

Before the:

**WORLD INTELLECTUAL PROPERTY ORGANIZATION
ARBITRATION AND MEDIATION CENTER**

SHELL INTERNATIONAL
PETROLEUM COMPANY LIMITED
Shell Centre, London, SE1 7NA

(Complainant)

-v-

Alfred Donovan
847a Second Avenue, New York, NY
10017, United States of America

(Respondent)

Case No: *D2005-0538*

Disputed Domain Name/s/:

www.royaldutchshellplc.com
www.royaldutchshellgroup.com
www.tellshell.org

RESPONSE

(Rules, para. 5(b))

I. Introduction

[1.] On 25 May 2005 the Respondent received a Notification of Complaint and Commencement of Administrative Proceeding from the WIPO Arbitration and Mediation Center (the **Center**) by email informing the Respondent that an administrative proceeding had been commenced by the Complainant in accordance with the Uniform Domain Name Dispute Resolution Policy (the **Policy**), approved by the Internet Corporation for Assigned Names and Numbers (**ICANN**) on October 24, 1999, the Rules for Uniform Domain Name Dispute Resolution Policy (the **Rules**), approved by ICANN on October 24, 1999, and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the **Supplemental Rules**). The Center set **14 June 2005** as the last day for the submission of a Response by the Respondent.

II. Respondent's Contact Details

(Rules, para. 5(b)(ii) and (iii))

[2.] The Respondent's contact details are:

Name: Alfred Ernest Donovan
Address: 847a Second Avenue, New York, NY 10017 USA
Telephone: 07977 146767
Fax: 001 212 573 8362
E-mail: alfred@purplex.net

[3.] The Respondent's authorized representative in this administrative proceeding is:

I am the Respondent, Alfred Donovan. I have no authorized representative. As the Complainant is aware, I am 88 years old living on a fixed income including a war disability pension. I have a small long term shareholding in Shell Transport and Trading Company plc. I have no legal training and no expertise in the field of intellectual property law. I will complete the rest of this submission to the best of my ability referring to myself in the third person as the Respondent. I apologize in advance for any repetition or responses given in the wrong sections. I do however wish to acknowledge the extremely kind unofficial pointers to applicable case law etc from Mr Paul Levy of the Public Citizen Litigation Group based in Washington, D.C.

[4.] The Respondent's preferred method of communications directed to the Respondent in this administrative proceeding is:

Electronic-only material

Method: e-mail
Address: alfred@purplex.net
Contact: Alfred Donovan

Material including hardcopy

Method: post/courier
Address: 847a Second Avenue, New York NY 10017 USA
Fax: 001 212 573 8362

Contact: Alfred Donovan

III. Response to Statements and Allegations Made in Complaint

(Policy, paras. 4(a), (b), (c); Rules, para. 5)

[5.] The Respondent hereby responds to the statements and allegations in the Complaint and respectfully requests the Administrative Panel to deny the remedies requested by the Complainant.

A. Whether the domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(Policy, para. 4(a)(i))

(1). www.royaldutchshellplc.com and www.royaldutchshellgroup.com

To clear up any possible confusion arising from the Complaint, the Respondent would make it clear that he owns and operates a single web site which uses various Shell related domain name aliases, including those in dispute: all directed at the one site. ALL of the Respondents domain names for his web site are an accurate reflection of the topics and content published on it.

On Sunday 12 June 2005 the Respondent conducted a “Google” search of the Internet entering the domain name “www.royaldutchshellplc.com”. This of course generated just one result – the Respondents URL. A search entering “royaldutchshellplc” again generated one result – the Respondents URL. The Respondent carried out a third search, this time entering the proposed company name for the unified parent companies: Royal Dutch Shell PLC. This generated 93,700 results. The Respondent checked the first 500 results and found NONE with the Respondents URL: www.royaldutchshellplc.com. The Respondent gave up at that point. The Respondent repeated the Google test, this time for “Royal Dutch Shell Group”. 651,000 results were generated. There was not one instance of the URL: www.royaldutchshellgroup in the first 500 results. The same happened when searching “Royal Dutch/Shell Group” (225,000 results).

