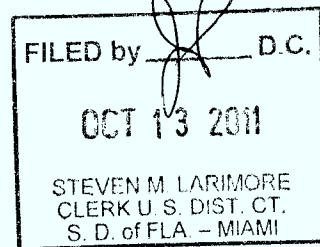


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 11-14052-CIV-MARTINEZ-LYNCH



JOHN ZUCCARINI,	)
	)
Plaintiff,	)
	)
v.	)
	)
NETWORK SOLUTIONS, LLC,	)
a Delaware Limited Liability Company;	)
NAMEJET, LLC,	)
a Delaware Limited Liability Company;	)
INTERNET CORPORATION	)
FOR ASSIGNED NAMES	)
AND NUMBERS, INC.	)
a California non-profit Corporation;	)
	)
Defendants.	)
_____	)

**PLAINTIFF’S MOTION TO COMPEL THE INTERNET CORPORATION  
FOR ASSIGNED NAMES AND NUMBERS, INC., TO PROVIDE REPSONSIVE  
ANSWERS TO INTERROGATORIES, MEMORANDUM OF LAW IN SUPPORT,  
AND PROPOSED ORDER**

Plaintiff, John Zuccarini (“Zuccarini”) pursuant to Fed.R.Civ.P. 37(a), moves the Court to enter an order to Compel the Internet Corporation for Assigned Names and Numbers, Inc. (“ICANN”). to Provide Responsive Answers to the First Set of Interrogatories. As grounds for his motion, Zuccarini states as follows:

**BACKGROUND**

1. Plaintiff, Zuccarini, filed suit against ICANN for negligence in relation to the wrongful auctioning of fourteen domain names from which Zuccarini, as a beneficiary of a California receivership received little or no compensation towards amounts owed by Zuccarini to

creditors from the auctioning of the fourteen domain names, as intended by the receivership.

2. On August 27, 2011, Plaintiff propounded his First Set of Interrogatories upon ICANN. Such interrogatories are numbered 1 through 25.

3. On September 29, 2011, ICANN provided insufficient responses to Plaintiff's Initial Interrogatories through "Objections to Definitions", "General Objections" and Boiler Plate Objections in which ICANN contends lack of specificity, but which Plaintiff believes are pointedly specific and necessary to understand ICANN's role in the negligence alleged by the Plaintiff in this action. In an Order just recently issued by the Southern District of Florida on August 16, 2011 in, *Motorola Mobility Inc., vs. Microsoft Corporation, Case No. 10-24063-CIV-MORENO-BROWN (S.D.Fla.)*, the Court addressed this issue by stating: "*Parties shall not make nonspecific, boilerplate objections. Such objections do not comply with Local Rule 26.1 G 3(a) which provides "Where an objection is made to any interrogatory or sub-part thereof or to any document request under Fed.RCiv.P. 34, the objection shall state with specificity all grounds."* (Exhibit A, page 1, ¶ 3)

4. ICANN also objected to providing any direct or substantive information to many of the 25 questions based on the claim that their motion to dismiss has not been ruled upon. Federal Rule of Civil Procedure and Local Rules do not acknowledge this objection as a reason to avoid direct and substantive answers to Interrogatories, without a direct order from the Court.

5. The end result of ICANN's responses is that ICANN objected to every one of the 25 questions and provided no direct or substantive information in any of the 25 answers, as requested by Zuccarini.

6. During the time this action has been in progress two separate motions to delay discovery till ICANN's motions to dismiss have been ruled upon, have been filed with the Court.

As of this date no ruling has been issued for either of those motions. Plaintiff has tried to cooperate the best he could in delaying request for discovery in consideration of ICANN's motions to delay discovery. Plaintiff though can wait no longer for essential discovery as the date for discovery deadline is November 30, 2011, therefore Zuccarini finds it necessary to file this motion to compel.

7. Zuccarini also feels that ICANN has taken advantage of Zuccarini's delaying request of discovery by amazingly not directly answering any of Zuccarini's 25 questions in his First Set of Interrogatories, but rather objecting to every question submitted to ICANN in one form or another.

8. On October 3, 2011, Zuccarini sent two email messages to counsel for ICANN, asking in the first message if ICANN would like to modify their responses to the first set of Interrogatories based in the fact that ICANN provided no direct of substantive information in any of the 25 responses. To also modify their responses in consideration of the Order just recently issued by the Southern District of Florida on August 16, 2011 in, *Motorola Mobility Inc., vs. Microsoft Corporation, Case No. 10-24063-CIV-MORENO-BROWN (S.D.Fla.)*. (Exhibit A)

9. In the second email sent to ICANN on October 3, 2011, Zuccarini also stated that he had contacted the Court to try and find out if there was any indication ICANN's motion to dismiss would be ruled upon within the next two weeks. Zuccarini was told there was no certainty this would be done, and that it was possible the motions to dismiss would not be ruled upon till shortly before the November 30, 2011 discovery deadline. In consideration of this information Zuccarini again asked ICANN if they would modify their responses to Zuccarini's First Set of Interrogatories.

