

JURISDICTION SUBGROUP ICANN LITIGATION SUMMARY

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| Reviewed by: | Vidushi Marda |
| Name of Case: | Ruby Glen LLC v. ICANN |
| Parties: ¹ | Ruby Glen LLC (P) ICANN (D) Defendants 1-10 (those who instigated, encouraged, facilitated, acted in concert or conspiracy with, aided and abetted, and/or are otherwise responsible in some manner or degree for the breaches and wrongful conduct averred herein) |
| Citizenship of Parties: | USA |
| Court/Venue: | United States District Court for the Central District of California |
| Choice of Law/Governing Law: | United States Code |
| Date Case Began: | 22 nd July 2016 (date of the First Complaint by Ruby Glen) |
| Date Case Ended: | Appeal pending before the US Court of Appeals in the Ninth Circuit |
| Causes of Action: | (1) Breach of contract (2) Breach of the implied covenant of good faith and fair dealing. (3) Negligence (4) Unfair competition pursuant to California Business and Professions Code section 17200 (5) Declaratory relief |
| Issues Presented: | <ul style="list-style-type: none"> • Legality of the Covenant Not To Sue, • Auction held based on inadequate information and hence unfair and not transparent, • Change in the ownership and management of NDC, • Potential for VeriSign to dominate the market on domain names. |
| Preliminary Relief? | Plaintiff requested a Temporary Restraining Order – not granted |
| Outcome: | Plaintiff's claims were dismissed on November 28 th , 2016. Appeal has been filed on 20 th December 2016. |
| Was Jurisdiction Contested? ² | Yes, initially, in the first complaint. The court said that jurisdiction had not been established by the Plaintiff, and hence they couldn't grant the temporary restraining order. However, upon filing of the amended complaint, jurisdiction was established, and the court went ahead with the case. Hence, initially yes, eventually no. |

¹ Indicate whether each party is Plaintiff (P) or Defendant (D), or other status. Please also list non-party participants, such as Amicus Curiae (AC).

² For example, challenge to venue, challenge to change of venue, challenge to governing law, challenge to application of "choice of law" provision. Please describe the outcome as well as the challenge.

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| Effect on our Work ³ | <p>In this case, the jurisdiction question revolved around that of diversity jurisdiction of Federal Courts under 28 U.S.C. § 1332. This section talks about the diversity jurisdiction, which basically means that the Federal courts have jurisdiction to decide disputes between parties that belong to different states i.e. are citizens of different states. Further, this section also extends to the Court’s jurisdiction in matters relating to amounts more than \$75,000. In the original complaint, the Plaintiff had not established their citizenship. Hence since jurisdiction was not made out under this section, the court rejected the temporary restraining order. However, in the amended complaint, both the elements of diversity jurisdiction were adequately established by the Plaintiff, and hence the case was proceeded with by the court.</p> <p>Parties must make sure they are establishing that they satisfy the requirements of jurisdiction under particular sections of the U.S.C., since petitions are sometimes rejected by the courts based on lack of technical clarity alone.</p> |
| Key Documents | <ul style="list-style-type: none"> - Plaintiff’s Ex Parte Application for a Temporary Restraining Order (d. 22/07/16) - Court Order denying Plaintiff’s Ex Parte Application (d. 26/07/16) - First Amended Complaint (d. 08/08/16) - ICANN’S Motion to Dismiss First Amended Complaint (d. 26/10/2016) - Plaintiff’s opposition to ICANN’s motion against First Amended Complaint (d. 07/11/2016) - Court Order Granting Motion to Dismiss First Amended Complaint (d. 28/11/2016) - Judgement (d. 28/11/2016) |

³ Indicate whether the case had or will have an effect on ICANN’s accountability mechanisms or the operation of ICANN’s policies.