The Respondent is simply trying to express his opinions and call the public's attention to the fact that his web site is focused on Royal Dutch Shell. No other

web site contains as many news articles or independent commentary about Shell. Google News notified the Respondent on 7 June 2005 that it is going to accept the Respondents original articles about Shell. In other words it has accepted the Respondents web site as a legitimate source of original news stories about Shell. The relevant email correspondence is enclosed as **ANNEX 1**. The Respondents website has consistently right from its inception, always posted all major news stories about Shell, irrespective of whether they are positive or negative: as it says on the site – “the good, the bad and the ugly”. It is not the Respondents fault that there have been so many negative news stories about the reserves scandal over the last 18 months. .

The Respondent is aware that the Shell Group has over 100,000 employees and would not suggest for one minute that taken as a whole, they are anything other than hard working decent people, with a few bad apples, as per any other similar size business. The Respondent is not anti-Shell but is very much opposed, as a Shell shareholder, to any Shell senior management actions which are contrary to Shell’s own much proclaimed ethical code – its Statement of General Business Principles pledging honest, integrity and openness in all of Shell’s dealings. If Shell had abided by these worthy principles, the Respondent would never have had grounds to successfully bring a series of High Court Actions against Shell UK Limited, nor would the reserves scandal have occurred. The Respondent has publicly heaped praise on a Shell chairman, Sir John Jennings, when he demonstrated his total commitment to Shell’s ethical code. Unfortunately there has not been much to praise in more recent years.

The Respondent is not trying to prevent the Complainants from getting their own views out to the public. This is confirmed by the fact that the Respondent has a disclaimer of affiliation and hyperlink to the official web site at the top of his home page, AND by the above evidence about how his web site does not come up when searching the relevant company/group names on Google, as well as the fact that the Complainants web site does come up prominently, in return to a Google search for their name.

The Respondents domain names, including the .com top-level domains, are all registered and based in the United States, and because the complaint was served

on the Respondent in the United States, the Respondent respectfully assumes that the panel will follow United States law.

The Respondent respectfully submits that the main reason why the Complaint should be dismissed is that the Respondents web site is focused on Shell. The Respondent understands that there are now many cases decided in the courts of the United States upholding the use of domain names, in the form www.trademark.com, for web sites about a trademark holder or trademark holder's products.

The decisions uphold the type of domain name use applicable to the Respondent in respect of his royaldutch domain names and his tellshell domain name. For example: *Bosley v. Kremer*, 403 F.3d 672 (9th Cir. 2005); *Nissan Motor Co. v. Nissan Computer Corp.*, 378 F.3d 1002 (9th Cir. 2004); *TMI v. Maxwell*, 368 F.3d 433 (5th Cir. 2004); *Taubman v. WebFeats*, 319 F.3d 770 (6th Cir. 2003); *Lucas Nursery and Landscaping v. Grosse*, 359 F.3d 806 (CA6 2004); *Ficker v. Tuohy*, 305 F.Supp.2d 569, 572 (D.Md. 2004); *Crown Pontiac v. Ballock*, 287 F.Supp.2d 1256 (N.D. Ala. 2003); *Northland Ins. Co. v. Blaylock*, 115 F.Supp.2d 1108 (D.Minn. 2000); *Mayflower Transit v. Prince*, 314 F.Supp.2d 362, 369-371 (D.N.J. 2004); *Savannah College of Art and Design, Inc. v. Houeix*, --- F.Supp.2d ----, 2004 WL 3330354 (S.D. Ohio 2004).

