

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

Addicting Games, Inc.,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 1:19cv-00056-CMH/IDD
)	
Addicting.com, <i>et al</i> ,)	
)	
)	
Defendants.)	

Declaration of Paul Keating

I, Paul Keating declare as follows:

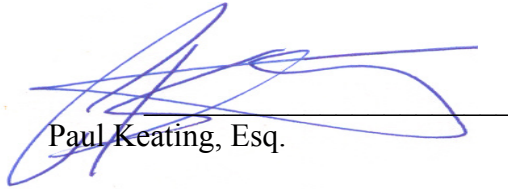
1. I am over 18 and have personal knowledge of all facts stated in this declaration, and if called to testify, I could testify competently thereto.
2. I am attorney licensed in California (Bar No. 111661) and was counsel to Federal Investment Group, LLC regarding the domain name addicting.com at all relevant times herein.
3. In my capacity as counsel to Federal Investment Group, LLC, I had an oral and subsequent email conversation regarding addicting.com with David Weslow, Counsel to the Plaintiff in Addicting Games, Inc. v. Addicting.com pending before this Court.
4. The 7 page document attached as Exhibit A to this declaration is a true, correct and complete copy of the email exchange. The email exchange accurately summarizes what I had earlier told Mr. Weslow during our earlier telephone conversation but provides additional documentation evidence.
5. At no time did Mr. Weslow or any representative of the plaintiff ask me the identity or

my client or whether I would accept service on behalf of the owner of addicting.com.

6. Included in the documentation forwarded with my email were various WHOIS and other records reflecting the historical and current ownership of the domain name.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

14 May 2019
Date



Paul Keating, Esq.

From: **Paul Keating** <Paul@law.es>

Date: Tue, Feb 26, 2019 at 5:46 AM

Subject: Re: Addicting Games, Inc. v Addicting.com - No 1:19-cv-56 - request for extension of time to answer or otherwise respond

To: Weslow, David <DWeslow@wileyrein.com>

Cc: Paul Keating <Paul@law.es>

David,

I hope this finds you well.

In furtherance of our ongoing settlement discussions, I have now obtained documentation regarding the domain name that shows a continued ownership long before your client's trademark rights came into existence. These are as follows:

1. WHOIS history from DomainTools showing the registration record of the domain. This reflects a number of things:
 - a. The original registration in 1999 by the current registrant. The name listed was "CosNet" but this entity changed its name and became FIG Vietnam. You can verify that it is the same entity by looking up the WHOIS history for the domain name "HubMedia.com". This domain was created by the client in 1998 and was used in the email address for the initial 1999 WHOIS record for Addicting.com.
 - b. The transfer from Registrar.com to Fabulous in 2004
 - c. The continued ownership by the same registrant
 - d. Subsequent registrations listing privacy services used by Fabulous.com
2. Invoices from Fabulous.com showing the following:
 - a. The domain arrived at fabulous in 2004
 - b. The registrant was consistently the same as shown on the invoices. Please note that I have provided invoices for 2004, 2006, 2008, 2016 and 2018 only. I can provided others if you really need them.
 - c. The redaction of non-relevant data concerning other domains

In addition I have confirmed with Fabulous that the domain has at all times remained in the same registrant account which has at all times been owned and controlled by the same registrant.

Your complaint alleges both common law and registered trademark rights. As to common law, it alleges:

14. Addicting Games and its predecessors in interest have continuously used the ADDICTING Marks through the AddictingGames.com site, as well as its social media accounts, since at least as early as 2008.

As to registered trademark rights, the complaint alleges:

19. The application for U.S. federal registration of the ADDICTING GAMES mark was filed on November 1, 2005 and registered on October 30, 2007.

Given these allegations I cannot see how you could prevail in your client's action. Even if you (improperly) attributed a change of ownership to the change from CosNet to Fig Vietnam, the registration would still pre-date your client's earliest claim of trademark rights. Your client's trademark registration was commenced in November 2005. However, it was filed as an ITU. The Statement of Use (filed May 14, 2007) stated "First Use Anywhere Date: 05/09/2007" and "First Use Inc Commerce Date: 05/09/2007". Given these statements (made under penalty of perjury" by your client's predecessor (who I believe no longer exists), it is highly doubtful that your client could establish rights prior to the May 9, 2007 date.