10. On October 4, 2011, counsel for ICANN notified Zuccarini that counsel hoped to

have an answer from ICANN on October 5, 2011 as to whether ICANN intended to modify their responses in light of Zuccarini's view that ICANN's responses were inadequate. No response was received by Zuccarini on October 5<sup>th</sup>. On October 7, 2011 Zuccarini sent counsel for ICANN an email message asking counsel to call Zuccarini to discuss this issue if they desired as Zuccarini intended to file a motion to compel against ICANN the following week. As of this date, October 10, 2011, Zuccarini has received no further notification from counsel for ICANN as to whether ICANN intends modify their responses and provide Zuccarini with the relevant and substantive information requested in the First Set of Interrogatories.

11. ICANN should now be ordered to comply with the Interrogatories.

12. Plaintiff Zuccarini hereby certifies that he has conferred with counsel for ICANN in a good faith effort to resolve the issues raised in the foregoing Motion to Compel, but has been unable to do so. S.D. Fla. Local Rule 7.1(A)(3).

13. Plaintiff, John Zuccarini respectfully requests this Court to enter an Order compelling ICANN to comply with Plaintiff's Motion to Compel Responsive Answers to Interrogatories.

#### **MEMORANDUM OF LAW**

Plaintiff Zuccarini, in this memorandum of law addresses ICANN's objections to the First Set of Interrogatories. Zuccarini addresses the objections in chronological order.

#### **Zuccarini Request for Discovery as stated in Definitions.**

(a) The words "you," "yours" and/or "yourselves" means the Internet Corporation for Assigned Names and Numbers, Inc. and any directors, officers, employees, agents, representatives or other persons acting, or purporting to act, on behalf of the Internet Corporation for Assigned Names and Numbers, Inc.

**ICANN Objections to Definitions.**

ICANN objects to the definition of the terms "you," "your," and "yourselves" set forth in Paragraph (a) of the Interrogatories in that it collectively refers to ICANN, together with all of its directors, officers, employees, agents, representatives or other persons acting, or purporting to act, on behalf of ICANN, on the grounds that such an expansive use imposes a burden greater than what is required by the Federal Rules of Civil Procedure and makes the Interrogatories overly broad, unduly burdensome, and/or not otherwise reasonably calculated to lead to the discovery of evidence relevant to the claims or defenses of the parties. ICANN will respond to the Interrogatories only on behalf of itself and those individuals acting on its behalf with respect to matters alleged in this action.

**Zuccarini Response to ICANN Objections to Definitions.**

In the preface to the 25 Interrogatory questions Zuccarini provided definitions to be referenced by ICANN in answering the interrogatories. Zuccarini provided an exact duplicate of the language related to "you," "your," and "yourselves" as provided in APPENDIX B. STANDARD FORM INTERROGATORIES, (page 115, ¶ 1), as it appears in Local Rules, United States District Court for the Southern District of Florida, revised April 2011.

**Zuccarini Request for Discovery as Stated in all 25 Interrogatories.**

Zuccarini requested ICANN to answer 25 Interrogatories. All 25 Interrogatories will be provided throughout this memorandum of law. ICANN objected to all 25 Interrogatories by "General Objections."

**ICANN Objection to all 25 Interrogatories by General Objections.**

ICANN objects to each and every Interrogatory on the basis of the following General Objections, which are incorporated into ICANN's responses to each Interrogatory as if fully

rewritten therein:

A. Expansion of Obligations Under the Federal Rules of Civil Procedure ICANN objects to each and every Interrogatory on the grounds, and to the extent that it is inconsistent with, or enlarges upon, ICANN's obligations in responding to the Interrogatories as imposed by the Federal Rules of Civil Procedure or the Local Rules.

B. Privileged or Protected Material ICANN objects to each and every Interrogatory on the grounds, and to the extent that it seeks information: (a) that is protected from discovery pursuant to the attorney-client privilege, joint defense privilege, attorney work product doctrine, or any other applicable privilege; (b) that was prepared in anticipation of litigation; or (c) that is otherwise protected from disclosure under the Federal Rules of Civil Procedure, relevant federal procedural rules, or relevant case law.

C. Proprietary or Confidential Information ICANN objects to each and every Interrogatory on the grounds, and to the extent that it seeks proprietary or confidential information or trade secrets, disclosure of which would be prejudicial to ICANN, its customers, suppliers, vendors, any witness testifying on behalf of ICANN, the clients of such witness, or the person or persons who provided the information to ICANN, or to a third party to which ICANN owes a duty of confidentiality. Any such information ICANN does provide will be subject to an appropriate Stipulated Protective Order entered by the Court.