Similarly, many UDRP decisions have upheld the use or registration of domain names that were identical to a trademark, by persons other than the owner of the trademark, where the purpose was to mount a web site about the owner of the name. The Respondent provides the following further citations: -

A critic of the law firm "Legal and General" retained the domain name "legal-and-general.com" for a site complaining about the firm,
<http://arbiter.wipo.int/domains/decisions/html/2002/d2002-1019.html>;

Critics of an ashram whose trademark for an institution teaching yoga techniques was "yogaville" were allowed to keep several names similar to the mark for a site disparaging the teaching styles, *Integral Yoga Institute v. Domain Admin.*, <http://www.arbforum.com/domains/decisions/125228.htm> (12/13/02);

A dissatisfied customer of Bosley Medical Institute was allowed to retain the domain name bosleymedical.com to establish a web site criticizing BMI's sales and medical practices, *Bosley Medical Institute v. Kremer*, D2000-1647 (WIPO February 28, 2001), <http://arbitrator.wipo.int/domains/decisions/html/2000/d2000-1647.html>;

A former employee of the Bridgestone-Firestone tire company was allowed to keep the name bridgestone-firestone.net to present his side of a dispute over pension payments, *Bridgestone Firestone, Inc. v. Myers*, D2000-0190 (WIPO July 6, 2000), <http://arbitrator.wipo.int/domains/decisions/html/2000/d2000-0190.html>;

A member of a building society was permitted to register the name britanniabuildingsociety.org for a web site that criticized the practices of the building society. *Britannia Building Society v. Britannia Fraud Prevention*, D2001-0505 (WIPO July 6, 2001) <http://arbitrator.wipo.int/domains/decisions/html/2001/d2001-0505.html>.

See also *Pensacola Christian College Inc v. Gage* (12/12/2001), <http://www.arbforum.com/domains/decisions/101314.htm>;

Dorset Police and Geery Coulter, <http://www.eresolution.com/services/dnd/decisions/0942.htm>; *Mayo Foundation for Education and Research v. Briese*, <http://www.arbforum.com/domains/decisions/96765.htm> (2001).

RMO Inc v. Burbidge, <http://www.arbforum.com/domains/decisions/96949.htm> (2001) ("The use of domain names for non-commercial purposes is a recognized method of proving rights and legitimate interests on the part of such user even when the use may cause some disadvantage or harm to other parties.

Kendall v. Mayer, D2000-0868 (WIPO Oct. 26, 2000), *TMP Worldwide, Inc. v. Potter*, D2000-0536 (WIPO Aug. 5, 2000). See also *Lockheed Martin Corp. v. Etheridge*, D2000-0906 (WIPO Sept. 24, 2000).").

Falwell v. Cohn (06/03/2002),

<http://arbiter.wipo.int/domains/decisions/html/2002/d2002-0184.html>

As the panel stated in Bridgestone-Firestone, "The Respondent's use of the Domain Name to designate a web site for criticism and commentary about the Complainants constitutes legitimate noncommercial use and fair use within the meaning of the Policy. The 'fair use doctrine applies in cyberspace as it does in the real world.'"

In a number of other cases, domain names selected for the purpose of praising the name owner, so-called "fan sites," were also upheld under the UDRP. For example, in Springsteen v. Bugar, Case No. D2000-1532 (WIPO Arbitration Panel 1/25/01), <http://arbiter.wipo.int/domains/decisions/html/2000/d2000-1532.html>, the panel refused to take the name bruce springsteen.com away from a fan and transfer it to the well-known musician: "Users fully expect domain names incorporating the names of well known figures in any walk of life to exist independently of any connection with the figure themselves, but having been placed there by admirers or critics as the case may be." Similarly, the arbitrator in UEFA v. Hallam, <http://arbiter.wipo.int/domains/decisions/html/2001/d2001-0717.html> (2001), upheld the right of a soccer fan to register the name uefa2004.com for the purpose of creating a soccer fan discussion web site devoted to the soccer championship scheduled for 2004 by UEFA (Europe's official soccer federation). Accord Beziktas Jimnastik Kulubu Dernegi v. Avcioğlu, Case No. D2003-0035 (12/30/2002) (comprehensive analysis of decisions allows non-commercial use of domain name in form "trademark.com"); Newport News v. VCV Internet, AF-0238 (eResolution July 18, 2000), <http://www.eresolution.com/services/dnd/decisions/0238.htm> (upholding use of domain name newportnews for directory site devoted to city of Newport News); Pocatello Idaho Auditorium District v. CES Marketing Group, <http://www.arbforum.com/domains/decisions/103186.htm> (2002) (same ruling for Pocatello).

