PRELIMINARY RULING

On 3 March 2003, the District Court in Jablonec nad Nisou issued a verdict with respect to a controversy between the Plaintiff, MJN, and the Defendant, P.S., concerning a motion for a preliminary ruling, as follows:

I. The Court issued a preliminary ruling, according to which the Defendant shall abstain from any sale, transfer, exchange or modification of data concerning the domain names "x+y+z.cz", registered with CZ.NIC and "x+y+z.net".

II. The Plaintiff shall submit a motion for legal action within 15 days of the day on which this verdict becomes legally effective.

III. The Defendant shall remunerate the Plaintiff's court fees of CZK 500 within three days of the day on which this verdict becomes legally effective.

Based on the motion of 26 February 2003, the Plaintiff entered a claim that the court adopt a preliminary ruling as stipulated in verdict I) herein. The Plaintiff justified its motion claiming that the Defendant, acting as Plaintiff's employee, misused its position and had the registrar, CZ.NIC, change data concerning the "x+y+z.cz" domain, and that there was a threat that the domain may be transferred to another person. The Plaintiff intends to bring an action against the Defendant with respect to the determination of ownership rights to the "x+y+z.cz" and "x+y+z.net" domains.

In proof of its motion, the Plaintiff submitted the registration of the "x+y+z.net" domain, extracts from the register of the "x+y+z.cz" domain, a statement issued by CZ.NIC on 18 February 2003 and an Internet extract from the registration of Defendant's contractors.

Based on the presented documents, the Court came to the conclusion that the "x+y+z.net" domain was registered with MJN and that an administration contact was provided for the Defendant, P.S. The "x+y+z.cz" domain was registered with MJN on 18 September 2000, and the data were subsequently modified to indicate that the Defendant was the domain holder and payer. The Defendant is therefore in a position to dispose of the domains even against the will of the Plaintiff, who wishes to ensure the determination of ownership rights.

According to the provisions of Section 74, Paragraph 1 of the Code of Civil Procedure, the presiding judge may issue a preliminary ruling prior to the commencement of court proceedings if it is deemed necessary to adjust the relations between the parties concerned, or if there is a suspicion that the execution of the court decision may be jeopardized in the future. Pursuant to the provisions of Section 76, Paragraph 1, Item f) of the Code of Civil Procedure, a preliminary ruling may be adopted to order any of the parties involved to fulfil something, abstain from something or tolerate something.

In this case, it is necessary to ensure temporary settlement of the relations between the parties involved, in order to avoid further disposal of the domains, which the Plaintiff claims to be its property, until the day on which the final verdict in this matter becomes legally effective.

According to the provisions of Section 76, Paragraph 3 of the Code of Civil Procedure, the Court ordered the Plaintiff to submit a motion for legal action within 15 days of the day on which this verdict becomes legally effective.

This preliminary ruling shall cease to be effective after the decision is adopted on the merits, or upon a void expiry of the period during which a motion for legal action is to be submitted.

Concerning the fact that the Plaintiff's motion for a preliminary ruling was entirely successful, the Court decided that - pursuant to the provisions of Section 142, Paragraph 1 of the Code of Civil Procedure - the Plaintiff was entitled to the compensation of court fees of CZK 500.

Except for CZ.NIC, all participants of the proceedings are identified with the first letters of their surnames or trade names. The domain name in question is replaced with a ***wwwx+y.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 using such abbreviations or dummy symbols for purposes of identification is merely accidental.*

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 individual parties involved, and that the court may not have been concerned with some of these claims at all (e.g. with respect to the issue of interlocutory judgement) and that such claims represent merely a 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.