



Federal Court of Australia

District Registry: Western Australia

Division: General

No: WAD383/2017

AUSTRALIAN COMPETITION AND CONSUMER COMMISSION

Applicant

DOMAIN NAME CORP PTY LTD ACN 608 862 255 and others named in the schedule
Respondents

ORDER

JUDGE: JUSTICE MCKERRACHER

DATE OF ORDER: 14 June 2018

WHERE MADE: Perth

PENAL NOTICE

**TO: DOMAIN NAME CORP PTY LTD, DOMAIN NAME AGENCY PTY LTD
AND STEVEN BELL**

IF YOU (BEING THE PERSON BOUND BY THIS ORDER):

- (A) REFUSE OR NEGLECT TO DO ANY ACT WITHIN THE TIME SPECIFIED
IN THIS ORDER FOR THE DOING OF THE ACT; OR**
- (B) DISOBEY THE ORDER BY DOING AN ACT WHICH THE ORDER
REQUIRES YOU NOT TO DO,**

**YOU WILL BE LIABLE TO IMPRISONMENT, SEQUESTRATION OF PROPERTY
OR OTHER PUNISHMENT.**

**ANY OTHER PERSON WHO KNOWS OF THIS ORDER AND DOES ANYTHING
WHICH HELPS OR PERMITS YOU TO BREACH THE TERMS OF THIS ORDER
MAY BE SIMILARLY PUNISHED.**

THE COURT ORDERS AND DECLARES THAT:

Pecuniary penalties

1. The First Respondent pay to the Commonwealth of Australia \$1,500,000 pursuant to section 224 of the *Australian Consumer Law (ACL)*, which is Schedule 2 of the *Competition and Consumer Act 2010 (Cth)* (the **Act**).



2. The Second Respondent pay to the Commonwealth of Australia \$450,000 pursuant to section 224 of the ACL.

Injunction

3. The First and Second Respondents each be restrained for 3 years from the date of these Orders, whether by themselves, their officers, servants, agents or otherwise from sending unsolicited notices containing an offer to register a domain name that is substantially similar to a domain name already held by the recipient, without including on the face of the notice the words *“This notice does not relate to the registration of your current domain name. This is not a bill. You are not required to pay any money”* in text that is the most prominent text in the notice and is the equivalent of at least 16pt Times New Roman.
4. The Third Respondent be restrained for 5 years from the date of these Orders, whether by himself, his officers, servants, agents or otherwise from sending unsolicited notices containing an offer to register a domain name that is substantially similar to a domain name already held by the recipient, without including on the face of the notice the words *“This notice does not relate to the registration of your current domain name. This is not a bill. You are not required to pay any money”* in text that is the most prominent text in the notice and is the equivalent of at least 16pt Times New Roman.

Order disqualifying a person from managing corporations

5. The Third Respondent is disqualified from managing corporations for a period of 5 years commencing on the date of the making of this Order.

Other orders

6. The Third Respondent pay the Applicant's costs of the proceeding fixed at \$8,000.
7. The reasons for judgment with the seal of the Court affixed thereon be retained on the Court file for the purposes of section 137H of the Act.

Declaratory orders



8. It is declared that the First and Second Respondents, during periods between in or around November 2015 to in or around April 2017, by way of sending notices to Australian businesses and organisations in the form annexed to these Orders and marked "Annexure A" (**Notices**), represented to Australian businesses and organisations that:

- (a) payment to the First Respondent or the Second Respondent (as the case maybe) of the amount of money shown in the Notice would result in the extension or renewal of the recipient's existing domain name registration; and
- (b) the recipient would not retain registration of the recipient's existing domain name if payment of the amount of money shown in the Notice was not made in accordance with the Notice,

when in fact:

- (c) the Notice was unrelated to renewing the recipient's existing domain name; and
- (d) the Notice was, in fact, an unsolicited offer for registration of a different domain name ending in either “.com” or “.net.au”, rather than in “.com.au”,

and the First and Second Respondents thereby in trade or commerce engaged in conduct that was misleading or deceptive or likely to mislead or deceive, in contravention of section 18 of the ACL.

9. It is declared that the First and Second Respondents, by engaging in the conduct referred to in Order 8, in trade or commerce in connection with the supply or possible supply of services and in connection with the promotion by any means of the supply or use of services, made false or misleading representations:

- (a) in contravention of section 29(1)(g) of the ACL, that the services offered by the First Respondent or the Second Respondent (as the case may be) had the benefit of renewing the registration of an existing domain name registered by the recipient of the Notice; and
- (b) in contravention of section 29(1)(l) of the ACL concerning the need for services, namely that the recipient of the Notice needed to acquire from the First Respondent or the Second Respondent (as the case may be) the registration service offered in the Notice in order to retain the recipient's existing domain name.



