for physical inspection and copying ^{as reasonable, SD} at ICANN's offices no later than Friday, August 9, 2002.

c. All requested documents that are confidential shall be made available to Petitioner for physical inspection and to request copies at ICANN's offices no later than Friday, August 9, 2002. ICANN shall clearly indicate which of its specific records it reasonably believes are confidential (or which portions of documents) and on what basis it makes this claim. For instance, ICANN shall mark correspondence with its attorneys about specific litigation as "Confidential-Privileged."

d. Should Petitioner wish to disclose records marked by ICANN as confidential to anyone ~~outside~~ ^{other than designated} his agents and advisors, he shall give ICANN notice 10 calendar days prior to such disclosure. ICANN may

SD
SD

1 then seek ~~immediate~~ relief from this Court ^{during the 10 day period.} No particular form of notice is
2 required, ~~as long as~~ ^{but} the notice ^{must} clearly indicate which confidential
3 documents Petitioner wishes to disclose. Notice ~~may~~ ^{must be in writing and by} be given by
4 facsimile or e-mail to ICANN's ~~President~~ ^{General} or counsel ^{and outside counsel.}

5 Paragraph 16 of the Petition includes the following records ^{and ordered produced}
6 ^{this writ:}

- 7 a. ICANN's General Ledger reports (chart of accounts, transaction journal,
8 and account balances) from corporate inception to the present (or as close
9 to present as is reasonably feasible.)
- 10 i. These reports should include, at a minimum, the following
11 standard accounting reports.
- 12 (1) Chart of Accounts
- 13 (2) The daily transaction journal showing for each account in the
14 chart of accounts all amounts and transactions that have been
15 debited or credited to that account.
- 16 b. Any supplemental accounting ledgers showing all funds or financial
17 obligations held by ICANN but not listed in the General Ledger. This
18 would include, but is not limited to, accounting ledgers pertaining to
19 entities such as IANA, the Domain Name Supporting Organization
20 (DNSO), and the Government Advisory Committee (GAC).
- 21 c. With regard to employee hiring and employee policies:
- 22 i. The corporate employee handbook, if any.
- 23 ii. All materials, if any, that an employee of ICANN is expected to
24 enter into when he or she is hired. These would include, for
25

1 example, offer letter forms that are typically used, employment
2 agreements, intellectual property agreements, non-disclosure
3 agreements, and the like.

4 d. With regard to ICANN's law firm:

- 5 i. Engagement letters
- 6 ii. Conflict notices and requests for waivers that have been received
7 from the law firm.
- 8 iii. Waivers granted by ICANN to the law firm.
- 9 iv. Detailed invoices from the law firm since the inception of the
10 corporation.
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e. Logs of all international travel not directly associated with one of the regular public meetings made by ICANN officers other than the President from January 1, 2001 until the present (or as close to present as is reasonably feasible).

_____, Clerk
By _____, Deputy Clerk

LET THE FOREGOING WRIT ISSUE.

Dated: 8/5/02

[Signature]
JUDGE OF THE SUPERIOR COURT

Approval as to form:

Attorneys for Respondent ICANN