D. Third Party Privacy Rights ICANN objects to each and every Interrogatory on the grounds, and to the extent that it calls for the disclosure of information that contains confidential and private information of a third party, or the joint confidential information of ICANN and a third party. ICANN will not disclose such information until the third party has been notified of such request and the third party has consented to the disclosure of the

information requested.

E. Relevance ICANN objects to each and every Interrogatory on the grounds, and to the extent that it seeks information that is neither relevant to the subject matter of the pending proceedings, nor reasonably calculated to lead to the discovery of admissible evidence, or that otherwise falls outside the scope of discoverable information under Rule 26 of the Federal Rules of Civil Procedure.

F. Undue Burden Because the Interrogatories are overly broad and seek irrelevant information, they place an undue burden on ICANN.

G. Over Breadth ICANN objects to each and every Interrogatory on the grounds, and to the extent that it is overly broad.

H. Annoyance, Harassment or Oppression ICANN objects to each and every Request on the grounds, and to the extent, that it is designed to cause undue annoyance, harassment, or oppression.

I. Vagueness And Ambiguity ICANN objects to each and every Interrogatory on the grounds, and to the extent that it is vague or ambiguous, or both, and, as such, would require ICANN to speculate as to the meaning of the Interrogatory.

J. Information Otherwise Available ICANN objects to each and every Interrogatory on the grounds, and to the extent that it calls for the disclosure of information that is readily accessible to plaintiff or is in publicly available material, the public record, other defendants' files, or plaintiff s files.

**Zuccarini Response to ICANN Objections to all 25 Interrogatories by General Objections.**

Zuccarini objects to the use by ICANN of nonspecific, boilerplate objections within

ICANN's "General Objections". The "General Objections" do not address with specificity why a particular interrogatory is objectionable. Such objections do not comply with Local Rule 26.1 G 3(a) which provides *"Where an objection is made to any interrogatory or sub-part thereof or to any document request under Fed.RCiv.P. 34, the objection shall state with specificity all grounds."*

**INTERROGATORIES 1-9.**

Zuccarini provides Interrogatories 1-9 and addresses ICANN's objections to those interrogatories. ICANN's objections to Interrogatories 1-9 are identical except for referencing by number, a specific interrogatory within two of their responses. Objection 2 references Interrogatory 1. Objection 5 references Interrogatory 4.

1. Do you have a policy that requires you conduct mandatory periodic reviews of the performance of the domain name registrars that you accredit?

2. If your answer to interrogatory number 1 was yes, please state how often you conduct those reviews.

3. If your answer to interrogatory number 1 was no, please state why you do not have a policy that requires you conduct mandatory periodic reviews of the performance of the domain name registrars that you accredit.

4. If you do not have a policy that requires you conduct mandatory periodic reviews of the performance of the domain name registrars that you accredit, do you ever conduct a review of the performance of any domain name registrar that you accredit for any reason?

5. If your answer to interrogatory number 4 was yes, please state each and every reason why you would conduct a review of a domain name registrar that you accredit.

6. Have you ever conducted a review of the performance of Network Solutions,



LLC, either through a mandatory review or a review for any other reason?

7. If your answer to interrogatory number 6 was yes, please state all of the dates and circumstances that prompted you to conducted a review of the performance of Network Solutions, LLC.

8. With reference to your answer to interrogatory number 7, please state the outcome of all the reviews of the performance of Network Solutions, LLC.

9. With reference to your answer to interrogatory number 7, please identify all the documents associated with any review of the performance of Network Solutions, LLC.

**ICANN Objections to Interrogatories 1–9.**

ICANN incorporates by reference its General Objections.

ICANN specifically objects to this Interrogatory because the phrase "the performance of the domain name registrars that you accredit" is vague and ambiguous, and thus is not reasonably specific and is in fact so broad as to make arduous the task of readily identifying the information plaintiff seeks. ICANN further objects to this Interrogatory on the grounds that it seeks information: (a) that is protected from discovery pursuant to the attorney--client privilege, joint defense privilege, common interest privilege, attorney work product doctrine, or any other applicable privilege; (b) that was prepared in anticipation of litigation; or (c) that is otherwise protected from disclosure under the Federal Rules of Civil Procedure or relevant case law. ICANN further objects to this Interrogatory on the grounds that it seeks information wholly unrelated to Plaintiff and not connected to the allegations in the Amended Complaint and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ICANN further specifically objects to this Interrogatory on the grounds that ICANN has asserted the defenses of lack of personal jurisdiction and improper venue in its

motion to dismiss and motion to stay discovery pending resolution of its motion to dismiss. ICANN's motions are currently pending. Discovery is premature at this time.

