

1 PERRY R. CLARK, State Bar No. 197101
2 Law Offices of Perry R. Clark
3 3457 Cowper St.
4 Palo Alto, CA 94306
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 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA

13 PETROLIAM NASIONAL BERHAD,)
14)
15 Plaintiff,)
16)
17 vs.)
18)
19 PETRONASTOWERS.NET, an internet domain)
20 name,)
21)
22 Defendant.)
23)
24)
25)

E-FILING
ADR Filed
JUL 12 2010
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE
#9
jepp
NP

CASV 1:0-cv-03052
EDL
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 PETRONASTOWERS.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 2. Defendant PETRONASTOWERS.NET is an internet domain name that serves as
9 the internet address for a website displaying obscene and highly offensive content. Plaintiff
10 Petronas has not authorized the use of its United States Trademark “PETRONAS” or any other of
11 its marks in connection with the domain name PETRONASTOWERS.NET or the associated
12 website.

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

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

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

21 **JURISDICTION AND VENUE**

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

1 7. This Court has *in rem* jurisdiction over the defendant domain name
2 PETRONASTOWERS.NET under 15 U.S.C. § 1125(d).

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

6 **INTRADISTRICT ASSIGNMENT**

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

9 **FACTUAL ALLEGATIONS**

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

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

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

1 Petronas and house the offices of many other major foreign and domestic corporations, including
2 IBM, Microsoft, Boeing, McKinsey & Co., and Reuters. The Petronas Twin Towers and the
3 adjoining Suria KLCC mall complex house some of Malaysia's leading cultural facilities,
4 including an art museum (the Petronas Gallery), a symphony hall (the Petronas Philharmonic Hall,
5 home to the Malaysian Philharmonic Orchestra), a science and technology discovery center
6 (Petrosains), and a world-class aquarium (Aquaria KLCC, located in the adjoining Kuala Lumpur
7 Convention Center).

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

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

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

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

22 17. Petronas also uses the PETRONAS mark for the domain name associated with its
23 official Petronas Twin Towers website containing information about the Petronas Twin Towers,
24 "www.petronastwintowers.com.my." As with the Official Petronas Website, Petronas owns other
25

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

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

18 22. Plaintiff Petronas has been unable to locate the registrant of the
19 “WWW.PETRONASTOWERS.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
22 “PETRONASTOWERS.NET” domain name, at the postal and email addresses he or she provided,
23 on information and belief, to the registrar, Go Daddy, as set forth above. Petronas also attempted
24
25

1 to provide such notice by telephoning the telephone numbers in the Go Daddy records but calls
2 placed to those telephone numbers were not answered.

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

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

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

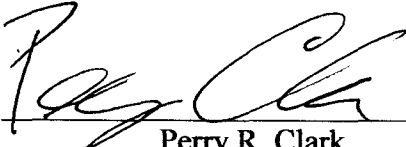
9 25. Petronas has been unable to find (or establish personal jurisdiction over) the
10 registrant of the domain name "PETRONASTOWERS.NET" by using the diligence described in
11 15 U.S.C. §§ 1125(d)(2)(A)(ii)(II)(aa).

12 **RELIEF SOUGHT**

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

- 14 1. The Court issue an order that Go Daddy, as the domain name registrar immediately
15 transfer all right, title, and interest in the domain name "PETRONASTOWERS.NET" to Petronas;
16 2. Alternatively, the Court issues an order forever cancelling the domain name
17 "PETRONASTOWERS.NET."

18 Dated: July 12, 2010


19
20
21 By: 
22 Perry R. Clark
23 Attorneys for Plaintiff
24 Petroliam Nasional Berhad
25

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

JURY DEMAND

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

Dated: July 12, 2010

By: 
Perry R. Clark
Attorneys for Plaintiff
Petroleum Nasional Berhad