

April 17, 2002

BY TELECOPIER

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Re: Cable News Network L.P., L.L.L.P. v. CNNEWS.COM
Civil Action No. 00-2022-A

Dear Mr. Touton:

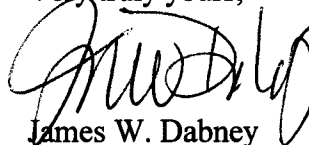
Enclosed and served on you is an Order of the United States District Court for the Eastern District of Virginia issued April 12, 2002, in the above-entitled action.

Your attention is called to page 2, footnote 2, of the enclosed Order, which repudiates the tenor of communications which you and Mr. Halloran issued to Eastern Communications Co. Ltd. on April 2, 4, and 5, 2002.

We are in receipt of an e-mail dated April 13, 2002, addressed to counsel for Cable News Network L.P., L.L.L.P. and Jia Kong, Esq. of Grandall Legal Group, in which you assert, yet again, that the "Uniform Dispute Resolution Policy" purportedly confers on ICANN some privilege to violate PRC law and to instruct Eastcom, in the PRC, to terminate a domain name services agreement made in the PRC, notwithstanding the absence of any court Order having any force in the PRC, and notwithstanding that the "policy" referred to was never invoked and would, in fact, prohibit U.S. court action in the circumstances.

You will know from Mr. Kong's letter of 10 April 2002 that your position is without basis in PRC law and has already exposed ICANN to liability. Be guided accordingly.

Very truly yours,


James W. Dabney

Enclosure

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

CABLE NEWS NETWORK,
L.P., L.L.L.P.,

Plaintiff,

v.

CNNEWS.COM,

Defendant.

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Civil Action No. 00-2022-A

ORDER

The matter came before the Court on a motion by nonparty Maya Online Broadband Network (HK) Co. Ltd. (Maya HK) for a stay pending appeal of the Court's order dated January 11, 2002, transferring the cnnews.com domain name to plaintiff.

For good cause shown and for the reasons stated from the bench,¹

It is hereby **ORDERED** that Maya HK's motion for a stay pending appeal of the Court's

¹ In the course of the hearing, the Court reiterated its reasons for its previous orders in this matter, including its granting summary judgment in favor of plaintiff. Maya HK argued again that *in rem* jurisdiction was inappropriate in this matter, if, as alleged, Maya HK had committed a Lanham Act tort in American commerce through use of a domain name found to be infringing of plaintiff's trademark. The flaw in this argument, as noted in the Court's previous memorandum opinions, is that it conflates the commerce requirement for establishing Lanham Act liability with the issue of *in personam* jurisdiction. The former is a requirement for an effect on American commerce, whereas the latter is a question regarding whether a defendant purposefully availed itself of the privilege of conducting activities in the forum state. Were Maya HK's argument correct, *in rem* jurisdiction would never be proper under the Anticybersquatting Consumer Protection Act (ACPA) because *in rem* cases brought under the ACPA require *both* a violation of the Lanham Act and the absence of *in personam* jurisdiction. See 15 U.S.C. § 1125(d)(2). Thus, Maya HK does not have a likelihood of success on the merits of this matter, although there is no doubt the appeal raises substantial novel legal questions.

order dated January 11, 2002, transferring the cnnews.com domain name to plaintiff, is **GRANTED** and the Court's order transferring the cnnews.com domain name to plaintiff² is **STAYED** pending appeal.

The Clerk is directed to send copies of this Order to all counsel of record.

April 12, 2002
Alexandria, Virginia



T.S. Ellis III
United States District Judge

² The Court's order dated January 11, 2002, was not intended to order any entity beyond the jurisdictional reach of the Court to take any action. Rather, it was contemplated that Verisign, the American registry of the cnnews.com domain name, could effect either the transfer or the cancellation of the infringing domain name.