**Zuccarini Response to ICANN Objections to Interrogatories 1-9.**

Zuccarini states his response to ICANN'S objection by "General Objections" to Interrogatories 1-9, as in, **2. Zuccarini Response to ICANN Objections to all 25 Interrogatories by General Objections.**

Zuccarini objects to ICANN's characterizations of Interrogatories 1-9 being "*vague and ambiguous, and thus is not reasonably specific and is in fact so broad as to make arduous the task of readily identifying the information Plaintiff seeks.*" Objections which state that a discovery request is "vague, overly broad, or unduly burdensome" are, by themselves, meaningless, and are deemed without merit by this Court. A party objecting on these bases must explain the specific and particular ways in which a request is vague, overly broad, or unduly burdensome. *See Fed. R. Civ. P. 33(b)(4); Josephs v. Harris Corp, 677 F.2d 985, 992 (3d Cir. 1982), ("the mere statement by a party that the interrogatory was overly broad, burdensome, oppressive and irrelevant' is not adequate to voice a successful objection to an interrogatory. ")*.

ICANN asserts that Plaintiff seeks information: (a) that is protected from discovery pursuant to the attorney-client privilege, joint defense privilege, common interest privilege, attorney work product doctrine, or any other applicable privilege. Zuccarini disagrees with ICANN's assertion as ICANN's objection is general in nature and non specific to any of the interrogatories.

This issue was also addressed in, *Motorola Mobility Inc., vs. Microsoft Corporation, Case No. 10-24063-CIV-MORENO-BROWN (S.D.Fla.)*. "*Generalized objections asserting 'confidentiality,' attorney-client privilege or work product doctrine do not comply with local*

*rules. Local Rule 26.1 G 3(b) requires that objections based upon privilege identify the specific nature of the privilege being asserted, as well as identifying such things as the nature and subject matter of the communication at issue, the sender and receiver of the Local Rule 26.1 G 3 (b) carefully, and refrain from objections in the form of: "Objection. This information is protected by attorney/client and/or work product privilege." If such an objection is made without a proper privilege log attached, it shall be deemed a nullity. (Exhibit A, page 1, ¶ 4)*

Throughout Interrogatories 1-9 ICANN claims Zuccarini seeks information that, *(b) was prepared in anticipation of litigation*. Zuccarini disputes this claim as the information requested is believed contained within records that are regularly kept in the conduct of ICANN's business.

ICANN states that Zuccarini seeks information that is otherwise protected from disclosure under the Federal Rules of Civil Procedure or relevant case law, yet ICANN does not specifically state why this argument would apply to any of Interrogatories 1-9.

ICANN further objects to Interrogatories 1-9 on the grounds that they seek information wholly unrelated to Plaintiff and not connected to the allegations in the Amended Complaint and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Zuccarini disputes ICANN's reasoning for objecting in the above two paragraphs, as an objection that a discovery request is irrelevant and not reasonably calculated to lead to admissible evidence must include a specific explanation describing why the request lacks relevance, and why the information sought will not reasonably lead to admissible evidence. Parties are reminded that the Federal Rules allow for broad discovery, which does not need to be admissible at trial. *See Fed. R. Civ. P. 26(b)(1); see Oppenheimer Fund Inc. V. Sanders, 437 U.S. 340, 345 (1978); see also Local Rule 26.1 G 3(a).*

ICANN lastly states their objections to Interrogatories 1-9, *“ICANN further specifically objects to this Interrogatory on the grounds that ICANN has asserted the defenses of lack of personal jurisdiction and improper venue in its motion to dismiss and motion to stay discovery pending resolution of its motion to dismiss. ICANN's motions are currently pending. Discovery is premature at this time.”*

F.R.C.P. And Local Rules do not recognize ICANN's assertion that a lack of ruling on their motion to dismiss as reason to not respond to discovery, without a direct court order.

In addition, Local Rules for the United States District Court for the Southern District of Florida, revised April 2011, VI. MOTIONS TO COMPEL OR FOR A PROTECTIVE ORDER, page 113, Item B., state that the filing for a protective order, which is what the motion to stay discovery would be viewed as do not relieve the party of the duty to comply with the discovery requested, as stated in Item B: *“B. Effect of Filing a Motion for a Protective Order. In addition to the procedures and guidelines governing the filing of motions for a protective order, counsel should be aware that the mere filing of a motion for a protective order does not, absent an order of the Court granting the motion, excuse the moving party from complying with the discovery requested or scheduled. For example, a motion for protective order will not prevent a deposition from occurring; only a Court order granting the motion will accomplish this.”*

#### **INTERROGATORIES 10-15.**

Zuccarini provides Interrogatories 10-15 and addresses ICANN's objections to those interrogatories. ICANN's objections to Interrogatories 10-15 are identical to each other.