In light of the above we request that you immediately dismiss the currently pending action referenced in the above subject line and forward me a copy of the dismissal.

If your client desires to purchase the domain name, please note that while I am not authorized to negotiate on its behalf I will forward any offer to the client and seek instructions.

Sincerely,
Paul Raynor Keating, Esq.
Law.es
Tel. +34 93 368 0247 (Spain)
Tel. +44.7531.400.177 (UK)
Tel. +1.415.937.0846 (US)
Fax. (Europe) +34 93 396 0810
Fax. (US)(415) 358.4450
Skype: Prk-Spain
email: Paul@law.es

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From: "Weslow, David" <DWeslow@wileyrein.com>
Date: Tuesday, February 5, 2019 at 9:36 PM
To: Paul Keating <Paul@law.es>
Subject: RE: Addicting Games, Inc. v Addicting.com - No 1:19-cv-56 - request for extension of time to answer or otherwise respond

Paul,

Thanks for the additional information.

I will discuss with our client and will be back in touch.

Regards,
David

David E. Weslow | Attorney at Law
Wiley Rein LLP
1776 K Street NW | Washington, DC 20006
T: 202.719.7525 | M: 202.494.8216 | dweslow@wileyrein.com
www.wileyrein.com | [Bio](#) | [LinkedIn](#) | [Twitter](#)

From: Paul Keating <Paul@law.es>
Sent: Tuesday, February 5, 2019 11:02 AM
To: Weslow, David <DWeslow@wileyrein.com>
Subject: Re: Addicting Games, Inc. v Addicting.com - No 1:19-cv-56 - request for extension of time to answer or otherwise respond

David,

As suspected my client informs me that it has no connection with the domains noted below and has no other “addicting” domains related to games. I believe that the close proximity of the client. Naming feature at Sea Wasp was as I indicated (alphabetical by domain) and not in relation to the registrant. The other domain (www.addicting...) has a vastly different registration history as well.

Also fyi, my client first acquired the domain in 1999 and not 2004 as indicated earlier.

Please let me know how you would like to proceed from here.

Sincerely,
Paul Raynor Keating, Esq.
Law.es
Tel. +34 93 368 0247 (Spain)
Tel. +44.7531.400.177 (UK)
Tel. +1.415.937.0846 (US)
Fax. (Europe) +34 93 396 0810
Fax. (US)(415) 358.4450
Skype: Prk-Spain
email: Paul@law.es

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From: "Weslow, David" <DWeslow@wileyrein.com>
Date: Monday, February 4, 2019 at 9:27 PM
To: Paul Keating <Paul@law.es>
Subject: RE: Addicting Games, Inc. v Addicting.com - No 1:19-cv-56 - request for extension of time to answer or otherwise respond

Paul,

As discussed, I would appreciate if you would inquire with your client whether he also owns addictinggames.com, www.addictinggames.com, or any other addicting formative domains. This information will come out in discovery, and its early disclosure may aid in our discussions.

Thanks,
David

David E. Weslow | Attorney at Law
Wiley Rein LLP
1776 K Street NW | Washington, DC 20006
T: 202.719.7525 | M: 202.494.8216 | dweslow@wileyrein.com
www.wileyrein.com | [Bio](#) | [LinkedIn](#) | [Twitter](#)

From: Paul Keating <Paul@law.es>
Sent: Monday, February 4, 2019 2:13 PM
To: Weslow, David <DWeslow@wileyrein.com>
Subject: Addicting Games, Inc. v Addicting.com - No 1:19-cv-56 - request for extension of time to answer or otherwise respond
Importance: High

Dear David,

I hope this finds you well.

I just left a voice mail message for you regarding this matter.

I am currently in the process of being engaged to assist in this matter and would appreciate your cooperation in granting my client a 20 day extension of the time to answer or otherwise respond to the complaint.

