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February 26, 2016

Hon. Joseph H. McKinley, Jr.
United States District Court
Gene Snyder Courthouse
601 West Broadway, Room 202
Louisville, Kentucky 40202

Re: *Commercial Connect, LLC v. Internet Corporation for Assigned Names and Numbers, et al., U.S. District Court, Western District of Kentucky, Civil Action No. 3:16-CV-00012-JHM*

Dear Judge McKinley:

Defendant Internet Corporation for Assigned Names and Numbers (“ICANN”) submits this letter to respectfully request dismissal of Plaintiff’s complaint in light of Plaintiff’s failure to comply with the Court’s January 26, 2016 order (“Order”) to obtain counsel by February 25, 2016. (ECF No. 11.)¹

In its Order, the Court denied Plaintiff’s Motion for Preliminary Injunction ruling that it was not likely to succeed on the merits because “Plaintiff accepted and agreed to several releases discharging ICANN from all liability arising out of Plaintiff’s application and/or ICANN’s evaluation of that application.” (Order at 6-7.) The Court also granted Paul R. Shurman, Jr.’s motion to withdraw as Plaintiff’s counsel based on Mr. Shurman’s statements to the Court that continued representation of Plaintiff may subject Shurman to Rule 11 sanctions. (*Id.* at 2.)

Finally, the Court ordered Plaintiff (a corporation) to secure replacement counsel by February 25, 2016. (*Id.* at 11.) In doing so, the Court noted that it is “settled law that a corporation must appear in federal court through licensed counsel.” (*Id.* (citing *Rowland v. California Men’s Colony*, 506 U.S. 194, 202 (1993); *see also State Auto Ins. Co. v. Thomas Landscaping & Constr., Inc.*, 494 Fed. Appx. 550, 2012 WL 3326310, *5 (6th Cir. 2012)); *see also Princesse d’Isenbourg et Cie Ltd. v. Kinder Caviar, Inc., et al.*, No. 3:09-29-DCR, 2011 U.S. Dist. LEXIS 6571 (Jan. 24,

¹ ICANN files this letter without submitting to jurisdiction in this Court, or any court in Kentucky, and without waiving the requirement that Plaintiff properly serve ICANN with process. Instead, in addition to the other arguments presented herein, ICANN expressly opposes jurisdiction in this Court, as well as any other court in Kentucky, and objects to Plaintiff’s ongoing failure to serve ICANN with process as required by Rule 4 of the Federal Rules of Civil Procedure.

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Hon. Joseph H. McKinley, Jr.
2/26/16
Page 2

2011) (denying corporation's motion to appear *pro se*.) To date, no replacement counsel has appeared on Plaintiff's behalf.

Plaintiff's failure to comply with the Court's Order is consistent with its continuing failure—almost two months after filing its Complaint—to serve ICANN with process. Plaintiff's actions demonstrate its unwillingness to prosecute this case and justify an immediate dismissal of Plaintiff's Complaint.

Sincerely,



Michael W. Oyler

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