10. With reference to each affirmative defense you alleged in your answer to plaintiff's complaint, please set forth all facts which support that defense.

11. With reference to each affirmative defense you allege in your answer to plaintiff's

complaint, please identify each person who has knowledge relating to any fact supporting that defense.

12. With reference to each affirmative defense you allege in your answer to plaintiff's complaint, please identify each document relating to that defense.

13. With reference to each denial set forth in your answer to plaintiff's complaint, please set forth each fact upon which you base that denial.

14. With reference to each denial set forth in your answer to plaintiff's complaint, please identify each person who has knowledge of any fact relating to that denial.

15. With reference to each denial set forth in your answer to plaintiff's complaint, please identify each document relating to that denial.

**ICANN Objections to Interrogatories 10-15.**

ICANN incorporates by reference its General Objections.

ICANN further objects to this Interrogatory on the grounds that ICANN has filed a motion to dismiss Plaintiff's Amended Complaint, which motion is still pending before the Court. ICANN therefore has not yet answered Plaintiff's Amended Complaint. ICANN further specifically objects to this Interrogatory on the grounds that ICANN has asserted the defenses of lack of personal jurisdiction and improper venue in its motion to dismiss and motion to stay discovery pending resolution of its motion to dismiss. ICANN's motions are currently pending. Discovery is premature at this time.

**Zuccarini Response to ICANN Objections to Interrogatories 10-15.**

Zuccarini states his response to ICANN'S objection by "General Objections" for Interrogatories 10-15, as in, *2. Zuccarini Response to ICANN Objections to all 25 Interrogatories by General Objections.*

Zuccarini states his response to discovery for Interrogatories 10-15 being premature at

this time as in, *3. Zuccarini Response to ICANN Objections to Interrogatories 1-9.*

**INTERROGATORIES 16-18.**

Zuccarini provides Interrogatories 16-18 and addresses ICANN's objections to those interrogatories. ICANN's objections to Interrogatories 16-18 are identical except for Objection 17 were ICANN references by number Interrogatory 16.

16. Do you have a policy or procedure in effect that would require any domain name registrar that you accredit to place on hold or locked status any domain name that they are aware of which is the subject of ongoing legal proceedings or court orders?

17. If your answer to interrogatory number 16 was yes, please describe that policy or procedure.

18. If your answer to interrogatory number 16 was no, please state why you do not have any policy or procedure in effect that would require a domain name registrar to place a domain name on hold or locked status that is the subject of ongoing legal proceedings or court orders.

**ICANN Objections to Interrogatories 16-18.**

ICANN incorporates by reference its General Objections.

ICANN specifically objects to this Interrogatory because the phrase "subject of ongoing legal proceedings or court orders" is vague and ambiguous, and thus is not reasonably specific and is in fact so broad as to make arduous the task of readily identifying the information Plaintiff seeks. ICANN further objects to this Interrogatory on the grounds that it seeks information wholly unrelated to Plaintiff and not connected to the allegations in the Amended Complaint and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ICANN further specifically objects to this Interrogatory on the grounds that

ICANN has asserted the defenses of lack of personal jurisdiction and improper venue in its motion to dismiss and motion to stay discovery pending resolution of its motion to dismiss. ICANN's motions are currently pending. Discovery is premature at this time.

**Zuccarini Response to ICANN Objections to Interrogatories 16-18.**

Zuccarini states his response to ICANN'S objection to Interrogatories 16-18 by “General Objections”, as in, **2. Zuccarini Response to ICANN Objections to all 25 Interrogatories by General Objections.**

Zuccarini states his response to Interrogatories 16-18 being vague and ambiguous as in, **3. Zuccarini Response to ICANN Objections to Interrogatories 1-9.**

Zuccarini states his response to discovery for Interrogatories 16-18 being premature at this time as in, **3. Zuccarini Response to ICANN Objections to Interrogatories 1-9.**

ICANN also objects as stated: “*to this Interrogatory on the grounds that it seeks information wholly unrelated to Plaintiff and not connected to the allegations in the Amended Complaint and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.*”

Zuccarini disagrees as a policy or procedure in that would require any domain name registrar that ICANN accredits to place on hold or locked status any domain name that the registrar is aware of being the subject of ongoing legal proceedings or court orders is completely relevant and related to this proceeding. Such information would bring to light the possibility whether ICANN and Network Solutions were negligent it not taking action that could have prevented the unauthorized auction of the fourteen domain names that are the subject of this action from taking place.

**INTERROGATORIES 19-21.**

Zuccarini provides Interrogatories 19-21 and addresses ICANN's objections to those interrogatories. ICANN's objections to Interrogatories 19-21 are identical to each other.