Trademark: With regard to the "SHELL" trademark, the Respondent has never engaged in any trade on the Internet using the mark "SHELL" or any other name

or trademark. The Respondent has on many occasions over the last eight years used the word “shell” as part of Internet domain names e.g. www.shell-shareholder.org; www.shellnews.net; www.shellscandal.com and www.shell2004.com. The Respondent has co-founded two Shell related pressure groups, both of which had the name Shell in their titles: “The Shell Shareholders Organization” and its forerunner, The Shell Corporate Conscience Pressure Group”. These were publicized in the UK with advertisements/announcements in newspapers and magazines and internationally in Time Magazine. For the record, the Respondent has never sought or received any financial contributions to the above pressure groups. They were funded entirely by the Respondent and his son, John Donovan. The Complainant has never objected to the Respondents use of the word “Shell” in respect of the pressure groups nor the above domain names cited in this paragraph (and have not done so in its Complaint). Other people have also obtained and used domain names related to Shell e.g. www.shellpluspoints.co.uk; www.screwedbyshell.com and www.shellcrisis.com. The Complainant has not stated any objection to the use of the word “shell” in those currently operational Internet web sites or (as far as the Respondent is aware) ever brought proceedings against them. The Complainant concedes that it has no trademark in the names of the proposed single parent company, “ROYAL DUTCH SHELL PLC” or in respect of “Royal Dutch/ Shell Group”.

The Complainant has brought proceedings via the WIPO in respect of three domain names: www.royaldutchshellplc.com; www.royaldutchshellgroup.com and www.tellshell.org. The latter two domain names are both up for renewal. They have been in operation from the time that they were first registered and until these proceedings, the Complainant had raised no objection to their use by the Respondent.

The Complainants undisclosed interest may be in preventing the Respondent’s continued use of the domain name www.royaldutchshellplc.com. The other domain name complaints may have been brought to bolster arguments in respect of that domain name. The Complainant has not revealed whether its intent is to obtain the www.royaldutchshellplc.com domain name for what it describes as “defensive purposes” (see lines 10, 11 and 12 on page 11 of its Complaint) in relation to its domain name www.tell-shell.com.

On page 8 of its Complaint, the Complainant has provided an account of how it attempted without success to obtain the registration of the domain names “royaldutchshellplc” and “royaldutchshellgroup”. It states in line 11 that: “In preparation for the announcement concerning the unification of the two parent companies, the Complainant embarked on a process of registering the domain names.” It says in the last line of the paragraph: “By this time the Respondent had already registered the disputed domain names. This statement is untrue.

The first media news of the proposed unification broke on 28 October 2004. That date can be deduced from the information in the first paragraph of page 13 of the Complaint. The Respondent confirms that this is the correct date. If the Complainant, as it claims on page 8, had attempted to register the disputed domain names on or before 28 October 2004, they would have been successful. The Respondent did not obtain registration of the relevant domain name “www.royaldutchshellplc.com” until 29 October 2004. Consequently the statement made by the Claimant in this regard is incorrect.

As is correctly stated in the first complete paragraph of page 9 of its Complaint, the Complainant secured the name of ROYAL DUTCH SHELL PLC as a company name “in order to secure the name for possible future use... subject to shareholder approval”. According to the Complaint, that happened on 27 October 2004. Many newspapers carried reports about the proposed unification on 28 & 29 October 2004. None reported that Shell had already secured the new proposed corporate name, ROYAL DUTCH SHELL PLC. The reports uniformly spoke about Shell’s plans in the future sense.

On 29 October 2004, the Respondent obtained registration of the domain name www.shellscandal.com and while engaged in the laborious process of doing so, decided to register a second name. On the previous occasion that the Respondent registered Shell related domain names it was also for two names; in that case www.royaldutchshellgroup.plc and www.tellshell.org.

