

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
NEW DELHI BENCH
I.A. NO. 1228 OF 2021
IN
COMPANY PETITION (IB) NO. ND.409 (PB) / 2017**

IN THE MATTER OF:

Vikram Bajaj (Resolution Professional of Net 4 India Limited) **...Applicant**

Versus

Internet Corporation for Assigned Names and Numbers &
Others **...Respondents**

IN

Edelweiss Asset Reconstruction Co. Ltd **...Financial
Creditor**

Versus

Net 4 India Limited **...Corporate
Debtor**

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18 April 2021

Counsel for Respondent No. 1

TRILEGAL

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**AFFIDAVIT ON BEHALF OF RESPONDENT NO.1 TO PLACE ON RECORD
CERTAIN ADDITIONAL FACTS / DOCUMENTS**

I, James W. Hedlund, Senior Vice President, Contractual Compliance and Managing Director – Washington, D.C. office of the Internet Corporation for Assigned Names and Numbers (ICANN), aged about 56 years, having my offices at Washington, D.C., USA, do hereby depose on oath as follows:

1. I state that I am authorized as a representative of the Respondent No. 1 (i.e., ICANN) to submit this Affidavit On Behalf of Respondent No. 1 to Place on Record Certain Additional Facts/Documents. I am aware of the facts and circumstances of the present dispute and the facts placed on record in this Affidavit through the records available with ICANN. I am competent to swear to the contents of this Affidavit.
2. Without prejudice to ICANN's objections to this Hon'ble Tribunal's jurisdiction as stated in its Objections and Written Submission(s), I wish to place on record certain new developments that have occurred that reflect the complete breakdown in functioning of the Corporate Debtor (**Net 4**) causing serious harm to thousands of registrants:
 - a) On or around 14 April 2021, some (or all) of Net 4's nameservers completely ceased to operate. Consequently, many of Net 4's customers' websites and email services

completely stopped functioning as well. A press report regarding these outages has been annexed at **Annexure A**.

- b) Around the same time, Net 4's own website <www.net4.com> also went down. It remains down as on date to the best of my knowledge. A screenshot of Net 4's non-functioning webpage is annexed as **Annexure B**.
- c) Customers cannot access the Net 4 website and Net 4 is unresponsive to customers' complaints regarding their own websites. In fact, Net 4 continues to ignore requests by customers for 'AuthInfo' codes, which are codes that should be generated by Net 4 allowing customers to transfer their domains / websites to a functioning registrar. Providing AuthInfo codes to requesting customers is a basic requirement of all registrars under ICANN's Registrar Accreditation Agreement (RAA).
- d) Given Net 4's failure to operate its nameservers and address customers' requests for AuthInfo codes, ICANN has been bombarded with complaints and pleas for assistance from Net 4's customers. **Just in a matter of three days, i.e., on 14, 15 and 16 April 2021 alone, ICANN received approximately 2,400 new complaints regarding Net 4's failure to provide services and unresponsiveness.** These include complaints received by ICANN's Contractual Compliance department (900+ new complaints), ICANN's Global Support department (700+ new communications) and more than 800 new complaints through other channels such as social media, direct emails and phone calls.
- e) In their complaints to ICANN, Net 4's customers have highlighted the personal, public, and financial fall outs of their websites and email systems not functioning due to Net 4's failed nameservers and overall failure to provide services to its customers, examples of which have been summarized and annexed at **Annexure C** (with identifying information redacted where appropriate). It is pertinent to point out that complaints are not limited to individuals but also include the following types of entities:
- State functionaries / public utilities, such as the Delhi Metro Rail Corporation (**DMRC**), seeking immediate transfer of its domain name <dmrcsmartcard.com> from Net 4 to another registrar due to issues related to "domain support" from Net 4 (**Annexure D**), and the Power Grid Corporation of India Ltd., which is engaged in the transmission of electricity across India, asking for a transfer of its domain name <powergridindia.com> from Net 4 to another registrar because of the loss of its email services and Net 4's failure to respond to a transfer request (**Annexure E**);
 - Large conglomerates, such as the Bharti Group, seeking the transfer of several domain names from Net 4 to another registrar because "email and

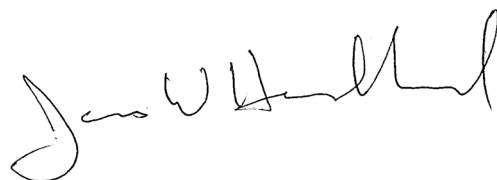
other essential business services have been rendered defunct” due to Net 4’s inaction (**Annexure F**);

