RESOLUTION

On 27 September 2005, the Municipal Court in Prague issued a verdict by a sole judge with respect to the action between the Plaintiff: B.L.S. against the Defendant 1: D. Š. and Defendant 2: CZ.NIC, interest association of legal entities, concerning a motion for a preliminary ruling, as follows:

- I. The Court has issued the following Preliminary Ruling:
  - 1. The Defendant 1 shall abstain from using the "x+y+z.cz" domain name in any manner, except for its transfer to the Plaintiff, from the date on which this Resolution is delivered.
- 2. The Defendant 2 shall prevent from any transfer of the "x+y+z.cz" domain name to any other person, save the Plaintiff alone.
- II. The Plaintiff shall settle the court fee to the account of the Municipal Court in Prague, within 3 days of the legal force of this Resolution.

Pursuant to the provisions of Section 22 of Act 216/1994 Coll. on Arbitration Proceedings and Enforcement of Arbitral Awards and with reference to the content of Articles 17 and 18 of the Rules for Domain Name Registration under "cz" Domain, issued by the Defendant 2, the Plaintiff filed a motion for the ordering of a preliminary ruling claiming the adjustment of relationships between the parties after a motion has been filed for the issue of an arbitral award at the Arbitration Court attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic in Prague, applied against the Defendant X

The Plaintiff stated and documented it was a corporation involved in the manufacturing and sale of X+Y+Z tires and the distributor of goods and services related hereto. The Plaintiff's products have been offered worldwide for more than 20 years, the X+Y+Z trademark has become famous and characteristic for the Plaintiff, it is protected by the "X+Y+Z" National Registered Mark under number 123456 with priority, dated 17 March 2000 for the category of products and services No. 12. The X+Y+Z registered mark became famous on the Czech market and is associated with the Plaintiff's products.

The Defendant is a physical entity owning a number of domain names; on 22 January 2002, she registered a domain name under "x+y+z.cz" for the territory of the Czech Republic with the Defendant 2, valid until 30 January 2006. The domain name was not functional until a letter was sent by the Plaintiff on 7 September 2004, when the Defendant 1 published entirely for this purpose a text about the town of D., Ohio, USA on the "x+y+z.cz" domain. This constitutes a violation of the Plaintiff's rights to a registered mark according to the provisions of Section 8 of Act 441/2003 Coll., on Trademarks, as amended, and the Plaintiff apprehends that the execution of the arbitral award may be complicated or impossible as a consequence of an attempt of the Defendant 1 to transfer the domain name to a third person.

Pursuant to the provisions of Section 102 of the Civil Procedure Code and the provisions of Section 22 of Act 216/1994 Coll. on Arbitration Proceedings and Enforcement of Arbitral Awards, the Court may order a preliminary ruling after the commencement of arbitration proceedings on the basis of a motion filed by any of the parties concerned, in order to temporarily adjust the relationships between the parties, provided that there is a risk of the arbitral reward not being duly executed in the future. The Court deems it reasonably probable that so-called domain name speculators may transfer their domain names during court or arbitration proceedings to third person, thus making it impossible to execute any future decision; therefore, conditions have been fulfilled for the ordering of the required preliminary ruling both towards the person who has registered a domain name in an identical or confusing form with a registered trademark of the authorized person, and towards the Defendant 2, domain name registrar, on the basis of a contract with the Defendant 1 and according to the Rules for

Domain Name Registration under "cz" Domain.

The verdict concerning the Plaintiff's duty to pay the court fee with respect to the motion concerned, i.e. 2 x CZK 500 according to Item 3 of the Fee Tariff Book, Act 549/1991 Coll., on Court Fees, as amended, is governed by the provisions of Section 4 Paragraph 1 Letter f) of the Act.

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.