The Respondent searches the Internet and news media for Shell news stories every day. Many of the reports are posted on the Respondents web site. However, the Respondent did not know that the Complainants plans for a new

corporate vehicle called ROYAL DUTCH SHELL PLC meant that they intended to obtain the Internet domain name www.royaldutchshellplc.com.

The Groups' main web site and portal to other Shell web sites is www.shell.com, the shortest possible applicable domain name and the brand name by which the Group is universally known. The Group has for many years described itself as the Royal Dutch/Shell Group but since the advent of the Internet many years ago never registered the domain name www.royaldutchshellgroup.com. It has only expressed an interest/claim to the domain name after the Respondent obtained registration and waited almost a year to do so. For these reasons it does not follow that at the time when the Respondent obtained registration of www.royaldutchshellplc.com the Respondent knew that the Complainant would automatically wish to acquire the domain name for defensive or other purposes. He sought and obtained registration in good faith and has never profited in any way shape or form from the domain name or attempted to do so.

It was plain from the articles that Shell was putting forward a PLAN for unification and that its implementation was subject to shareholder approval. Some reports mentioned the proposed new name. However there was no mention that a company under the name of ROYAL DUTCH SHELL PLC had already been registered in the UK.

The Respondent did not become aware of the existence of a UK company called ROYAL DUTCH SHELL PLC until a search was undertaken on the web site of Companies House on 1 November 2004 three days AFTER the Respondent had registered the domain name. The search revealed that a company called ROYAL DUTCH SHELL PLC came into existence on 27 October 2004 (**See ANNEX 2**)

The Complainant is therefore apparently arguing that it should have rights to a domain name, "www.royaldutchshellplc.com", even though there was no existing company trading under that name but only a **plan** to use the company name **at some future date, subject to shareholder and legal approval**. The merged company has a number of legal hurdles to jump before it can commence trading and such approvals cannot be taken for granted.

There can be no challenge to any trade or service mark rights held by the Complainant in respect of the name ROYAL DUTCH SHELL PLC because there is no existing registration of that mark.

According to the Complaint, the nearest registered mark to the domain names www.royaldutchshellplc.com and www.royaldutchshellgroup.com is ROYAL DUTCH. This is a mark only registered within the European Communities.

It follows that there is no such registration in the USA, the registered address of the Respondent, or in Canada where the Respondents web site using that domain name/alias is hosted. The nearest registered mark ROYAL DUTCH cited by the Complainant is not identical or even nearly identical to the domain name www.royaldutchshellplc.com or www.royaldutchshellgroup.com.

Furthermore the Respondent does not engage in any trade using the names ROYAL DUTCH SHELL PLC or ROYAL DUTCH, or ROYAL DUTCH/SHELL GROUP, or indeed in any other trade name whatsoever.

The Complainant concedes that “the Complainant and SBI have not registered any identical trade mark (i.e, “ROYALDUTCHSHELL” (penultimate paragraph - page 8 of the Complaint).

The Complainant has not stated if it has ever attempted to register the name “ROYALDUTCHSHELL” as a trademark. It has only stated that the trade mark would be of “questionable validity”. The Complainant demands transfer of the domain names www.royaldutchshellplc.com or www.royaldutchshellgroup.com even though it has never registered the names as trade marks or sought Internet domain names until AFTER the Respondent. As previously indicated, the Respondent operates a web site focusing on the Royal Dutch Shell Group. The Respondent obtained and has used the domain names for several months and has acquired a reputation therein.

On lines 10, 11 and 12 on page 11 of its Complaint, the Complainant admits that it has owned the domain name www.tell-shell.com for “defensive purposes” i.e. it has no need or intention of ever using that domain name, but wants to deny any other party from obtaining registration. There is no legal provision for a

company to enjoy automatic blanket rights to every possible domain name variation related to its business, trademarks or company name. How many other Shell related domain names does Shell hold for “defensive” purposes i.e. to stifle freedom of expression about its activities. Is its interest in www.royaldutchshellplc.com for “defensive” purposes? If the Complainant wanted the domain name www.royaldutchshellgroup.com for legitimate actual use, as opposed to “defense purposes”, it could have obtained the domain name registration several years ago or at any time since then.