19. If you do not have policy or procedure in effect that would require a domain name registrar to place any domain name that is the subject of a legal proceeding or court order on a hold or locked status, did you consider the risk to someone who is a party to that legal proceeding or court order of losing their interest in that particular domain name if it is lost through non-renewal or lost through fraud or theft.

20. If your answer to interrogatory number 19 was yes, please set forth each factor you considered in determining the likelihood that the risk would occur.

21. If your answer to interrogatory number 19 was yes, please set forth each reason you do not have a policy or procedure in effect that would require a domain name registrar to place a domain name or hold or locked status that is the subject of a legal proceeding or court order, notwithstanding your awareness of the risk.

**ICANN Objections to Interrogatories 19-21.**

ICANN incorporates by reference its General Objections.

ICANN specifically objects to this Interrogatory because the phrases "subject of a legal proceeding or court order" and "the risk to someone who is a party" in Interrogatory No. 19, to which this Interrogatory relates, are vague and ambiguous, and thus are not reasonably specific and are in fact so broad as to make arduous the task of readily identifying the information Plaintiff seeks. ICANN further objects to this Interrogatory on the grounds that it seeks information wholly unrelated to Plaintiff and not connected to the allegations in the Amended Complaint and seeks information that is neither relevant nor reasonably calculated to lead to the



discovery of admissible evidence. ICANN further specifically objects to this Interrogatory on the grounds that ICANN has asserted the defenses of lack of personal jurisdiction and improper venue in its motion to dismiss and motion to stay discovery pending resolution of its motion to dismiss. ICANN's motions are currently pending. Discovery is premature at this time.

**Zuccarini Response to ICANN Objections to Interrogatories 19-21.**

Zuccarini states his response to ICANN'S objection to Interrogatories 19-21 by “General Objections”, as in, **2. Zuccarini Response to ICANN Objections to all 25 Interrogatories by General Objections.**

Zuccarini states his response to Interrogatories 19-21 being vague and ambiguous as in, **3. Zuccarini Response to ICANN Objections to Interrogatories 1-9.**

Zuccarini states his response to discovery for Interrogatories 19-21 being premature at this time as in, **3. Zuccarini Response to ICANN Objections to Interrogatories 1-9.**

Zuccarini also disagrees with ICANN's objections as stated: “*ICANN further objects to this Interrogatory on the grounds that it seeks information wholly unrelated to Plaintiff and not connected to the allegations in the Amended Complaint and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.*”

Zuccarini believes it is important to know whether ICANN in it's policies and procedures considered the “**risk**” to someone who is a party to a legal proceeding or court order, of losing their interest in a particular domain name if the domain name is lost through non-renewal or lost through fraud or theft when that domain name that is the subject of a court proceeding.

The issue of whether ICANN considered the risk to someone who is a party to a legal proceeding or court order of losing their interest in a particular domain name is especially important as it would show malice on the part of ICANN's action or lack of action in not

requiring the domain name registrars it accredits to protect from loss, a domain name if it is the subject of a ongoing legal proceeding or court order, as was the case for the fourteen domain names of this action and therefore predicate the consideration of punitive damages.

Evidence of malice will demonstrate that ICANN acted in conscious disregard of the rights of those who are domain name holders, or those who have an interest in a domain name, such as Zuccarini has in this action. Because evidence of conscious disregard for the rights of others will almost always be circumstantial, interrogatories 19-21 are designed to explore ICANN's awareness of the risk of harm posed by ICANN's conduct.

**INTERROGATORIES 22-25.**

Zuccarini provides Interrogatories 22-25 and addresses ICANN's objections to those interrogatories. ICANN's objections to Interrogatories 19-21 are identical to each other.

22. Please state if you considered not requiring any domain name registrar you accredit to place any domain name that is the subject of ongoing legal proceedings or court orders on a hold or locked status would impose hardship upon any party to that legal proceeding or court order if the subject domain name were lost through non-renewal, or lost through fraud or theft..

23. If your answer to interrogatory number 22 was yes, please set forth each factor you considered in your determination that your conduct posed a risk of hardship to any party.

24. If your answer to interrogatory number 22 was yes, please set forth each reason you proceeded to not require domain name registrars you accredit to place on hold or locked status any domain name that is the subject of ongoing legal proceedings or court orders, notwithstanding the risk of hardship to any party.

25. If your answer to interrogatory number 22 was no, please state each and every

reason why you did not believe hardship would be imposed upon any party if you did not require any domain name registrar to place on hold or locked status a domain name that is the subject of ongoing legal proceedings or court orders.

**ICANN Objections to Interrogatories 22-25.**

ICANN incorporates by reference its General Objections.

