

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

RECEIVED

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

TLD NETWORK LTD., QUANTUM  
MANAGEMENT (GB) LTD., TBS  
INDUSTRIES LTD., THOMAS GOOLNIK, and  
EDWARD HARRIS GOOLNIK, individually,  
and as officers of the above companies.

Defendants.

FEB 28 2002

MICHAEL J. ...  
CLERK, U.S. DISTRICT COURT

Case No.

020 1475

JUDGE HOLDERMAN

MAGISTRATE JUDGE ASHMAN

**TEMPORARY RESTRAINING ORDER WITH  
ASSET FREEZE AND OTHER EQUITABLE RELIEF**

Plaintiff Federal Trade Commission ("Commission" or "FTC"), having filed its complaint for a permanent injunction and other relief in this matter, pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), and having moved *ex parte* for a Temporary Restraining Order pursuant to Rule 65 of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 65, and the Court having considered the complaint, declarations, exhibits and memorandum of law filed in support thereof, and now being advised in the premises, finds that:

1. This Court has jurisdiction over the subject matter of the case, and there is good cause to believe that the Court will have jurisdiction over the parties;
2. Venue lies properly with this Court;

3. There is good cause to believe that Defendants have engaged in and are likely to engage in acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and that the Commission is likely to prevail on the merits of this action;

4. There is good cause to believe that immediate and irreparable damage to the Court's ability to grant effective final relief for consumers in the form of monetary redress will occur from the sale, transfer, assignment, or other disposition or concealment by Defendants of their assets or records unless Defendants are immediately restrained and enjoined by Order of this Court;

5. There is good cause for issuing this Order pursuant to Federal Rule of Civil Procedure 65(b) and for relieving the Plaintiff of the duty to provide Defendants with prior notice of the Plaintiff's motion;

6. Weighing the equities and considering the Plaintiff's likelihood of success, this Order is in the public interest; and

7. No security is required of any agency of the United States for issuance of a restraining order. *See* Fed. R. Civ. P. 65(c).

## **DEFINITIONS**

1. "Defendants" means TLD Network Ltd., Quantum Management (GB) Ltd., TBS Industries Ltd., Thomas Goolnik, and Edward Harris Goolnik, individually, and as officers of the companies.

2. "Document" is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts,

photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

3. "Asset" or "Assets" means any legal or equitable interest in, right to, or claim to, any real and personal property, including without limitation, chattels, goods, instruments, equipment, fixtures, general intangibles, leaseholds, mail or other deliveries, inventory, checks, notes, accounts, credits, contracts, receivables, shares of stock, and all cash, wherever located.

4. "Internet" means a worldwide system of linked computer networks that use a common protocol (TCP/IP) to deliver and receive information. The "Internet" includes but is not limited to the following forms of electronic communication: electronic mail and email mailing lists, the World Wide Web, Web sites, newsgroups, Internet Relay Chat, and file transfers protocols thereon, and remote computer access from anywhere in the world thereto.

5. "World Wide Web" means a system used on the Internet for cross-referencing and retrieving information. A "Web site" is a set of electronic documents, usually a home page and subordinate pages, readily viewable on computer by anyone with access to the Web, standard software, and knowledge of the Web site's location or address.

6. "Material" means likely to affect a person's choice of, or conduct regarding, goods or services.

7. "Clear(ly) and conspicuous(ly)" means of a size and shape appearing on the Web page in a manner so as to be reasonably unavoidable, and is presented prior to the consumer incurring any financial obligation, and using language and syntax sufficient for an ordinary

consumer to read and understand the disclosure; provided, however, that nothing contrary to, inconsistent with, or that otherwise interferes with a consumer's understanding of the disclosure shall be used in any advertisement.

**I.**

**PROHIBITED BUSINESS ACTIVITIES**

**IT IS THEREFORE ORDERED** that in connection with the advertising, promotion, offering for sale, sale or provision of any goods or services, including but not limited to domain names, the Defendants are hereby temporarily restrained and enjoined from making or assisting in the making of, expressly or by implication, orally or in writing, any false or misleading statement or representation of material fact, including but not limited to representations:

- A. that domain names are, or will be, usable over the Internet;
- B. about the nature of any product or service offered or sold over the Internet; or
- C. any material term, condition, or limitation of the transaction or on the use of any offered good or service.

**II.**

**IT IS FURTHER ORDERED** that in connection with the advertising, promotion, offering for sale, or sale of domain names, Defendants are hereby temporarily restrained and enjoined from failing to disclose, clearly and conspicuously, any material limitation or condition on the usability or functionality of those domain names.