The Complainant could have obtained the domain name www.royaldutchshellplc.com during the period when only the Complainant knew of its plans for the new corporate name for a unified Royal Dutch Shell company. It failed to do so even despite incurring professional adviser fees of reportedly \$115 million to set up the new proposed company.

2. www.tellshell.org

The Complainant has not claimed any trademark registration in respect of “TellShell”.

As the Complainant concedes in the first sentence of the last paragraph on page 12 of its Complaint: “The Respondent’s web sites have never attempted to pass themselves off as official Shell web sites...” Consequently that issue does not arise in relation to www.tellshell.org either.

ANNEX 3 contains the only page of the Respondents unofficial “www.tellshell.org” webpage. The heading which contains a link to the official TellShell site is unambiguous and self-explanatory. The webpage has displayed the current copy since the time of its inception. The rest of the published content is also self-explanatory.

The Respondent contends that it is unfair for the Complainant to claim that any visitor to the unofficial [tellshell.org](http://www.tellshell.org) site has ever been misled into believing it is the Claimants site. That is plainly not the case.

On the one occasion that the Respondent can recall on 29 November 2004 (cited by the Complainant) the Respondent posted a contribution on the official “TELLSHELL” site using the heading “Alfred Donovan of royaldutchshellplc.com aka shellnews.net”. By this time the Respondent was well known to all regular visitors to the official site (a small group) and it was very clear from the posting made by the Respondent that he was not pretending to represent the Complainant.

As can be seen by reading the information in ANNEX 3, the “TellShell” webmaster reacted in a positive way to the constructive criticism received in regards to censorship issues and as a consequence, the unofficial TellShell.org forum has remained dormant since September 2004.

The Complainant has cited examples of favorable comments made about the official “TellShell” forum. As already indicated there are a small number of regular contributors including “Richard” and “Tippi” who, as can be judged by their contributions to the forum, are intelligent and articulate individuals with considerable insight in to the Shell Group. Neither individual is personally known to the Respondent. ANNEX 4 contains postings made by these and other individuals who posted contributions on the official “TellShell” forum in January 2005. There is a telling comment in a posting from “Richard” (who claims that he was “very close to Shell for many years”) addressed to “Tippi” on 20 January 2005. “Richard” said: “I fear that others haven’t joined in this debate as the forum is buried ever deeper in the corporate web site – even Alfred Donovan seems to have lost interest in it. “Richard” blames the remoteness of the TellShell forum within shell.com for a decline in participation.

The Group has placed further restrictions on the “TellShell” section by requiring all contributors to register before they can make comments. One consequence of this restriction is to stop Internet search engines from gathering and publicizing such comments. With all due respect, this undermines the Claimants supposed favorable disposition to freedom of expression on the Internet.

The Respondent has conducted a “Google” search on the “tellsell” name. Although the Respondents site does feature almost at the top of the results, the fact remains that the tellsell/shell.com URL is higher in the results. This

confirms that the Respondents unofficial “tellsell” feature is not interfering with the Complainants access to the public.

B. Whether the Respondent has rights or legitimate interests in respect of the domain names;

(Policy, para. 4(a)(ii))

The Respondent has since legitimately gained a global reputation under the disputed domain names as a free, independent, and informative source of news and information about the activities of the Royal Dutch Shell Group. The Respondents web site has been accessible via the domain names which have all been displayed on the Respondents site from the time of each registration. This is a legitimate, non-commercial and fair use of the domain names, without intent for commercial gain. The trademark issues are questionable because the Complainant has no trademarks in the disputed domain names. There is no company currently trading in the name of ROYAL DUTCH SHELL PLC (and no trademark in that name).

The Complainant has for some reason commented on the past litigation involving Shell UK Limited and the Respondent and his son, John Donovan. The Respondent questions whether this subject is salient to the current proceedings and apart from commenting that the account given by the Complainant is inaccurate, has nothing further to say on the matter.