Please kindly confirm the above extension at your earliest convenience by phone (+34639371448) or via email to me at paul@law.es.

I appreciate your courtesy in this matter and am happy to further discuss the situation should you wish to do so.

Sincerely,

Paul Raynor Keating, Esq.

Law.es

Tel. +34 93 368 0247 (Spain)

Tel. +44.7531.400.177 (UK)

Tel. +1.415.937.0846 (US)

Fax. (Europe) +34 93 396 0810

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[2006-09-09](#)

[more](#) | [changes](#) | [screenshot](#)

[2006-02-20](#)

[more](#) | [changes](#) | [screenshot](#)

[2006-02-11](#)

[more](#) | [changes](#) | [screenshot](#)

[2006-02-02](#)

[more](#) | [changes](#) | [screenshot](#)

2005 4 total

[2005-12-03](#)

[more](#) | [changes](#) | [screenshot](#)

[2005-05-16](#)

[more](#) | [changes](#) | [screenshot](#)

[2005-03-29](#)

[less](#) | [changes](#) | [screenshot](#)

2004 1 total

record identical to [2005-03-29](#)

[2004-11-15](#)

2002 1 total

> [2002-10-09](#)

[more](#) | [changes](#) | [screenshot](#)

[scroll for more records](#)



Expires:

Reverse Whois:

[domainadmin@hubmedia.com](#) 🔍

You may be able to buy this domain name through <http://www.afternic.com/offer>

Organization:
CostNet
Domain Manager
P.O. Box 337-2300
San Jose,
CR
Phone: 506-255-2474
Email: DomainAdmin@hubmedia.com

Registrar Name....: Register.com
Registrar Whois...: whois.register.com
Registrar Homepage: <http://www.register.com>

Domain Name: ADDICTING.COM

Created on.....: Mon, Mar 01, 1999
Expires on.....: Tue, Mar 01, 2005
Record last updated on..: Tue, Jun 04, 2002

Administrative Contact:
CostNet
Domain Manager
P.O. Box 337-2300
San Jose,
CR
Phone: 506-255-2474
Email: DomainAdmin@hubmedia.com

Technical Contact:
CostNet
Domain Manager
P.O. Box 337-2300
San Jose,
CR
Phone: 506-255-2474
Email: DomainAdmin@hubmedia.com

Zone Contact:
CostNet
Domain Manager
P.O. Box 337-2300
San Jose,
CR
Phone: 506-255-2474
Email: DomainAdmin@hubmedia.com

Domain servers in listed order:

NS1.VAS.NET 216.185.107.3
NS2.VAS.NET 216.185.107.4

[How does this work?](#)

Lookup Domain Ownership History

ONE-CLICK MONITORING
 Create a [Domain Monitor](#) to monitor future changes to "addicting.com".

Unique Records

private

109 historical records found

2006 5 total

[2006-12-12](#)

[more](#) | [changes](#) | [screenshot](#)

[2006-09-09](#)

[more](#) | [changes](#) | [screenshot](#)

[2006-02-20](#)

[more](#) | [changes](#) | [screenshot](#)

[2006-02-11](#)

[more](#) | [changes](#) | [screenshot](#)

[2006-02-02](#)

[more](#) | [changes](#) | [screenshot](#)

2005 4 total

[2005-12-03](#)

[more](#) | [changes](#) | [screenshot](#)

[2005-05-16](#)

[more](#) | [changes](#) | [screenshot](#)

[2005-03-29](#)

[less](#) | [changes](#) | [screenshot](#)

2004 1 total

record identical to [2005-03-29](#)

[2004-11-15](#)

2002 1 total

[2002-10-09](#)

[more](#) | [changes](#) | [screenshot](#)

[scroll for more records](#)

Whois Record for 2004-11-15

[Previous](#)



[Next](#)

Domain:

[addicting.com](#)

Record Date: 2004-11-15

Registrar: FABULOUS.COM PTY LTD.