ICANN specifically objects to this Interrogatory because the phrases "subject of ongoing legal proceedings or court orders" and "hardship" are vague and ambiguous, and thus are not reasonably specific and are in fact so broad as to make arduous the task of readily identifying the information Plaintiff seeks. ICANN further objects to this Interrogatory on the grounds that it seeks information wholly unrelated to Plaintiff and not connected to the allegations in the Amended Complaint and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. ICANN further specifically objects to this Interrogatory on the grounds that ICANN has asserted the defenses of lack of personal jurisdiction and improper venue in its motion to dismiss and motion to stay discovery pending resolution of its motion to dismiss. ICANN's motions are currently pending. Discovery is premature at this time.

**Zuccarini Response to ICANN Objections to Interrogatories 22-25**

Zuccarini states his response to ICANN'S objection by "General Objections" Interrogatories 22-25, as in, *2. Zuccarini Response to ICANN Objections to all 25 Interrogatories by General Objections.*

Zuccarini states his response to Interrogatories 22-25 being vague and ambiguous as in, *3. Zuccarini Response to ICANN Objections to Interrogatories 1-9.*

Zuccarini states his response to discovery for Interrogatories 22-25 being premature at

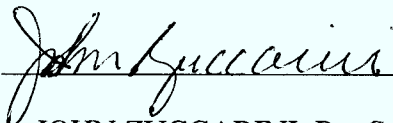
this time as in, **3. Zuccarini Response to ICANN Objections to Interrogatories 1-9.**

Zuccarini also disagrees with ICANN's objections as stated: *"ICANN further objects to this Interrogatory on the grounds that it seeks information wholly unrelated to Plaintiff and not connected to the allegations in the Amended Complaint and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence."*

Zuccarini believes it is important to know whether ICANN in it's policies and procedures considered the **"hardship"** to someone who is a party to a legal proceeding or court order, of losing their interest in a particular domain name if the domain name is lost through non-renewal or lost through fraud or theft when that domain name is the subject of an ongoing court proceeding or court order.

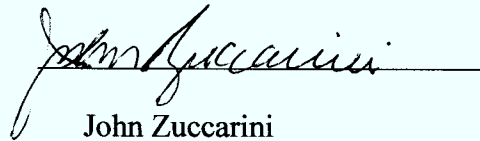
The issue of whether ICANN considered the hardship to someone who is a party to a legal proceeding or court order of losing their interest in a particular domain name is especially important as it would show that ICANN'S conduct as oppressive, as it would subject, in this case a domain name holder or someone who has an interest in a domain name as Zuccarini does in this action to unjust hardship. Responsive and direct answers to Interrogatories 22-25 are important as they may indicate oppressive conduct by ICANN that would predicate the consideration of punitive damages.

Respectfully Submitted, this 11<sup>th</sup> day of October, 2011.

By:   
JOHN ZUCCARINI, Pro Se  
190 SW Kanner Highway  
Stuart, FL 34997  
(772) 631-3887  
raveclub@comcast.net

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Plaintiff John Zuccarini's Motion to Compel ICANN to Provide Responsive Answers to Interrogatories, Memorandum of Law in Support, and Proposed Order were served by first class mail, postage prepaid, on October 11, 2011, on all counsel or parties of record on the service list and by email to their respective addresses.

  
John Zuccarini

**SERVICE LIST**

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**Exhibit A**

10-24063.disc

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA  
Miami Division

Case Number: 10-24063-CIV-MORENO-BROWN

MOTOROLA MOBILITY, INC.,

Plaintiff,

vs.

MICROSOFT CORPORATION,

Defendant.

---

**ORDER ON DISCOVERY**

**THIS MATTER** came before the Court sua sponte. In order to efficiently resolve this matter, the Parties are instructed as follows.

The following rules apply to discovery objections before this Court:

**I. Vague, Overly Broad and Unduly Burdensome:**

Parties shall not make nonspecific, boilerplate objections. Such objections do not comply with Local Rule 26.1 G 3(a) which provides “Where an objection is made to any interrogatory or sub-part thereof or to any document request under Fed.R.Civ.P. 34, the objection shall state with specificity all grounds.” Objections which state that a discovery request is “vague, overly broad, or unduly burdensome” are, by themselves, meaningless, and are deemed without merit by this Court. A party objecting on these bases must explain the specific and particular ways in which a request is vague, overly broad, or unduly burdensome. See Fed. R. Civ. P. 33(b)(4); Josephs v. Harris Corp., 677 F.2d 985, 992 (3d Cir. 1982)(“the mere statement by a party that the interrogatory was ‘overly broad, burdensome, oppressive and irrelevant’ is not adequate to voice a successful objection to an

interrogatory.”).