### III.

**IT IS FURTHER ORDERED** that, pending determination of the Commission's request for a preliminary injunction, any party hosting any Web pages or Web sites for Defendants, including Unnihosting.com, 415 West Boulevard, Tustin, CA 92780, shall:

A. Immediately take whatever steps may be necessary to ensure that Web pages or Web sites operated, in whole or in part, under the names www.dotusa.com, www.dotsex.com, www.dotbrit.com, www.dotscot.com, www.dotbet.com, www.dotsexregistrar.com, www.dotgod.com, www.dotisp.com, www.dotstore.com, www.gotdotsex.com and www.tldnetworks.com cannot be accessed by the public;

B. Prevent the destruction or erasure of Web pages or Web sites operated, in whole or in part, under the names www.dotusa.com, www.dotsex.com, www.dotbrit.com, www.dotscot.com, www.dotbet.com, www.dotsexregistrar.com, www.dotgod.com, www.dotisp.com, www.dotstore.com, www.gotdotsex.com, and www.tldnetworks.com by preserving such documents in the format in which they are currently maintained; and

C. Immediately notify counsel for the FTC of any other Web page or Web site operated or controlled by Defendants.

### IV.

**IT IS FURTHER ORDERED** that, pending determination of the Commission's request for a preliminary injunction, Dotster, 11807 NE 99<sup>th</sup> St., Vancouver, WA 98682, Bulkregister.com, 10 East Baltimore St., Suite 1500, Baltimore, MD 21202, Register.com, 575 8<sup>th</sup> Avenue, 11<sup>th</sup> Fl., New York, NY 10018, DotRegistrar.com, 13205 SW 137<sup>th</sup> Avenue, #133, Miami, FL 33186, and any other domain name registrar shall:

A. Immediately suspend the registration and prevent the transfer of the following domain names: dotusa.com, dotsex.com, dotbrit.com, dotscot.com, dotbet.com, dotsexregistrar.com, dotgod.com, dotisp.com, dotstore.com, gotdotsex.com and tldnetworks.com, by any and all means, including by removing name server records for the domain names from the registry root file; and

B. Immediately notify counsel for the FTC of any other Web page or Web site operated or controlled by Defendants.

V.

**ASSET FREEZE**

**IT IS FURTHER ORDERED** that Defendants, and their officers, agents, servants, employees, and attorneys, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from:

A. Transferring, converting, encumbering, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, or otherwise disposing of any funds, property, coins, precious metals, lists of consumer names, artwork, shares of stock, or other assets, wherever located, that are (1) owned or controlled by Defendants, in whole or in part; or (2) in the actual or constructive possession of Defendants; (3) held by an agent of Defendants as a retainer for the agent's provision of services to Defendants; or (4) owned, controlled by, or in the actual or constructive possession of, or otherwise held for the benefit of, any corporation, partnership or other entity directly or indirectly owned, managed or controlled by Defendants;

B. Opening or causing to be opened any safe deposit boxes titled in the name of any of the Defendants, or subject to access by any of Defendants;

C. Incurring charges or cash advances on any credit or debit card issues in the name, singly or jointly, of Defendants or any corporation, partnership or other entity directly or indirectly owned, managed or controlled by Defendants;

D. The assets affected by this section shall include both existing assets and assets acquired after the effective date of this Order, including, without limitation, those acquired by loan or gift, and assets in the form of retainers paid to Defendants' agents as compensation for the provision of services to Defendants. Defendants, or any third party holding assets for the benefit of Defendants, shall hold all assets, including without limitation, payments, loans and gifts, received after service of this Order; and

E. Notwithstanding the asset freeze provisions of Paragraphs V. A - D above, Defendants may pay reasonable, usual, ordinary, and necessary living expenses, and reasonable attorneys fees, after written prior approval by the Commission or by the Court.

## VI.

### **RECORD KEEPING/MAINTAINING BUSINESS RECORDS**

**IT IS FURTHER ORDERED** that Defendants are each hereby restrained and enjoined from:

A. Failing to make and keep books, records, accounts, bank statements, current accountants' reports, general ledgers, general journals, cash receipts ledgers, cash disbursements ledgers and source documents, documents indicating title to real or personal property, and any

other data which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of Defendants; and

B. Destroying, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, any books, records, tapes, discs, accounting data, checks (fronts and backs), correspondence, forms, advertisements, brochures, manuals, electronically stored data, banking records, customer lists, customer files, invoices, telephone records, ledgers, payroll records, or other documents of any kind, including information stored in computer-maintained form, in their possession, custody, or control.

**VII.**

**DISTRIBUTION OF ORDER BY DEFENDANTS**

**IT IS FURTHER ORDERED** that Defendants shall immediately provide a copy of this Order to each affiliate, partner, division, sales entity, successor, assign, officer, director, employee, independent contractor, Web master, agent, attorney, and representative of Defendants and shall, within ten (10) days from the date of entry of this Order, serve upon counsel for the Commission a sworn statement that they have complied with this provision of the Order, which statement shall include the names and addresses of each such person or entity who received a copy of the Order.

**XIII.**

**CREDIT REPORTS**

**IT IS FURTHER ORDERED** that Plaintiff Commission may obtain credit reports concerning Defendants pursuant to Section 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C.



§ 1681b(a)(1), and that upon written request, any credit reporting agency from which such reports are requested shall provide them to Plaintiff Commission.