10. It is declared that the Third Respondent was directly knowingly concerned in, and a party to, the contraventions of the First and Second Respondents referred to in Orders 8 and 9.

Date that entry is stamped: 14 June 2018

Warrick Soden
Registrar



Schedule

No: WAD383/2017

Federal Court of Australia

District Registry: Western Australia

Division: General

Second Respondent DOMAIN NAME AGENCY PTY LTD ACN 610 497 535

Third Respondent STEVEN BELL

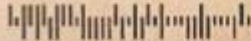


Annexure A

Notices



Address Level 25, 88 Phillip St
Sydney NSW 2000
Phone 1300 03 03 63
Email info@domainnameagency.com.au
Web www.domainnameagency.com.au
ACN 610 497 535



031



Domain Name Available

Organisation
Domain
Reference No.



Price \$275.00 inc. GST
Includes 2 years registration
Free web forwarding
Free email forwarding
Support If you have any enquiries or would like to contact one of our representatives, please visit our online Customer Support at www.domainnameagency.com.au or call us on 1300 03 03 63

This is an invitation to register - If you are not the proprietor or do not wish to register, disregard this letter.
Our terms of service can be found on our website by visiting www.domainnameagency.com.au/terms

Payment Options



- Credit Card To pay by credit card online, please go to www.domainnameagency.com.au/pay
- Mail Post the payment options slip, together with your cheque or money order, made payable to: Domain Name Agency, Level 25, 88 Phillip St, Sydney NSW 2000
- Bank Transfer You can transfer the funds directly into our bank account below:
Domain Name Agency
BSB: 306-063
Account No: 1103405 *Bankwest*
Please indicate your reference number in the transaction description.

Reference No.



Price \$275.00 inc. GST



Address: Level 25, 88 Phillip St.
Sydney NSW 2000
Phone: 1300 03 03 63
Email: info@domainnameagency.com.au
Web: www.domainnameagency.com.au
ACN: 610 497 535



Domain Name Available

Organisation
Domain
Reference No.



Price: \$275.00 inc. GST
Includes: 2 years registration
Free web forwarding
Free email forwarding
Support: If you have any enquiries or would like to contact one of our representatives, please visit our online Customer Support at www.domainnameagency.com.au or call us on 1300 03 03 63

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Account No: 1103405
Please indicate your reference number in the transaction description.

Reference No.



Price \$275.00 inc. GST

This is an invitation to register - If you are not the proprietor or do not wish to register, disregard this letter.
Our terms of service can be found on our website by visiting www.domainnameagency.com.au/terms



Address
Level 33, 264 George Street
Sydney NSW 2000

Phone 1300 50 30 46
Fax 02 8232 8012
Email info@dnc.com.au
Web www.dnc.com.au
ACN 608 862 255

023D 004541

paid SA.

Domain Name Available

Organisation [Redacted]

Domain [Redacted] Reference No. [Redacted]

Price \$249.00 inc. GST

Includes 2 Years Registration
Free Web Forwarding
Free Email Forwarding

Support If you have any enquiries or would like to contact one of our representatives, please visit our online Customer Support Centre at www.dnc.com.au/support or call us on 1300 50 30 46

This is an invitation to register - If you are not the proprietor or do not wish to register, disregard this letter.
Our terms of service can be found on our website by visiting www.dnc.com.au/terms

Payment Options

By Direct Deposit You can deposit the funds directly into our bank account as follows:
Domain Name Corp
BSB: 805-022
Account Number: 03614179

Please indicate your reference number in the transaction description.

By Credit Card Please go to www.dnc.com.au/quickpay to pay by credit card online.



By Mail Please enclose the payment slip, together with your cheque or money order, made payable to:
Domain Name Corp, Level 33, 264 George St, Sydney NSW 2000

Reference No. [Redacted] Amount \$249.00 inc. GST



Address
Level 17, 31 Queen St
Melbourne VIC 3000

Phone 1300 50 30 46
Email info@dnc.com.au
Web www.dnc.com.au
ACN 608 862 255

017R 002538



Domain Name Available

Organisation



Domain

Reference No.



Price

\$249.00 inc. GST

Includes

2 Years Registration
Free Web Forwarding
Free Email Forwarding

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Support

If you have any enquiries or would like to contact one of our representatives, please visit our online Customer Support Centre at www.dnc.com.au/support or call us on 1300 50 30 46

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Payment Options

PAID

By Direct Deposit

You can deposit the funds directly into our bank account as follows:

Domain Name Corp ✓
BSB: 805-022 ✓
Account Number: 03614179 ✓

Please indicate your reference number in the transaction description.

