

## JURISDICTION SUBGROUP ICANN LITIGATION SUMMARY v2.1

Reviewed by:	David McAuley
Name of Case:	<a href="#">Yeager</a> v. Go Daddy et al (including ICANN)
Parties: <sup>1</sup>	Ann. M. Yeager (Plaintiff).  Defendants: Go Daddy Group Inc.; GoDaddy.com; ICANN; Ibrahim Kazanci; and Unknown registrant(s) - Kazanci appears to be latest registrant of contested domain name.
Citizenship of Parties:	All appear to be US citizens except Kazanci who appears to be Canadian. Kazanci did not appear in the case.
Court/Venue:	Court of Common Pleas, Franklin County, Ohio, USA
Was a contract involved? Did it have a Choice of Law provision; if so, which jurisdiction?:	N/A
Law used to determine conflict of laws issues (i.e., to determine which substantive law applies):	N/A
Substantive Law Governing the Dispute (i.e., which law applies to the dispute and/or interpretation of contracts):	Laws of the state of Ohio and US Constitution cited on jurisdiction – dismissal based on Ohio rules.

<sup>1</sup> Show each party and their status (Plaintiff (P), Defendant (D), or other). Please list any non-party participants, such as Amicus Curiae (AC).

Date Case Began:	April 7, 2011
Date Case Ended:	October 11, 2011
Causes of Action: <sup>2</sup>	The plaintiff represented herself without legal counsel. The claims appear to amount to copyright infringement, torts, and defamation-related claims – by allowing the term “aypress” (plaintiff said this was made up of her initials – “AY” - and the word “press”) to be used in registering a domain name (that she had previously registered through an agent prior to the registration lapsing).
Issues Presented/Brief Summary of Case:	The plaintiff claimed loss by the fact that another person(s) was able to register her “copyrighted” term “aypress” as a domain name. For our purposes, what matters is that ICANN moved to dismiss based on lack of personal jurisdiction.
Was Preliminary Relief Requested (and if so, was it granted)?:	N/A
Relief Requested by Plaintiff:	Plaintiff asked for \$1 billion.
Outcome of Case and Relief Granted (if any):	Case <a href="#">dismissed</a> Oct. 11, 2011 – without prejudice to plaintiff refiling an amended complaint. (None appears on ICANN litigation page.)  The court had previously (June 20, 2011) ordered plaintiff to file an amended, more specific complaint and she had not done so despite an extension of time within which to do it.
Was Jurisdiction Contested, and if so, what was the outcome?: <sup>3</sup>	ICANN <a href="#">moved</a> to dismiss on basis of lack of “personal jurisdiction” and failure to state an actionable claim. With respect to personal jurisdiction, ICANN said that: it has no office, facilities, assets, or other presence in the state of Ohio; it does not conduct business there; and, it does not have sufficient

<sup>2</sup> For example, breach of contract, tortious interference with contract, violation of antitrust laws, etc. (state which laws)

<sup>3</sup> For example, was there a 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.

	<p>contacts in the state to allow it to be sued there. ICANN cited plaintiff’s failure to satisfy Ohio’s “long arm” statute for exercising personal jurisdiction over non-resident defendants. (ICANN’s jurisdictional argument is on pages 3 to 11 of its motion.)</p> <p>Plaintiff <a href="#">opposed</a> ICANN’s motion to dismiss. She said ICANN does conduct business in Ohio and met the requisite threshold of “substantial contacts” in the state by means of its “established superintending control of all domain names[.]” – including through its contacts with registries and registrars. (Plaintiff said in a <a href="#">supplemental</a> document that ICANN has at least one registrar in Ohio.) She illustrated ICANN’s “active controlling role” over domain names by citing the GNSO’s IPC (starting on page 3 of opposition).</p> <p>ICANN <a href="#">replied</a> to plaintiff’s arguments and basically said that the arguments that ICANN’s website and business dealings with an Ohio registrar were sufficient for jurisdiction were too attenuated to confer personal jurisdiction in this case (see pages 2-5). And plaintiff also gave further argument in a later <a href="#">filing</a>.</p>
<p>Relevance of the case to the Jurisdiction Subgroup mandate:</p>	<p>Even though the case was dismissed on non-jurisdictional grounds, ICANN’s arguments on personal jurisdiction are informative of how it viewed personal jurisdiction in this case – an issue argued mostly on the basis of conduct/website/business-relationships potentially related to the location rather than a presence in the location that might confer “general” jurisdiction.</p>
<p>Impact of case on ICANN accountability/operations:<sup>4</sup></p>	<p>N/A, in my opinion.</p>
<p>Impact if case were decided for the other party?:</p>	<p>I could comment when we cover this case on a call but think this area is too speculative to be helpful.</p>

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<sup>4</sup> Indicate whether the case had, will have or could have an effect on ICANN’s accountability mechanisms or the operation of ICANN’s policies.

Did the Court comment on any jurisdiction-related matters?:	No.
Did the Court comment on the merit, lack of merit and/or frivolity of the plaintiff's claims?:	To a degree, yes. In the court's June 20, 2011, <a href="#">order</a> requiring plaintiff to file a more definite statement of her claims, the court criticized the complaint as rambling and disjointed – so much so that it did not give adequate notice to the defendants of what they had to defend against. These comments went to the merits of the claims – not to the arguments over jurisdiction.
Key Documents:	Links provided in text above. The key documents relate to arguments on motion to dismiss for lack of personal jurisdiction.