Server: whois.fabulous.com

Created: 1999-03-01

Updated:

Expires: 2006-03-01

Reverse Whois:

[vietadmin@fastmail.fm](#)

Domain addicting.com:
 FIG Vietnam
 Thuan Kieu Plaza Unit #1604
 190 Hong Bang Str, District 5 HCMC VN

Administrative contact:

Technical contact:

Billing contact:

FIG Vietnam
 Domain Admin
 vietadmin@fastmail.fm
 Thuan Kieu Plaza Unit #1604
 190 Hong Bang Str, District 5 HCMC VN
 Phone: +84.89551889
 Fax:

Record dates:

Record created on: 1999-03-01 00:00:00 PST (0)
 Record modified on: 2004-08-24 08:41:15 PST (0)
 Record expires on: 2006-03-01 PST (0)

Nameservers:

ns2.national-net.com:
 66.115.136.4
 ns1.national-net.com:
 66.115.130.4

[How does this work?](#)

Lookup Domain Ownership History

addicting.com

LOOKUP

ONE-CLICK MONITORING

Create a [Domain Monitor](#) to monitor future changes to "addicting.com".

[Monitor Addicting.com](#)

Enter a term to filter on



Unique Records

collapse all

private

109 historical records found

> [2011-10-07](#)

[more](#) | [changes](#) | [screenshot](#)

[2011-05-10](#)

[more](#) | [changes](#) | [screenshot](#)

[2011-03-31](#)

[more](#) | [changes](#) | [screenshot](#)

[2011-02-28](#)

[more](#) | [changes](#) | [screenshot](#)

2010 9 total

[show additional records up to 2011-02-28](#)

[2010-11-09](#)

[more](#) | [changes](#) | [screenshot](#)

[2010-10-15](#)

[more](#) | [changes](#) | [screenshot](#)

[2010-02-27](#)

[more](#) | [changes](#) | [screenshot](#)

[2010-02-14](#)

[more](#) | [changes](#) | [screenshot](#)

2009 11 total

[show additional records up to 2010-02-14](#)

[2009-09-23](#)

[more](#) | [changes](#) | [screenshot](#)

[2009-04-17](#)

[more](#) | [changes](#) | [screenshot](#)

[scroll for more records](#)

Whois Record for 2011-10-07

[« Previous \(2011-05-10\)](#)

[Next \(2011-12-15\) »](#)

Domain:

addicting.com

Record Date: 2011-10-07

Registrar: FABULOUS.COM PTY LTD.

Server: whois.fabulous.com

Created: 1999-03-01

Updated: 2011-05-05

Expires: 2012-03-01

Reverse Whois:

vietadmin@fastmail.fm

Domain addicting.com:

FIG Vietnam
Thuan Kieu Plaza Unit #1604
190 Hong Bang Str, District 5 HCMC VN

Administrative contact:

Technical contact:

Billing contact:

FIG Vietnam
Domain Admin
vietadmin@fastmail.fm
Thuan Kieu Plaza Unit #1604
190 Hong Bang Str, District 5 HCMC VN
Phone: +84.89551889
Fax:

Record dates:

Record created on: 1999-03-01 05:00:00 UTC
Record modified on: 2011-05-05 21:59:06 UTC
Record expires on: 2012-03-01 UTC

Nameservers:

ns2.pql.net:
ns1.pql.net:

How does this work?

Lookup Domain Ownership History

addicting.com

LOOKUP

ONE-CLICK MONITORING

Create a Domain Monitor to monitor future changes to "addicting.com".

Monitor Addicting.com

Enter a term to filter on



Unique Records

collapse all

private

109 historical records found

2011-12-14

2011-10-07

more | changes | screenshot

2011-05-10

more | changes | screenshot

2011-03-31

more | changes | screenshot

2011-02-28

more | changes | screenshot

2010 9 total

show additional records up to 2011-02-28

2010-11-09

more | changes | screenshot

2010-10-15

more | changes | screenshot

2010-02-27

more | changes | screenshot

2010-02-14

more | changes | screenshot

2009 11 total

show additional records up to 2010-02-14

2009-09-23

more | changes | screenshot

2009-04-17

scroll for more records

Whois Record for 2011-12-14

Previous

Next

Domain:

addicting.com

Record Date: 2011-12-14

Registrar: FABULOUS.COM PTY LTD.