Shell has alleged in its Complaint that the Respondents web site contains negative comments about Shell. That is true. However, the vast majority are not made by the Respondent but by journalists. The news headlines featured in green on the home page are self-explanatory. Since Shell management has been involved in one of the biggest corporate scandals in history – the oil reserves debacle - it is unsurprising that Shell has received a deluge of negative publicity. Undoubtedly most of my comments have been critical, but true. That surely is the important point.

C. Whether the domain names have been registered and are being used in bad faith.

(Policy, para. 4(a)(iii))

None of the disputed domain names were registered or acquired for the purpose of selling, renting, or otherwise transferring the domain name registrations to the Complainant, as the alleged owner of any trademark or service mark claimed to be similar, or to a competitor of the Complainant, for any consideration.

The domain names were not registered in order to prevent the Complainant from reflecting any mark in a corresponding domain name and, in connection therewith, the Respondent has not engaged in a pattern of such conduct;

The Complainant and the Respondent are not competitors and the domain names were not registered by the Respondent primarily to disrupt the Complainant's business.

None of the disputed domain names were registered by the Respondent in an attempt to attract for commercial gain, Internet users to the Respondent's web site or other on-line location, by creating a likelihood of confusion with any mark registered by the Complainant as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location or of a product or service on the Respondent's web site or location. The respondent has never traded or conducted business on the Internet via ANY web site nor ever sold advertising on any web site. The benefit to the Respondent of his web site is that it provides him with a low cost public platform to focus attention on the positive and negative aspects of Royal Dutch Shell and in so doing, engage in his right to freedom of expression.

The Respondent has put a lot of time and effort into his web site. The Respondent has never profited in any way from his efforts other than the satisfaction, as a Shell shareholder, of having a public platform to comment on the activities of Shell. It is his earnest hope that his comments will have a beneficial effect in restoring the former reputation of the Royal Dutch/Shell Group to the days when we could all be sure of Shell.

IV. Administrative Panel

(Rules, paras. 5(b)(iv) and (b)(v) and para. 6; Supplemental Rules, para. 7)

[6.] The Respondent proposes the following three panelists: -

Diane Cabell at Harvard's Berkman Center.
David Sorkin at John Marshall Law School.
M Scott Donahey of Tomlinson Zisco LLP

V. Other Legal Proceedings
(Rules, para. 5(b)(vi))

There are no current legal proceedings between the Complainant and the Respondent. However, eight companies within the Royal Dutch Shell Group have obtained a Malaysian High Court Injunction in respect of webpage's on the Respondents web site. The Injunction is against Dr John Huong, a Malaysian former Shell geologist of almost 30 years standing. His "whistleblower" disclosures were posted by the Respondent on his website. The Injunction is totally at odds with the claims by the Complainant about the Groups benevolent attitude to the Respondent in respect of his postings on his web site. With all due respect, the "Group" seems to be facing in two directions at once.

VI. Communications
(Rules, paras. 2(b), 5(b)(vii); Supplemental Rules, para. 3)

- [7.] A copy of this Response has been transmitted to the Complainant on 14 June 2005 by email and by registered first class post.
- [8.] This Response is submitted to the Center in electronic form (except to the extent not available for annexes), and in four (4) sets together with the original, by first class post.

VII. Payment
(Rules, para. 5(c); Supplemental Rules, Annex D)

The Complainant has undertaken to pay all costs of these administrative proceedings

VIII. Certification
(Rules, para. 5(b)(viii), Supplemental Rules, para. 12)

- [9.] The Respondent agrees that, except in respect of deliberate wrongdoing, an Administrative Panel, the World Intellectual Property Organization and the Center shall not be liable for any act or omission in connection with the administrative proceeding.

[10.] The Respondent certifies that the information contained in this Response is to the best of the Respondent's knowledge complete and accurate, that this Response is not being presented for any improper purpose, such as to harass, and that the assertions in this Response are warranted under the Rules and under applicable law, as it now exists or as it may be extended by a good-faith and reasonable argument.

Respectfully submitted,

[Name/Signature]

Date: _____