**IX.**

**FINANCIAL REPORTS**

**IT IS FURTHER ORDERED** that Defendants shall each, within five (5) business days after service of this Order, prepare and deliver to counsel for the Commission:

A. A completed financial statement accurate as of the date of service of this Order upon Defendants (Defendant Thomas Goolnik and Edward Harris Goolnik shall include all financial information as requested by the Federal Trade Commission's Financial Statement of Individual Defendant, appended hereto as **Attachment A**; TLD Network Ltd, Quantum Management (GB) Ltd., and TBS Industries, Ltd. shall include all financial information requested by the Federal Trade Commission's Financial Statement of Corporate Defendant, appended hereto as **Attachment B**). The Financial Statements shall be accurate as of the date of the entry of this Order and shall be verified under oath;

B. A complete and accurate list of Defendants' customers including, if available, the customers' name, address, email address, date of purchase of Defendants' services, and the amount the customer paid Defendants.

**X.**

**EXPEDITED DISCOVERY**

**IT IS FURTHER ORDERED** that, notwithstanding the provisions of Federal Rules of Civil Procedure 26(d) and (f) and 30(a)(2)(C), and pursuant to Federal Rules of Civil Procedure

30(a), 34, and 45, the parties are granted leave, at any time after service of this Order, to:

A. Take the deposition, on three (3) days' notice, of any person, whether or not a party, for the purpose of discovering the nature, location, status, and extent of assets of the defendants, or of their affiliates or subsidiaries; the nature and location of documents reflecting the business transactions of these defendants, or their affiliates or subsidiaries; and the applicability of any evidentiary privileges to this action. The limitations and conditions set forth in Fed. R. Civ. P. 30(a)(2)(B) and 31(a)(2)(B) regarding subsequent depositions of an individual shall not apply to depositions taken pursuant to this Section. Any such depositions taken pursuant to this Section shall not be counted toward the ten-deposition limit set forth in Fed. R. Civ. P. 30(a)(2)(A) and 31(a)(2)(A). Service of discovery upon a party, taken pursuant to this Section, shall be sufficient if made by facsimile or by overnight delivery; and

B. Demand the production of documents, on five (5) days' notice, from any person, whether or not a party, relating to the nature, status, or extent of Defendants' assets, or of their affiliates or subsidiaries; the location of documents reflecting the business transactions of Defendants, or of their affiliates or subsidiaries; and the applicability of any evidentiary privileges to this action, provided that twenty four (24) hours' notice shall be deemed sufficient for the production of any such documents that are maintained or stored only as electronic data.

**XI.**

**ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION**

**IT IS FURTHER ORDERED**, pursuant to Federal Rule of Civil Procedure 65(b), that the Defendants shall appear before this Court, <sup>in COURTROOM</sup> on the 21<sup>st</sup> ~~floor~~ of the Dirksen Federal Courthouse, 219 S. Dearborn, Chicago, Illinois, on the 11<sup>th</sup> day of MARCH, 2002, at 9:30 AM

9:30 o'clock A.m., to show cause, if there is any, why this Court should not enter a preliminary injunction, pending final ruling on the complaint against Defendants, enjoining them from further violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), continuing the freeze of their assets and imposing such additional relief as may be appropriate.

Defendants shall serve answering pleadings or materials on counsel for the Commission not less than 3 business days prior to the hearing on the Commission's request for a preliminary injunction. Plaintiff may submit reply pleadings or materials by MARCH 8, 2002.

**XII.**

**SERVICE OF ORDER**

**IT IS FURTHER ORDERED** that copies of this Order may be served by any means, including facsimile transmission or electronic mail, upon any entity or person that may have possession or control of any documents of the Defendants, or that may be subject to any provision of this Order.

**XIII.**

**CORRESPONDENCE WITH AND NOTICE TO PLAINTIFF**

**IT IS FURTHER ORDERED** that for purposes of this Order, all correspondence and pleadings to the Commission shall be addressed to:

Steven M. Wernikoff, Esq.  
Federal Trade Commission  
55 E. Monroe St., Suite 1860  
Chicago, IL 60603  
(312) 960-5600 (facsimile)

Notice may be provided by email to swernikoff@ftc.gov.

XIV.

**DURATION OF TEMPORARY RESTRAINING ORDER**

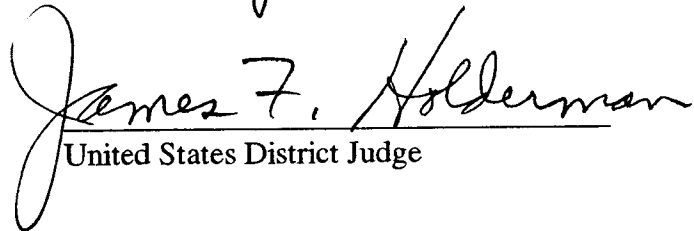
IT IS FURTHER ORDERED that the TRO granted herein shall expire on at 8 A.m., on MARCH 12, 2002, unless, for good cause shown, the TRO is extended, or unless, as to any Defendant, the Defendant consents that it should be extended for a longer period of time.

XV.

**RETENTION OF JURISDICTION**

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

SO ORDERED, this 28<sup>th</sup> day of February, 2002, at 4:30 p.m.

  
United States District Judge