

Court File No. 03-CV-24621

**Ontario
SUPERIOR COURT OF JUSTICE**

BETWEEN:

POOL.com INC.

Plaintiff

- and -

INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

**Defendant
(Moving Party)**

AFFIDAVIT OF ROBERT CHRISTOPHER HALL

(sworn September 17, 2003)

I, ROBERT CHRISTOPHER HALL, of the Town of Manotick, in the Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:

1. I am the sole director of the Plaintiff, Pool.com Inc. ("Pool.com") and as such, I have knowledge of the matters hereinafter deposed, except where stated to be based on information and belief, in which case, I verily believe such information to be true.

2. I have been an active participant in the development, governancc, and commercialisation of the global Internet since around 1994.

3. I have reviewed the Affidavit of Daniel E. Halloran, sworn September 5, 2003, and am swearing this Affidavit in support of a response to the Defendant's (ICANN's) motion for an Order staying or dismissing the action on jurisdictional grounds.

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A. Background –Current System for the Deletion of Domain Names and the Proposed WLS

4. The Internet's domain name system ("DNS") is the universal system for the identification of individual computers on the global Internet through domain name addresses, which in turn, are linked to numerical addresses, called IP addresses. The top-level of a domain name is signified by the suffix following the last "dot" in a domain name. The second level domain name ("domain name"), which permits the identification of an individual computer on the Internet, includes the unique, alpha-numeric string that precedes the top-level domain. The most prevalent top-level domains in the DNS are the generic top-level domains (e.g. dot-com, dot-net, dot-org, dot-biz, dot-net) and the country-code top-level domains (e.g. dot-ca).

5. A domain name registration grants to the holder of the registration (the "Registrant") an exclusive right to use the domain name for a fixed duration of between one and ten years. The Registrant does not own the domain name, but rather, has a contractual right to control and use the domain name for the duration of a registration.

6. Any individual or company wishing to register a particular domain name in a generic top-level domain must do so through one of a number of competing Registrars, who provide "registration services". Only ICANN-accredited Registrars have the necessary, ICANN-granted status to deal directly with the operator of the relevant Registry, which is operated by a Registry Operator. For example, ICANN's delegate to operate the dot-com and dot-net top-level domain Registries is VeriSign, Inc. ("VeriSign").

7. There are currently over 24 million dot-com and some three million dot-net domain names registered. Not all domain names are created equal and some domain names are clearly more commercially valuable than others. For example, English word names, three-letter domains, and domain names that have generated significant amounts of traffic in the past are

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generally more valuable than random strings of letters or numbers. Approximately 10 per cent of all registered domain names have significant commercial value and there are very few new names of commercial value left to be registered. As a result, there is intense competition to register the small proportion of commercially valuable domain names if and when the registrations are deleted from the relevant Registry.

8. Although the Registrant of a domain name may renew a registration an indefinite number of times, a domain name registration expires or lapses when it is not renewed by the Registrant. When this happens, a process is triggered, which culminates in the domain name being "deleted" from the Registry by the Registry Operator.

9. In the dot-com, dot-net, dot-org, and dot-biz Registries, the instant that the domain name is deleted, it becomes available for registration. Since domain names in these Registries are allocated on a first-come, first-served basis, the person on whose behalf a Registrar makes the first request to the Registry Operator to register the deleted domain name will be allocated the domain name.

10. In the dot-com and dot-net Registries, approximately 20,000 domain names a day are deleted and become available for registration. Of this number, there is competition to obtain roughly 10 per cent, or 2000 deleted domain names. Because of the intense competition for a certain number of the unique domain names deleted on a daily basis, these domain names are re-registered almost as soon as they are deleted.

11. A customer wishing to register a deleted domain name can choose from many different service providers, including Registrars, domain name resellers, and back-order service providers ("BOSPs"), like Pool.com, to obtain deleted domain names.