Server: whois.fabulous.com

Created: 1999-03-01

Updated: 2011-05-05

Expires: 2012-03-01

Reverse Whois:

85528474...@whoisprivacyservices.com.au

This domain is protected by Whois Privacy Services Pty Ltd. For more information please visit www.whoisprivacyservices.com.au

Domain addicting.com:

Whois Privacy Services Pty Ltd
Domain Hostmaster, Customer ID : 85528474484681
85528474484681-e8f8ca@whoisprivacyservices.com.au
PO Box 923
Fortitude Valley QLD 4006 AU

Administrative contact:

Technical contact:

Billing contact:

Whois Privacy Services Pty Ltd
Domain Hostmaster, Customer ID : 85528474484681
85528474484681-e8f8ca@whoisprivacyservices.com.au
PO Box 923
Fortitude Valley QLD 4006 AU
Phone: Phone: +61.730070090
Fax: Phone: +61.730070091

Record dates:

Record created on: 1999-03-01 05:00:00 UTC
Record modified on: 2011-05-05 21:59:06 UTC
Record expires on: 2012-03-01 UTC

Nameservers:

ns2.pql.net:
ns1.pql.net:

How does this work?

Lookup Domain Ownership History

addicting.com

LOOKUP

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Create a Domain Monitor to monitor future changes to "addicting.com".

Monitor Addicting.com

Enter a term to filter on



Unique Records

collapse all

private

109 historical records found

2011-12-14

2011-10-07

more | changes | screenshot

2011-05-10

more | changes | screenshot

2011-03-31

more | changes | screenshot

2011-02-28

more | changes | screenshot

2010 9 total

show additional records up to 2011-02-28

2010-11-09

more | changes | screenshot

2010-10-15

more | changes | screenshot

2010-02-27

more | changes | screenshot

2010-02-14

more | changes | screenshot

2009 11 total

show additional records up to 2010-02-14

2009-09-23

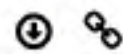
more | changes | screenshot

2009-04-17

scroll for more records

Whois Record for 2011-12-14

Previous



Next

Domain:

addicting.com

Record Date: 2011-12-14

Registrar: FABULOUS.COM PTY LTD.

Server: whois.fabulous.com

Created: 1999-03-01

Updated: 2011-05-05

Expires: 2012-03-01

Reverse Whois:

85528474...@whoisprivacyservices.com.au

This domain is protected by Whois Privacy Services Pty Ltd. For more information please visit www.whoisprivacyservices.com.au

Domain addicting.com:

Whois Privacy Services Pty Ltd
Domain Hostmaster, Customer ID : 85528474484681
85528474484681-e8f8ca@whoisprivacyservices.com.au
PO Box 923
Fortitude Valley QLD 4006 AU

Administrative contact:

Technical contact:

Billing contact:

Whois Privacy Services Pty Ltd
Domain Hostmaster, Customer ID : 85528474484681
85528474484681-e8f8ca@whoisprivacyservices.com.au
PO Box 923
Fortitude Valley QLD 4006 AU
Phone: Phone: +61.730070090
Fax: Phone: +61.730070091

Record dates:

Record created on: 1999-03-01 05:00:00 UTC
Record modified on: 2011-05-05 21:59:06 UTC
Record expires on: 2012-03-01 UTC

Nameservers:

ns2.pql.net:
ns1.pql.net:

