

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

POOL.com INC.

Plaintiff

- and -

INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

Defendant

**SUPPLEMENTARY AFFIDAVIT OF DANIEL E. HALLORAN
(sworn September 23, 2003)**

I, DANIEL E. HALLORAN, of the City of Los Angeles, in the State of California, in the United States of America, MAKE OATH AND SAY:

1. I have read the Affidavit of Robert Hall sworn on September 17, 2003. While I disagree with many of the statements made in his Affidavit, including those dealing with the WLS, in this supplementary Affidavit I will deal with only those matters that go to the issue of the Court's jurisdiction. In this supplementary Affidavit, I will use the same defined terms as in my Affidavit sworn September 5, 2003.

2. Throughout his Affidavit, Mr. Hall erroneously states that ICANN conducts business in Ontario. This suggestion is completely wrong: First, ICANN does not conduct business in a traditional sense: It does not sell anything and does not provide services to consumers for a fee. ICANN is a not-for-profit corporation responsible, pursuant to a series of contracts with the United States Department of Commerce, for

administering certain aspects of the Internet's domain name system, or DNS. ICANN does not, contrary to Mr. Hall's Affidavit, "solicit" business and it does not "promote the sale" of anything, including domain names. Contrary to what is suggested by Mr. Hall, ICANN does not profit from -- or even sell -- registrations for individual domain names.

3. Second, neither ICANN nor its employees carry out any of ICANN's functions in Ontario. ICANN does not have employees in Ontario, ICANN employees do not travel to Ontario on business, ICANN has not held any "hearings" in Ontario (or anywhere), ICANN does not have offices in Ontario and ICANN has not held any meetings in Ontario.

4. It would appear that throughout his Affidavit, Mr. Hall attempts to state that because the Internet itself is "global", ICANN conducts business or activities in every jurisdiction, including Ontario. Again, this is simply not the case. While ICANN is involved in administering certain aspects of the DNS, as is set out in my earlier Affidavit and below, its staff carries out its responsibilities from California.

5. Also, in his Affidavit, Mr. Hall suggests that because there are Ontario-based accredited registrars, ICANN carries on business in Ontario. This statement is incorrect and shows a misunderstanding of how ICANN carries out its administrative functions. ICANN is located in California and has a passive website that can be accessed by Internet users anywhere in the world (including Ontario). A company can become accredited as a registrar by coming to California to do business with ICANN there. Specifically, the company must (and the few accredited Ontario-based registrars did): (a) go to the passive informational web site that ICANN operates in California; (b)

mail a hard-copy application to ICANN in California; (c) sign an accreditation agreement and forward it to ICANN for completion in California (all accreditation agreements are signed last by ICANN in California); and (d) enter an accreditation agreement that explicitly states that it is deemed to be made at Los Angeles, that disputes (between ICANN and the registrar) will be resolved in Los Angeles, and that with respect to all litigation involving ICANN, jurisdiction and exclusive venue for such litigation shall be Los Angeles. The relationship between ICANN and the accredited registrars makes it clear that ICANN's administrative functions are carried out in California and not, for example, in Ontario.

6. Specifically, in paragraph 31 of his Affidavit, Mr. Hall is, again, incorrect in his "understanding" that ICANN conducts business in Ontario:

- (a) ICANN does not solicit or offer registrar accreditation services. As part of its responsibilities, ICANN accredits registrars who, as is set out above, apply to be accredited by ICANN in California. The suggestion that ICANN actively solicits registrar accreditation is simply wrong;
- (b) while it may be that a large number of domain name registrations take place in Ontario through the five accredited registrars, ICANN plays absolutely no role in those registrations. While registrar contributions to ICANN are, to a degree, based on sales by registrars, ICANN does not sell registrations, or get involved with registration sales activities. Moreover, CIRA's voluntary contribution to ICANN constitutes a miniscule percentage of ICANN's total budget. All contributions to ICANN (from all

sources) are used to offset the costs of ICANN's activities and such contributions do not generate profits for ICANN;

- (c) ICANN does not promote the sale of domain name registrations or promote new top-level domains;
- (d) ICANN does not conduct any business in connection with the ".ca" ccTLD. ICANN plays no role in CIRA's administration of the ccTLD and ICANN does not involve itself in its operations. Moreover, the ".ca" ccTLD is not relevant to Pool.com's action against ICANN. The proposed WLS has nothing to do with ccTLDs, and Pool.com is not even in the business of dealing with the ".ca" ccTLD;
- (e) while ICANN has conducted board meetings at various locations in the world, no such meetings have ever been held in Ontario and, as stated above, ICANN's administrative functions are carried out from its offices in California;
- (f) ICANN has not been involved in any hearings in Toronto, Ontario; and
- (g) the fact that ICANN has representatives and retains consultants from different jurisdictions does not, in any way, change the fact that ICANN's administrative functions are carried on from California. Moreover, ICANN does not have any consultants from Ontario.

7. Also, contrary to what is stated by Mr. Hall, while it is clear that Pool.com is located in Ontario, the vast majority of people involved in and evidence concerning th WLS do not reside in Ontario and, in fact, reside in California. Indeed, according to Mr. Hall, Pool.com's lawsuit is based on contract amendment negotiations between

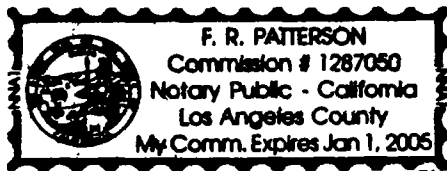
ICANN, a Marina del Rey, California corporation, and Verisign, Inc., a Mountain View, California corporation. It is beyond question that, in respect to the WLS, neither ICANN's staff nor its Board of Directors has taken any action whatsoever in Ontario.

8. Further, Mr. Hall states that the 37 documents identified in Exhibit "F" to his Affidavit are "relevant documents relating to ICANN's actions in relation to the WLS". While I do not agree with Mr. Hall's characterization of those documents, it is noteworthy that none of those documents was authored or prepared in Ontario. In fact, several of the documents were either authored in California or addressed to recipients in California.

9. Finally, Mr. Hall's Affidavit states that ICANN has not "entered into any contracts with Pool.com that are material to any issues in dispute in this action". In fact, ICANN has not entered into any contracts with Pool.com.

State of California, County of LOS ANGELES } ss.
Subscribed and sworn to before me on September 23, 2003

F. R. Patterson
(Name of Notary) F. R. PATTERSON



Daniel E. Halloran
DANIEL E. HALLORAN