

PLAINTIFF/PETITIONER: C.Itoh Middle East E.C. (Bahrain)	CASE NUMBER: SC090220
DEFENDANT/RESPONDENT: ICANN, etc.	

4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*
Please See Attachment 4b.

(If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. Jury or nonjury trial

The party or parties request a jury trial a nonjury trial *(if more than one party, provide the name of each party requesting a jury trial):*

6. Trial date

- a. The trial has been set for *(date)*:
b. No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*: Please See Attachment 6b.

c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:

7. Estimated length of trial

The party or parties estimate that the trial will take *(check one)*:

- a. days *(specify number)*: 3 - 5 days
b. hours *(short causes)* *(specify)*:

8. Trial representation *(to be answered for each party)*

The party or parties will be represented at trial by the attorney or party listed in the caption by the following:

- a. Attorney:
b. Firm:
c. Address:
d. Telephone number:
e. Fax number:
f. E-mail address:
g. Party represented:
 Additional representation is described in Attachment 8.

9. Preference

This case is entitled to preference *(specify code section)*:

10. Alternative Dispute Resolution (ADR)

- a. Counsel has has not provided the ADR information package identified in rule 201.9 to the client and has reviewed ADR options with the client.
b. All parties have agreed to a form of ADR. ADR will be completed by *(date)*:
c. The case has gone to an ADR process *(indicate status)*:

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10. d. The party or parties are willing to participate in (*check all that apply*):

- (1) Mediation
- (2) Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to close 15 days before arbitration under Cal. Rules of Court, rule 1612)
- (3) Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to remain open until 30 days before trial; order required under Cal. Rules of Court, rule 1612)
- (4) Binding judicial arbitration
- (5) Binding private arbitration
- (6) Neutral case evaluation
- (7) Other (*specify*):

e. This matter is subject to mandatory judicial arbitration because the amount in controversy does not exceed the statutory limit.

f. Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

g. This case is exempt from judicial arbitration under rule 1601 (b) of the California Rules of Court (*specify exemption*):

11. **Settlement conference**

The party or parties are willing to participate in an early settlement conference (*specify when*):
At the Court's convenience, upon seven court days advanced notice to the parties.

12. **Insurance**

a. Insurance carrier, if any, for party filing this statement (*name*):

b. Reservation of rights: Yes No

c. Coverage issues will significantly affect resolution of this case (*explain*):

13. **Jurisdiction**

Indicate any matters that may affect the court's jurisdiction or processing of this case, and describe the status.

Bankruptcy Other (*specify*): Defendants Demurrer claiming lack of jurisdiction under the FSIA.

Status: Pending before this Court (hearing set for November 3, 2006).

14. **Related cases, consolidation, and coordination**

a. There are companion, underlying, or related cases.

(1) Name of case:

(2) Name of court:

(3) Case number:

(4) Status:

Additional cases are described in Attachment 14a.

b. A motion to consolidate coordinate will be filed by (*name party*):

15. **Bifurcation**

The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

16. **Other motions**

The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):
Defendants ICANN and IANA intend to file dispositive motions, including and without limitation, motions for judgment on the pleadings and summary judgment or adjudication. Defendants ICANN and IANA have also filed a demurrer currently set to be heard on November 3, 2006 claiming that this Court lacks jurisdiction pursuant to the Foreign Sovereign Immunities Act and that Plaintiff has failed to state a claim under C. Civ. P. Code 708.210.

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17. **Discovery**

- a. The party or parties have completed all discovery.
b. The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
Defendant	Fact Discovery (party and third party)	June 15, 2007
Defendant	Expert Discovery	July 13, 2007
Defendant	Discovery Motions Served	July 29, 2007

- c. The following discovery issues are anticipated (*specify*): Scope of discovery; relevance; third-party protected information

18. **Economic Litigation**

- a. This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90 through 98 will apply to this case.
b. This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (*if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case*):

19. **Other issues**

- The party or parties request that the following additional matters be considered or determined at the case management conference (*specify*):

20. **Meet and confer**

- a. The party or parties have met and conferred with all parties on all subjects required by rule 212 of the California Rules of Court (*if not, explain*):
The parties have not met and conferred with Defendants People's Republic of the Congo and The Congolese Redemption Fund as both Defendants have yet to be properly served and/or respond to the Complaint.
b. After meeting and conferring as required by rule 212 of the California Rules of Court, the parties agree on the following (*specify*):

21. **Case management orders**

Previous case management orders in this case are (*check one*): none attached as Attachment 21.

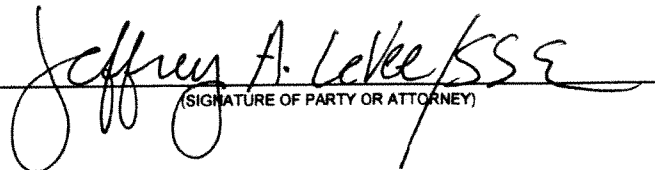
22. Total number of pages attached (*if any*): 3

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and ADR, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: October 19, 2006

Jeffrey A. LeVee

(TYPE OR PRINT NAME)

▶ 

(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached

PLAINTIFF/PETITIONER: C. Itoh Middle East E.C. (Bahrain).
DEFENDANTS/RESPONDENTS: Internet Corporation For Assigned Names And
Numbers and Internet Assigned Numbers Authority

CASE NUMBER:
SC090220

Attachments to Defendant ICANN's Case Management Statement

Attachment 4b

This creditor's suit relates to a years-long dispute, deep into its second decade, between the Plaintiff and the Republic of Congo. Defendant Internet Corporation for Assigned Names and Numbers ("ICANN") has nothing to do with the dispute. After the Congo failed to pay on a multi-million dollar construction contract, Plaintiff has looked to various jurisdictions around the world to help satisfy the arbitration judgment it won against the Congo. But Plaintiff has no legal basis for dragging ICANN and erroneously-named Defendant Internet Assigned Numbers Authority ("IANA")¹ into this dispute.