D	2018-02-27	2018-05-30
1	Domain Name: addicting.com	1 Domain Name: ADDICTING.COM
2	Registry Domain ID: 5559851_DOMAIN_COM-VRSN	2 Registry Domain ID: 5559851_DOMAIN_COM-VRSN
3	Registrar WHOIS Server: whois.fabulous.com	3 Registrar WHOIS Server: whois.fabulous.com
4	Registrar URL: http://www.fabulous.com	4 Registrar URL: http://www.fabulous.com
5	Updated Date: 2018-02-27T14:56:07Z	5 Updated Date: 2018-02-28T14:56:07Z
6	Creation Date: 1999-03-01T05:00:00Z	6 Creation Date: 1999-02-28T23:00:00Z
7	Registrar Registration Expiration Date: 2019-03-01T00:00:00Z	7 Registrar Registration Expiration Date: 2019-02-28T23:00:00Z
8	Registrar: FABULOUS.COM PTY LTD.	8 Registrar: Sea Wasp, LLC
9	Registrar IANA ID: 411	9 Sponsoring Registrar IANA ID: 411
10	Registrar Abuse Contact Email: abuse@fabulous.com	10 Registrar Abuse Contact Email: abuse@fabulous.com
11	Registrar Abuse Contact Phone: +61.282133005	11 Registrar Abuse Contact Phone: +1.5045078209
12	Domain Status: clientDeleteProhibited https://icann.org/epp#clientDeleteProhibited	12 Domain Status: clientTransferProhibited (https://www.icann.org/epp#clientTransferProhibited)
13	Domain Status: clientTransferProhibited https://icann.org/epp#clientTransferProhibited	13 Admin Email: addicting.com@privacy.co.com
14	Registry Registrant ID:	14 Tech Email: addicting.com@privacy.co.com
15	Registrant Name: Domain Hostmaster, Customer ID : 85528474484681	15 Registrant Organization: Privacy.co.com, Inc Privacy ID# 735277
16	Registrant Organization: Whois Privacy Services Pty Ltd	16 Registrant State/Province: WY
17	Registrant Street: PO Box 923	17 Registrant Country: US
18	Registrant City: Fortitude Valley	18 Registrant Email: addicting.com@privacy.co.com
19	Registrant State/Province: QLD	
20	Registrant Postal Code: 4006	
21	Registrant Country: AU	
22	Registrant Phone: +61.282133009	
23	Registrant Phone Ext:	
24	Registrant Fax:	
25	Registrant Fax Ext:	
26	Registrant Email: 85528474484681-43c8aa@whoisprivacyservices.com.au	
27	Registry Admin ID:	
28	Admin Name: Domain Hostmaster, Customer ID : 85528474484681	
29	Admin Organization: Whois Privacy Services Pty Ltd	
30	Admin Street: PO Box 923	
31	Admin City: Fortitude Valley	
32	Admin State/Province: QLD	
33	Admin Postal Code: 4006	
34	Admin Country: AU	
35	Admin Phone: +61.282133009	
36	Admin Phone Ext:	
37	Admin Fax:	
38	Admin Fax Ext:	
39	Admin Email: 85528474484681-43c8aa@whoisprivacyservices.com.au	
40	Registry Tech ID:	
41	Tech Name: Domain Hostmaster, Customer ID : 85528474484681	

[REDACTED]	[REDACTED]		[REDACTED]	[REDACTED]
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Invoice Sub-Total:	\$0.00
Invoice Total:	\$0.00
Amount Due:	\$0.00

Thank you! Your payment has been accepted.
Please print or save a copy of this page, as it is your proof of payment.

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Invoice Details

Sea Wasp, LLC.
 3500 N. Causeway Blvd. Suite 160
 Metairie, LA 70002

Order Info:

Invoice/Draft#: 303671
 Date/Time: 02/21/2008 08:35 pm
 Payment Method:
 Account: 2471

Billed to:

Domain Admin
 FIG Vietnam
 Thuan Kieu Plaza Unit #1606,
 190 Hong Bang Str, District 5, TH 70999
 +84.89551889

Type	Description	Quantity	Price	Subtotal
Fabulous Migration	addicting.com renew	1	\$6.85	\$6.85
[REDACTED]	[REDACTED]		[REDACTED]	[REDACTED]
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Invoice Sub-Total:	\$689.95
Invoice Total:	\$689.95
Amount Due:	\$689.95

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[REDACTED]	[REDACTED]		[REDACTED]	[REDACTED]
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Invoice Sub-Total:	\$1,902.54
Invoice Total:	\$1,902.54
Historical Payment:	\$-1,902.54
Amount Due:	\$0.00

Thank you! Your payment has been accepted.
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