

# **Annex 4**



International Chamber of Commerce

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International Centre for Expertise • Centre international d'expertise

**EXP/422/ICANN/39**

EUROPEAN STATE LOTTERIES AND TOTO ASSOCIATION (SWITZERLAND) vs/ AFILIAS LIMITED (IRELAND)

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ALTIUS

Mr. Kristof Neefs

Contact Information

Redacted

*By email:* Contact Information Redacted

HENGLER MUELLER PARTERSCHAFT VON RECHTSANWÄLTEN

Dr. Dirk Uwer

Contact Information Redacted

*By email:* Contact Information Redacted

12 June 2013

Dear Sirs,

Please be advised, that pursuant to Article 13 of the Procedure and Article 9(5)(d) of the Rules, the Centre has appointed as Expert in this matter:

Mr. Clive Duncan Thorne

Reynolds Porter Chamberlain LLP

Tower Bridge House, St Katharine's Way

London E1W 1AA, UK

Tel: Contact Information Redacted

Email:

The Expert is the sole member of the Panel in accordance with Article 13 of the Procedure.

**Chairman of the Standing Committee of the Centre**

The Chairman of the Standing Committee appointed the Expert on 12 June 2013, pursuant to Article 3(3) of Appendix I to the Rules.

.../...

**ICC International Centre for ADR • Centre international d'ADR de la CCI**

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Please note that the Panel will only be fully constituted upon receipt of the parties' full payment of the Costs.

### **Expert's Availability and Independence**

We enclose the Expert's ICC *curriculum vitae*, as well as his Declaration of Acceptance and Statement of Independence.

Please be advised that the Expert has declared that he is available and able to serve as Expert in this matter.

### **Expert's Fees and Expenses**

Pursuant to Article 3 of the Appendix III to the Rules, ICC has fixed the Expert's hourly rate at € 450. Further, any reasonable expenses of the Expert shall be reimbursed.

### **Deposit for Costs**

#### **1. Costs**

According to Article 14(3) of the Rules, ICC currently estimates the total Costs for this matter at **€ 58 600**, subject to later readjustments.

The Costs cover the estimated fees and expenses of the Expert, as well as ICC's administrative costs incurred and still to be incurred.

In the course of the proceeding, the Centre may have to readjust the estimated Costs.

Further, and pursuant to Article 14(5) of the Rules, upon termination of the proceeding the Centre shall settle the total Costs of the proceeding and shall, as the case may be, reimburse the party or parties for any excess payment or bill the parties for any balance required.

#### **2. Advance Payment**

The Costs have to be fully paid by each party pursuant to Article 14(b) of the Procedure.

Accordingly, the Costs should be paid in the following manner:

- Objector: € **53 600** (€ 58 600 – € 5 000 already paid)
- Applicant: € **53 600** (€ 58 600 – € 5 000 already paid)

In accordance with Article 14(b) of the Procedure, the payment has to be made **within 10 days of the receipt of this letter**. The evidence of such payment has to be submitted to the Centre within the same time limit.

Therefore, we invite the parties to proceed with the payment of the Costs pursuant to the following instructions:

.../...

Beneficiary (*Account holder*): Confidential Business Information

Bank of Beneficiary: Confidential Business Information

IBAN:

on your payment to help ensure that it is accurately credited. <sup>tion</sup> Informa **the application ID**

Please note also that the parties should bear any banking charges associated with the payment.

We draw your attention to the fact that if the Objector fails to make the advance payment of Costs, its Objection shall be dismissed and no fees that the Objector has paid shall be refunded (Article 14(d)(i) of the Procedure).

Further, we draw your attention to the fact that if the Applicant fails to make the advance payment of Costs, the Objection will be deemed to have been sustained and no fees that the Applicant has paid shall be refunded (Article 14(d)(ii) of the Procedure).

Finally, please note that upon termination of the proceeding, ICC shall refund to the prevailing party, as determined by the Panel, its advance payment of Costs (Article 14(e) of the Procedure). However, please note that the Filing Fee is not refundable.

### **Transfer of the File**

Please be advised that the Costs must be fully paid by each party before this proceeding can continue. Once full payments have been received, the Centre will transfer the file to the Expert and invite him to proceed with this matter.

Accordingly, the Expert and the parties should **not** make contact until the Centre has transferred the file to the Expert.

Should you have any further questions, please do not hesitate to contact us.

Yours faithfully,



Špela Košak  
Deputy Manager  
ICC International Centre for Expertise

.../...

Enclosures (*for parties only*):

- Expert's ICC *curriculum vitae*
- Expert's Declaration of Acceptance and Statement of Independence

c.c. (*without enclosures*):

- Mr. Clive Duncan Thorne

*By email:*

Contact Information  
Redacted

# **Annex 5**