

**INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION**

In the Matter of the Independent Review Process:

Manwin Licensing International S.A.R.L.,

Claimant,

v.

Internet Corporation For Assigned Names and  
Numbers ("ICANN"),

Respondent.

CASE MANAGER: Carolina Cardenas

ICDR Case No. 50 117 T 00812 11

**WITNESS STATEMENT OF GREGORY DUMAS IN SUPPORT OF ICANN'S  
RESPONSE TO MANWIN LICENSING INTERNATIONAL S.A.R.L.'S  
REQUEST FOR INDEPENDENT REVIEW PROCEEDING**

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1. I have consulted for defendant ICM Registry, LLC (“ICM”) and served as the ICM Marketing Director since mid-2010. I submit this declaration in support of the Internet Corporation for Assigned Names and Numbers’ Response to Manwin Licensing International S.A.R.L.’s Request for Independent Review Proceeding. I have personal knowledge of the facts set forth herein, unless otherwise stated, and, if called upon to testify as a witness, I could and would competently testify to these facts under oath. All Exhibits to this Declaration are maintained in business records in the ordinary course of my business.

2. Prior to executing its contract with the Internet Corporation for Assigned Names and Numbers (“ICANN”), ICM developed the “Founders Program.” In December 2010, a few months after the decision to proceed with the .XXX sTLD was made by ICANN, the Founders Program was formally launched and was available to leading companies within the online adult entertainment industry. ICM’s Founders Program was established to support expressive activities by members of the Sponsored Community, whereby early adopters of the .XXX sTLD could secure and develop domain names in anticipation of the official launch; the Founders Program closed on July 31, 2011. Under the terms of the agreement applicable to participation in the program, “Founders” were allocated specific valuable .XXX domains which must contain unique content and not merely direct users to alternate TLDs.

3. My responsibilities at ICM included helping businesses become “Founders” within the Founders Program.

4. During the Venus Tradeshow in Berlin, Germany, which ran from October 21-24, 2010, I, along with my ICM colleague, Claudio Menegatti (“Menegatti”), met with YouPorn representative Fabian Thylmann (“Thylmann”). Thylmann informed Menegatti and me that YouPorn saw the introduction of the .XXX sTLD as a threat to YouPorn’s dominance over the adult Internet industry. At that time, Thylmann said that he would do whatever he could to stop .XXX. Specifically, Thylmann said that if ICANN approved the .XXX sTLD, YouPorn would file a lawsuit against ICM to disrupt its ability to conduct business.

5. On December 20, 2010, I sent an email to Thylmann informing him of the launch of the Founders Program and suggesting that it might be a good opportunity for YouPorn.

Thylmann responded saying: “. . . the .XXX domain is useless even if it comes to market, and I am not interested, just as I was not interested before.” Attached as **Exhibit 1** to this Declaration is a true and correct copy of this email correspondence.

6. In September 2011, Thylmann initiated a conversation with my ICM colleague, Chief Business Development Officer, Jonathan Todd and me, during an industry event in London. Thylmann purported to be interested in reaching a mutually beneficial business deal between YouPorn and ICM, and requested an in-person meeting with ICM’s CEO, Stuart Lawley (“Lawley”).

7. I understand that this requested meeting was held between Lawley and Thylmann on September 23, 2011. In fact, I understand that two meetings were held on that date. I understand that at these meetings YouPorn laid out a list of demands it wanted ICM to meet in order for YouPorn to conduct business with ICM.

8. On October 12, 2011, I attended what I understood to be a meeting with YouPorn to follow up on the September 23 meetings. This follow-up meeting occurred at YouPorn’s offices in Montreal.

9. During the meeting, YouPorn’s representatives refined the list of demands presented to my ICM colleagues in the September 23 meetings. Specifically, at this meeting, YouPorn demanded that ICM: (i) allocate a minimum of several thousand .XXX domain names to YouPorn, free of charge; (ii) commit to prevent IFFOR from making any policies that ban or restrict the operation of user-generated content “tube” sites on .XXX domains; (iii) grant across-the-board discounts on all .XXX domain registrations; and (iv) allow YouPorn to operate certain ‘premium’ or high value domain names, such as “tube.xxx,” through a revenue sharing arrangement between YouPorn and ICM. Thylmann further stated that he needed the deal to include concessions by ICM that would put a positive “spin” on YouPorn’s involvement, so that it would appear that YouPorn accomplished some positive impact for the industry when news of the deal was announced.

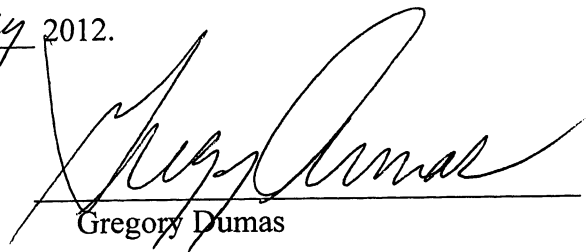
10. YouPorn threatened ICM by saying that if its demands were not met, it intended to spend several million dollars per year for the next several years tying up ICM in litigation.

ICM agreed to certain deal points, and submitted a counter proposal on others. During the negotiations, Thylmann affirmed his intention to start a new trade group like the RIAA or MPAA, since, according to Thylmann, the Free Speech Coalition (a trade group representing certain segments of the adult industry) was not in a position to provide any real value for its members.

11. Leaving the negotiations, I understood that further discussions would occur after the execution of appropriate confidentiality agreements.

12. ICM received no further communication from YouPorn in furtherance of the negotiations. The next it heard from YouPorn was when it learned of YouPorn's lawsuit filed in the United States District Court for the Central District of California against ICM and ICANN, and the filing of the instant Request for Independent Review Proceeding

Being in full agreement with the contents of this witness statement, I hereby sign it and acknowledge its contents on this 2<sup>nd</sup> day of May 2012.



Gregory Dumas

LAI-3159241v1

# EXHIBIT 1

Tuesday, July 12, 2011 9:58:02 AM ET

**Subject:** Re: .XXX Domains

**Date:** Monday, December 20, 2010 7:17:43 PM ET

**From:** Fabian

**To:** Greg Dumas

The mis-communication ICM loves to do and the blatant misrepresentations of facts is hilarious. Sorry... The ICANN conference gave you absolutely nothing. All that happened was that ICANN confirmed that already before they said in their opinion and from their standpoint the process is ok, but they have to talk to the GAC since the GAC strongly opposed it last time. The GAC still opposes it now, it is not going to pass the GAC.

There are no opportunities, the .XXX domain is useless even if it comes to market, and I am not interested, just as I was not interested before.

--

Fabian Thylmann  
Manwin International  
Managing Partner

Contact Information Redacted



On Dec 20, 2010, at 7:23 PM, Greg Dumas wrote:

Fabian

I am not sure where you're based at the moment but if it's either Canada or Europe I don't think you're experiencing such great weather. Either way, I hope you're staying warm and dry while getting ready for the big holidays this weekend.

After we met in Berlin I wasn't sure how to follow-up with you. But after the recent ICANN conference in Cartagena, I thought it was best to contact you about how you'd like to move forward based on how well it went there. I think there are some good opportunities for your company and hope we can determine some of these together.

We also released the Founders program which is something I think you'd want to think about as well: <http://www.icmregistry.com/founder/>

Will you be going to Las Vegas next month? If so let me know as that might be a good place to meet. In the meantime, let me know how you think it's best to move forward.