By Credit Card

Please go to www.dnc.com.au/quickpay to pay by credit card online.



By Mail

Please enclose the payment slip, together with your cheque or money order, made payable to: Domain Name Corp, Level 17, 31 Queen St, Melbourne VIC 3000

Reference No.

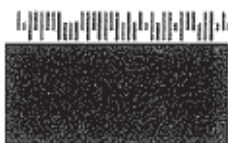


Amount \$249.00 inc. GST

201501_000001_001115



Address Level 33, 264 George Street
 Sydney NSW 2000
 Phone 1300 50 30 46
 Fax 02 8212 8012
 Email info@dnc.com.au
 Web www.dnc.com.au
 ACN 608 862 255



BRNSW 0026730_FIL

ENTERED

Domain Name Available

Organisation
 Domain
 Reference No.



Price **\$249.00** inc. GST
 Includes 2 years registration
 Free web forwarding
 Free email forwarding

Support

If you have any enquiries or would like to contact one of our representatives, please visit our online Customer Support Centre at www.dnc.com.au/support or call us on 1300 50 30 46

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Payment Options



- Credit Card To pay by credit card online, please go to www.dnc.com.au/quickpay
- Mail Post the payment options slip, together with your cheque or money order, made payable to:
Domain Name Corp, Level 33, 264 George Street, Sydney NSW 2000
- Bank Transfer You can transfer the funds directly into our bank account below:
Domain Name Corp
BSB: 126-563
Account No: 22395647
Please indicate your reference number in the transaction description.





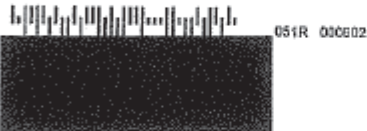
Address
Level 33, 264 George Street
Sydney NSW 2000

Phone 1300 50 30 46
Fax 02 8212 8012
Email info@dnc.com.au
Web www.dnc.com.au
ACN 608 862 255

9 February 2016

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PAID



Domain Name Available

Organisation



Domain

Reference No.



Price \$249.00 inc. GST

Includes
2 Years Registration
Free Web Forwarding
Free Email Forwarding

Support If you have any enquiries or would like to contact one of our representatives, please visit our online Customer Support Centre at www.dnc.com.au/support or call us on 1300 50 30 46

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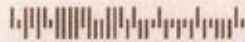
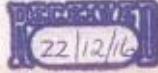


Amount \$249.00 inc. GST



Address
Level 25, 88 Phillip St
Sydney NSW 2000

Phone 1300 03 03 63
Email info@dnregister.com.au
Web www.dnregister.com.au
ACN 610 497 335



050



Domain Name Available

Organisation		
Domain		Reference No.
Price	\$249.00 inc. GST	
Includes	2 Years Registration Free Web Forwarding Free Email Forwarding	
Support	If you have any enquiries or would like to contact one of our representatives, please visit our online Customer Support at www.dnregister.com.au/support or call us on 1300 03 03 63	

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Our terms of service can be found on our website by visiting www.dnregister.com.au/terms

Payment Options

By Direct Deposit	You can deposit the funds directly into our bank account as follows: Domain Name Register BSB: 306-063 Account Number: 1103405	
By Credit Card	Go to www.dnregister.com.au/pay to pay by credit card online.	
By Mail	Please enclose the payment slip, together with your cheque or money order, made payable to: Domain Name Register, Level 25, 88 Phillip St, Sydney NSW 2000	
Reference No.		Amount \$249.00 inc. GST

Please indicate your reference number in the transaction description.



DOMAIN NAME REGISTER

Address
Level 25, 88 Phillip St
Sydney NSW 2000

Phone 1300 03 03 63
Email info@dnregister.com.au
Web www.dnregister.com.au
ACN 610 497 535



Domain Name Available

Organisation		
Domain		Reference No.
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Terms	This is an invitation to register. This is not a bill. You are not required to pay any money. Our terms of service can be found on our website by visitng www.dnregister.com.au/terms	

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By Credit Card	Go to www.dnregister.com.au/pay to pay by credit card online.	VISA
By Mail	Please enclose the payment slip, together with your cheque or money order, made payable to: Domain Name Register, Level 25, 88 Phillip St, Sydney NSW 2000	
Reference No.		Amount \$249.00 inc. GST



DOMAIN NAME REGISTER

Address
Level 25, 88 Phillip St
Sydney NSW 2000

Phone 1300 03 03 63
Email info@dnregister.com.au
Web www.dnregister.com.au
ACN 610 497 535



036



Domain Name Available

Organisation



Domain

Reference No.



Price

\$249.00 inc. GST

Includes

2 Years Registration
Free Web Forwarding
Free Email Forwarding

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