

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

NETSPHERE, INC.,	§	
MANILA INDUSTRIES., INC., AND	§	
MUNISH KRISHAN	§	
	§	
PLAINTIFFS,	§	
	§	
V.	§	CIVIL ACTION NO. 3:09-CV-0988-F
	§	
JEFFREY BARON AND	§	
ONDOVA LIMITED COMPANY,	§	
	§	
DEFENDANTS.	§	

**ORDER GRANTING THE RECEIVER’S  
EMERGENCY MOTION TO ENFORCE STAY**

BEFORE THE COURT is the Receiver’s Emergency Motion for Order Granting the Receiver’s Emergency Motion To Stay UDRP Claim and Maintain Status Quo (the “Motion”) (Doc. No. 722) Based on the Motion, the Court **GRANTS** the motion and rules as follows.

On November 24, 2010, the Court issued its Order Appointing Receiver (the “Receivership Order”) (Doc. No. 124.). The Receivership Order names Peter S. Vogel as the Receiver over certain “Receivership Parties” and all of the assets held by those Receivership Parties, *i.e.*, the “Receivership Assets.”

On December 17, 2010, the Court issued its Order Granting the Receiver’s Motion to Clarify the Receiver Order with Respect to Novo Point, LLC (the “Clarification Order”) (Doc. No. 176). The Clarification Order clarifies that the Receivership Order’s definition of “Receivership Parties” has always included Novo Point, LLC, and therefore, the assets held by Novo Point, LLC are Receivership Assets.

The Receiver has presented sufficient evidence to demonstrate that Novo Point, LLC is the registrant of, and therefore holds as one of its assets, the internet domain name

www.funnygames.com. (Doc. No. 722 at Ex. A.) As such, the Court finds, as an initial matter, that www.funnygames.com is a Receivership Asset.

The Receivership Order further provides that except by leave of this Court, proceedings relating to ownership and rights to Receivership Assets, such as that of www.funnygames.com shall be stayed during the pendency of the Receivership:

During the pendency of the receivership . . . all other persons and entities aside from the Receiver are hereby stayed from taking any action to establish or enforce any claim, right, or interest . . . against . . . the Receivership Party [or its] . . . assets . . . including, but not limited to . . . [c]ommencing, prosecuting, continuing, entering, enforcing any suit or proceeding . . . or [d]oing any act or thing whatsoever to interfere with the Receiver[’s] . . . management of the assets . . . or interfere with the Receiver in any way, or to interfere in any manner with the exclusive jurisdiction of this Court over the assets . . . of the Receivership Party.

(the “UDRP Stay”).

On November 16, 2011, a complaint was submitted to the World Intellectual Property Organization (“WIPO”) Arbitration and Mediation Center for decision in accordance with the Uniform Domain Name Dispute Resolution Policy, approved by the Internet Corporation for Assigned Names and Numbers (“ICANN”), bearing the caption *Tibaco Beheer B.V. De Zaale 11 5612 AJ Eindhoven The Netherlands v. Identity Protected By Whois Privacy Services Pty Ltd, Customer ID: 41323079999371*, and regarding the ownership and other rights relating to www.funnygames.com (the “UDRP Proceeding On www.funnygames.com”). (Doc. No. 722 at Ex. A-1.). The Complaint alleges that Funnygames infringes alleged trademark rights in violation of the UDRP and seeks its transfer from Novo Point to the complainant.

The Court recognizes that actions in this matter are stayed pending resolution by the U.S. Court of Appeals for the Fifth Circuit. But the ownership of Funnygames as a Receivership Asset is not at issue in any of Mr. Baron’s appeals (Case Nos. 10-11202, 11-10113, 11-10289, 11-10290, 11-10390, and 11-10501). Safeguarding the ownership over Funnygames as a

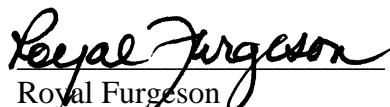
Receivership Asset and enforcing the UDRP Stay preserves the status quo of the Receivership. Because “the district court maintains jurisdiction as to matters not involved in [an] appeal; and because the district court maintains a “continuing duty to maintain a status quo,” *Farmhard, Inc. v. Anel Eng’g Indus., Inc.*, 693 F.2d 1140, 1145-46 (5th Cir. 1982), the Court **ORDERS** the following:

(1) the Receiver not respond to the Complaint or make any filings with WIPO relating to the Complaint; and

(2) ICANN shall immediately stay and abate the UDRP Proceeding On [www.funnygames.com](http://www.funnygames.com) and shall, within two days of the issuance of this Order, file notice with this Court confirming that it has complied with this Order and stayed and abated the UDRP Proceeding On [www.funnygames.com](http://www.funnygames.com).

IT IS SO ORDERED.

SIGNED this 28th day of November, 2011.

  
Royal Furgeson  
Senior United States District Judge