- Financial services companies, like the Stock Holding Corporation, requesting help moving its domain name from Net 4 to another registrar due to “issues of non availability of registry service from Net4India” (**Annexure G**);
 - Banks, such as the Punjab National Bank, asking for a transfer of eight of its domain names from Net 4 to another registrar due to “domain issues” caused by the failure of Net 4’s nameservers (**Annexure H**);
 - Members of the Punjab and Haryana High Court;
 - Hospitals in Chennai as well as businesses in or related to the medical field, such as: Quantan Designs, seeking to transfer its 100+ domain names, many of which “cater to essential services like holyfamilyhospital.in and sagehospital.com,” from Net 4 to another registrar because “the entire net4 india system has gone offline” (**Annexure I**); Ravindranath GE Medical Associates (Global Hospitals), asking for the code necessary to transfer its domain name <globalhospitalsindia.com> from Net 4 to a “more reliable services provider” (**Annexure J**); and International Fertility and Healthcare Centre Jaipur, requesting to transfer its domain name <fertilitytreatmentindia> from Net 4 to another registrar (**Annexure K**); and
 - Other businesses from across the country and around the world such as: Emami Paper Mills Ltd., requesting an AuthInfo code to transfer its domain name <emamipaper.com> from Net 4 to another register because Emami could not log on to Net 4’s website to obtain such a code (**Annexure L**); the automobile dealer, Pothens Group from South Kerala, India, asking to transfer three of its domain names from Net 4 to another registrar because its business was being adversely affected by losing its email services (**Annexure M**); and Galva Decoparts, in Braunschweig, Germany, seeking assistance because its services from Net 4 suddenly stopped (**Annexure N**).
- f) The above are just a small sample of the complaints and requests ICANN has received regarding Net 4’s deficiencies. Overall, between 1 January 2020 to 15 April 2021, ICANN has received more than **9,000 complaints, emails and requests for assistance** concerning Net 4’s deficient services and unresponsiveness, the vast majority of which remain completely unaddressed by Net 4.
- g) Unfortunately, ICANN currently is not in a position to assist these individuals, businesses and organizations in transferring their domain names from Net 4 to another registrar because ICANN has no access to AuthInfo codes or the technical ability to generate them the way that registry operators, like the National Internet

Exchange of India (NIXI), and registrars, like Net 4, can. Rather, ICANN can only assist these registrants by transitioning all of Net 4's registrations to a functioning registrar through a bulk transfer in connection with ICANN's termination of Net 4's RAA, which ICANN has been prevented from doing as a result of this Hon'ble Tribunal's Ad Interim Order of 16 March 2021.

3. Net 4's customers, Internet users worldwide, and ICANN continue to suffer significant harm as a result of Net 4's breaches of the RAA, Net 4's failure to provide even basic services, and Net 4's refusal to respond to its customers. While the nameservers appear to be currently operational, there has been no explanation or public notice from Net 4 as to why this happened, much less an assurance that this will not be repeated. The complaints received demonstrate the magnitude of harm that likely will be caused if Net 4 is permitted to continue its attempts to function as a registrar.
4. I submit that the above facts illustrate the gravity of the matter and the serious public harm caused, requiring the urgent intervention of this Hon'ble Tribunal. Thousands of *bona fide* customers of Net 4 continue to suffer. I also understand that the impact of Net 4's breaches is exacerbated due to the second wave of Covid-19 in India and the restrictions imposed due to the same. Individuals, businesses, and public utilities (like DMRC and hospitals) are increasingly reliant on their websites and email systems to communicate, both internally and with customers and the public at large.
5. In light of the same, I pray that this Hon'ble Tribunal urgently intervene in this matter and vacate the ad-interim stay against ICANN's termination of the RAA, directed *vide* order dated 13 March 2021 in I.A. No. 1228 of 2021.

DEPONENT



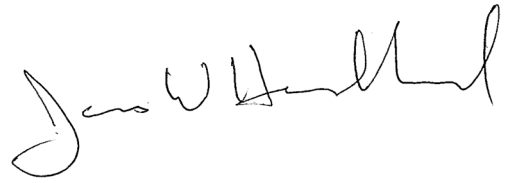
17 April 2021, Washington, D.C., USA

VERIFICATION

I, James W. Hedlund, Senior Vice President, Contractual Compliance and Managing Director – Washington, D.C. office of the Internet Corporation for Assigned Names and Numbers, aged about 56 years, having my offices at Washington, D.C., USA, am authorized as a representative of the Respondent No.1 herein, do hereby solemnly affirm and state that the contents of the above Affidavit are true and correct to the best of my knowledge and

information available with Respondent No.1.

DEPONENT

A handwritten signature in black ink, appearing to read "James W. Hall". The signature is written in a cursive style with a large initial "J" and a distinct "H".

17 April 2021, Washington, D.C., USA