PRELIMINARY RULING

On 17 March 2003, the Municipal Court in Prague issued a verdict with respect to the action between the Plaintiff: D. against the Defendants: 1. S. and 2. CZ.NIC, concerning the motion for a preliminary ruling, as follows:

The Court has issued the following Preliminary Ruling:

1. The Defendant No. 1 shall abstain from using the "x+y+z.cz" domain name, including and disposal of such a domain name.
2. The Defendant No. 1 shall abstain from using the "a+b+c.cz" domain name, including and disposal of such a domain name.
3. The Defendant No. 2 shall prevent any transfer of the "x+y+z.cz" domain name and the "a+b+c.cz" domain name to any other person, save the Plaintiff alone.

The Plaintiff is one of the world's largest telecommunication businesses registered in Germany and the owner of the "X+Y+Z" trademark, entry No. 204768, the "X+Y+Z" international verbal trademark registered under No. 661455, the "A+B+C" national combined trademark, entry No. 248106, and the "A+B+C" international verbal trademark, registered under No. 699719. In addition, the Plaintiff is the owner of many domain names. The Plaint also owns the "t+u+v.cz" domain name registered in the past by the Defendant No. 1 and transferred to the Plaintiff according to an agreement with the Plaintiff and for consideration.

The Plaintiff has made extensive investments in the promotion of its logos and trademarks and these logos and trademarks have become generally known around the world, including the Czech Republic. It has been discovered from available sources that the Defendant No. 1 has registered a total of 2,476 domain names, most of which have no website attached to them. This activity bears certain signs of speculative conduct. The activities of the Defendant No. 1 fulfil the signs of the general clause concerning unfair competition. The Defendant No. 1 employs the goodwill of the Plaintiff's identification for its own purposes and impairs the Plaintiff's position in the environment of economic competition. Subsequently, the Plaintiff faces the treat of serious property and other loss. Therefore, the Plaintiff claims that the Court adopts a preliminary ruling preventing the use of the domains in question and obliging the Defendant No. 2 to prevent any transfer of the domains in question to third parties.

The Court understands and acknowledges that the Plaintiff holds the ownership rights to the enjoys the national trademarks "X+Y+Z" and "A+B+C" and the international trademarks "X+Y+Z" and "A+B+C", and that the Defendant No. 1 registered the "x+y+z.cz" domain name on 5 September 2003 and the "a+b+c.cz" domain name on 12 January 2003 in the registered maintained by the Defendant No. 2, without actually opening any website.

Therefore, the Court deems it justifiable and urgent to ensure temporary composition of the relations between the parties involved towards the Defendant No. 1, who acts in conflict with the Plaintiff's right for the protection of trademarks, with speculative objectives in the registration of domain names, which may potentially lead to a decrease in the trademark value. The Court therefore acquitted the motion for the preliminary ruling. In addition, the Court ordered the Defendant No. 2 to abstain from any changes in the registration of the domain names concerned in order to avoid any changes in the parties involved and any obstruction of the execution of this verdict.

Except for CZ.NIC, all participants of the proceedings are identified with the first letters of their surnames or trade names. The domain names in question are replaced with an x+y+z.cz sequence. All other domain names mentioned in the text have been also replaced with randomly chosen sequences

of letters and signs. Except for the identification of the participants or other entities and the pertinent domain names, there were only minimal interventions in the text of the decision. Any relation between the abbreviations and dummy symbols used and the people or domain names actually using such abbreviations or dummy symbols for purposes of identification is merely coincidental.

When studying this decision, it is necessary to be aware of the fact that the decision comprises not only the verdict alone and the pertinent justification, but also a summary of the claims presented by the individual parties involved, that the court may not have been concerned with some of these claims at all (e.g. with respect to the issue of preliminary ruling) and that such claims merely represent the legal opinion of the party concerned, not a finding of the court.

This decision may not be automatically applied to other instances even though they may be similar, and the CZ.NIC association recommends consulting each particular case with experts in domain names and lawyers.