**II. Irrelevant and Not Reasonably Calculated to Lead to Admissible Evidence:**

As with the previous objection, an objection that a discovery request is irrelevant and not reasonably calculated to lead to admissible evidence must include a specific explanation describing why the request lacks relevance, and why the information sought will not reasonably lead to admissible evidence. Parties are reminded that the Federal Rules allow for broad discovery, which does not need to be admissible at trial. See Fed. R. Civ. P. 26(b)(1); see Oppenheimer Fund, Inc. v. Sanders, 437 U.S. 340, 345 (1978); see also Local Rule 26.1 G 3(a).

**III. Formula Objections Followed by an Answer:**

Parties shall not recite a formulaic objection followed by an answer to the request. It has become common practice for a party to object on the basis of any of the above reasons, and then state that “notwithstanding the above,” the party will respond to the discovery request, subject to or without waiving such objection. Such objection and answer preserves nothing, and constitutes only a waste of effort and the resources of both the parties and the court. Further, such practice leaves the requesting party uncertain as to whether the question has actually been fully answered, or only a portion of it has been answered. Civil Discovery Standards, 2004 A.B.A. Sec. Lit. 18; see also Local Rule 26.1 G 3(a).

**IV. Objections Based upon Privilege:**

Generalized objections asserting “confidentiality,” attorney-client privilege or work product doctrine also do not comply with local rules. Local Rule 26.1 G 3(b) requires that objections based upon privilege identify the specific nature of the privilege being asserted, as well as identifying such things as the nature and subject matter of the communication at issue, the sender and receiver of the communication and their relationship to each other, among others. Parties are instructed to review Local Rule 26.1 G 3 (b) carefully, and refrain from objections in the form of: “Objection. This



information is protected by attorney/client and/or work product privilege.” If such an objection is made without a proper privilege log attached, it shall be deemed a nullity.

**V. Pre-filing Conferences**

**COUNSEL SHALL COMPLY WITH LOCAL RULE 7.1.A.3 PRIOR TO FILING ANY DISCOVERY MOTION.**

**DONE AND ORDERED** in Chambers at Miami, Florida, this 16th day of August, 2011.

/s/  
STEPHEN T. BROWN  
CHIEF UNITED STATES MAGISTRATE JUDGE

cc: Honorable Federico A. Moreno  
Counsel of record

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**Case No. 11-14052-CIV-MARTINEZ-LYNCH**

JOHN ZUCCARINI,	)
	)
Plaintiff,	)
	)
v.	)
	)
NETWORK SOLUTIONS, LLC,	)
a Delaware Limited Liability Company;	)
NAMEJET, LLC,	)
a Delaware Limited Liability Company;	)
INTERNET CORPORATION	)
FOR ASSIGNED NAMES	)
AND NUMBERS, INC.	)
a California non-profit Corporation;	)
	)
Defendants.	)
_____	)

**ORDER ON DISCOVERY**

UPON CONSIDERATION of Plaintiff John Zuccarini's Motion to Compel Defendant the Internet Corporation for Assigned Names and Numbers, Inc. ("ICANN") to Provide Responsive Answers to Interrogatories, any response(s) thereto, and the record herein, it is this day \_\_\_\_ of \_\_\_\_\_, 2011,

ORDERED, that Defendants' Motion, pursuant to Fed.R.Civ.P. 37(a) be and hereby is GRANTED, and further,

In order to efficiently resolve this matter, the Parties are instructed as follows.

The following rules apply to discovery objections before this Court:

**I. Vague, Overly Broad and Unduly Burdensome:**

Parties shall not make nonspecific, boilerplate objections. Such objections do not comply

with Local Rule 26.1 G 3(a) which provides "Where an objection is made to any interrogatory or sub-part thereof or to any document request under Fed.RCiv.P. 34, the objection shall state with specificity all grounds." Objections which state that a discovery request is "vague, overly broad, or unduly burdensome" are, by themselves, meaningless, and are deemed without merit by this Court. A party objecting on these bases must explain the specific and particular ways in which a request is vague, overly broad, or unduly burdensome. See Fed. R. Civ. P. 33(b)(4); *Josephs v. Harris Corp*, 677 F.2d 985, 992 (3d Cir. 1982) ("the mere statement by a party that the interrogatory was overly broad, burdensome, oppressive and irrelevant' is not adequate to voice a successful objection to an interrogatory.").

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**V. Pre-filing Conferences:**

**COUNSEL SHALL COMPLY WITH LOCAL RULE 7.1.A.3 PRIOR TO FILING ANY DISCOVERY MOTION.**

DONE AND ORDERED in Chambers at \_\_\_\_\_ Florida, this \_\_\_\_\_ day of October, 2011.

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF FLORIDA

By: \_\_\_\_\_  
THE HONORABLE JOSE E. MARTINEZ  
UNITED STATES DISTRICT COURT JUDGE

By: \_\_\_\_\_  
THE HONORABLE FRANK J. LYNCH JR.  
UNITED STATES MAGISTRATE JUDGE