ICANN is a not-for-profit public benefit corporation that administers certain features of the Internet's domain name system. ICANN does not collect or hold funds paid by persons to use any particular domain name or any top level domain. Thus, ICANN cannot hold any asset or money of the Congo that would make ICANN a proper party to this creditor's suit.

Plaintiff's alleged basis for suing ICANN is that ICANN is the holder of "property" identified as the country code top-level domain for the Republic of Congo (".cg ccTLD"). As ICANN explained in its demurrer, setting aside the fact that ccTLDs are not property, ICANN only serves as the *administrator* of the connection of the ccTLD to the Internet. ICANN does not hold any property right in this connection but simply ensures that each ccTLD – .cg or otherwise – functions in a manner that preserves the security and stability of the Internet.

Plaintiff's contention that the .cg ccTLD is property that can simply be transferred is wrong. No country – indeed no person – "owns" a ccTLD. Rather, designated trustees are delegated the authority to manage and operate ccTLDs in accordance with ICANN-adopted policies, as well as local policies that are adapted to best meet the economic, cultural, political, and linguistic circumstances of the country or territory involved. Thus, Plaintiff has no basis to seek any relief against ICANN; indeed, if Plaintiff's legal position was correct, ICANN could be named in any creditor suit involving debts allegedly owed by countries all over the world, which would run contrary to ICANN's mission and violate ICANN's obligations under its agreements with the United States Government to administer and coordinate ccTLDs. Because the .cg ccTLD is not property, it cannot be attached to satisfy the Plaintiff's judgment against the Congo.

Plaintiff's creditor suit also raises a complex jurisdictional issue, as the Foreign Sovereign Immunities Act (FSIA), 28 U.S.C. § 1610, provides the sole means for any court in the United States to assert jurisdiction over the execution of a judgment against a foreign nation. Plaintiff cannot demonstrate that the FSIA exceptions to immunity apply, and therefore cannot maintain this suit.

¹ IANA is a function performed by ICANN pursuant to an agreement with the U.S. Department of Commerce ("DOC"). IANA is not an entity and cannot be a party to any action. As such, ICANN objects to the inclusion of IANA to this lawsuit. For these purposes, however, ICANN will refer to ICANN and IANA collectively as "ICANN."

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Attachments to Defendant ICANN's Case Management Statement

Attachment 6b

To date, Defendants People's Republic of the Congo and The Congolese Redemption Fund have yet to be properly served and/or respond to the Complaint. Moreover, Plaintiff and Defendants ICANN and IANA have stipulated that no further discovery of ICANN and IANA will take place until sometime after the Court issues an Order on Defendants' pending demurrer - which will not be heard until November 3, 2006. Should the original (or any amended) complaint survive demurrer, Defendants ICANN and IANA anticipate numerous discovery disputes and the potential for extensive and invasive discovery around the world, including expert discovery. Defendants ICANN and IANA also anticipate filing a motion for summary judgment. As such, Defendants ICANN and IANA anticipate that this case will be ready for trial on or about December 17, 2007.

PLAINTIFF/PETITIONER: C. Itoh Middle East E.C. (Bahrain).
DEFENDANTS/RESPONDENTS: Internet Corporation For Assigned Names And
Numbers and Internet Assigned Numbers Authority

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Attachments to Defendant ICANN's Case Management Statement

Attachment 8

Attorney: Samantha S. Eisner
Firm: Jones Day
Address: 555 South Flower Street
Fiftieth Floor
Los Angeles, California 90071
Telephone Number: (213) 243-2220
Fax Number: (213) 243-2539
E-mail Address: seisner@jonesday.com
Party/s represented: Defendants ICANN and IANA

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PROOF OF SERVICE BY MAIL

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 555 South Flower Street, Fiftieth Floor, Los Angeles, California 90071-2300. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On October 19, 2006, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

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CASE MANAGEMENT STATEMENT

in a sealed envelope, postage fully paid, addressed as follows:

SEE ATTACHED SERVICE LIST

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Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

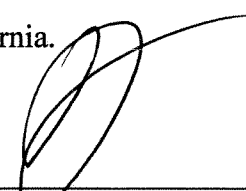
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I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

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Executed on October 19, 2006, at Los Angeles, California.

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Deborah Futrowsky

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SERVICE LIST
C. ITOH MIDDLE EAST E.C. (Bahrain) v. INTERNET CORPORATION FOR ASSIGNED
NAMES AND NUMBERS, et al.
LOS ANGELES SUPERIOR COURT, CASE NO. SC090220

Robert A. Sacks, Esq.
Edward E. Johnson, Esq.
Sullivan & Cromwell, LLP
1888 Century Park East
Suite 2100
Los Angeles CA 90067-1725
Phone: (310) 712-6600
Fax: (310) 712-8800

The People's Republic of the Congo
Regie National Des Travaux Publics et de la Construction
B.P. 2073
Brazzaville
Republique Populaire du Congo

The Congolese Redemption Fund
Regis National Des Travaux Publics et de la Construction
B.P. 2073
Brazzaville
Republique Populaire du Congo