

**ICANN AND NEULEVEL <.BIZ> DOMAIN NAME LITIGATION NOTICE OF  
PROPOSED SETTLEMENT AND FAIRNESS HEARING**

**IF YOU APPLIED FOR A DOMAIN NAME IN THE <.BIZ> REGISTRY  
OPERATED BY NEULEVEL, INC. BEFORE SEPTEMBER 25, 2001, READ  
THIS NOTICE CAREFULLY. IT MAY AFFECT YOUR RIGHTS.**

This Notice is to inform Class Members in the <.biz> domain name litigation that you may be eligible to receive certain benefits pursuant to the proposed settlement of the lawsuits styled *Smiley, et al. v. Internet Corporation for Assigned Names and Numbers ("ICANN")*, et al., Case No. BC 254659, and *ePrize, LLC v. NeuLevel, Inc.*, et al., Case No. BC 257632 (collectively referred to as "the Lawsuit"), in the Superior Court of the state of California for the County of Los Angeles.

This Notice describes the Lawsuit and the proposed settlement and advises of the date, time, and place of a hearing in which the Court will decide whether to give final approval to the settlement. Eligible Class Members will be entitled to the settlement benefits upon properly submitting an appropriate claim form and will be bound by the orders issued by the Court regarding the settlement, unless they timely exclude themselves as explained below.

**I. DESCRIPTION OF THE LAWSUIT**

The Lawsuit asserts that NeuLevel, Inc., in conjunction with other entities called Registrars, became unjustly enriched and violated certain unfair competition and consumer protection laws by, among other things, distributing Internet domain names in the <.biz> Registry by a means that constituted an illegal lottery. NeuLevel, ICANN and the Registrar defendants have all denied the allegations of wrongdoing and have denied all liability to the Plaintiffs and the Class.

**II. WHO IS ELIGIBLE TO PARTICIPATE IN THE SETTLEMENT**

You can make a claim for settlement benefits if before September 25, 2001, you submitted an application and an application fee to a <.biz> ICANN-accredited Registrar for a

domain name in the <.biz> Registry operated by NeuLevel, Inc.; that is a domain name that ended in the suffix “.biz” (for example, www.NeuLevel.biz or www.abcco.biz). If you previously received a refund, adjustment, credit or signed a release of claims, you may be ineligible to participate or have your benefits reduced accordingly.

### **III. WHAT SETTLEMENT BENEFITS ARE AVAILABLE?**

Defendants have established a settlement fund for Class Member claims, attorneys fees, costs and settlement notice and administration. Class Members who submitted a single application with an application fee for a domain name prior to September 25, 2001 and received a registration for the use of the domain name are in Group I. Group I members do not have to relinquish use of the domain name they received and shall be permitted to continue to use the domain name so long as they comply with the requirements of the Registry. Any Class member who, prior to September 25, 2001, submitted more than one application and the associated application fees for a single domain name and received a registration for the use of the domain name, was the only Class Member to apply for that domain name and is in Group II (A). Group II(A) members shall be permitted to keep their registration to use the domain name so long as they comply with the requirements of the Registry and will receive fifteen (15) cents for each application they submitted to the Registry prior to September 25, 2001. Class members who, prior to September 25, 2001, submitted one or more application and the associated application fees for a single domain name and did not receive a registration for the use of the domain name were not the only Class Member to apply for that domain name and are in Group II(B). Group II(B) members will receive a refund of two dollars (\$2.00) for each application they submitted to <.biz> ICANN-accredited Registrar prior to September 25, 2001.

#### **A. Making a Claim and Claim Verification**

You must make a claim postmarked by February 28, 2003. Claim forms can be obtained by downloading the claim form from:

Group 2 (A) : [www.neulevel.biz/ardp/docs/biz\\_claim\\_2A.pdf](http://www.neulevel.biz/ardp/docs/biz_claim_2A.pdf)

Group 2 (B) : [www.neulevel.biz/ardp/docs/biz\\_claim\\_2B.pdf](http://www.neulevel.biz/ardp/docs/biz_claim_2B.pdf)

Completed Claim forms should be sent to: Settlement Administrator, c/o NeuLevel, Inc., 46000 Center Oak Plaza, Building 10, Sterling, VA 20166 or faxed to 571-434-5758. Defendants shall have until twenty-one (21) days after March 17, 2003 to contest a claim. If your claim is not proper according to criteria approved by the Court, you will be notified that the claim may be cured by submitting additional information to the Settlement Administrator within ten (10) business days.

**IV. WHAT CLAIMS AM I RELEASING UNDER THE SETTLEMENT?**

Under the Settlement, Class Members including all of their assigns, predecessors and successors are releasing any and all claims whether known or unknown, asserted, not asserted, regardless of the legal theory, existing now or may arise in the future which relate to the Lawsuit. The claims being released include, without limitation and by way of example, all claims for damages, restitution, injunctive and other equitable remedies, including remedies of whatever kind or character, known or unknown, that are now recognized by law, or that may be created or recognized in the future by statute, regulation, judicial decision, or in any other manner.

**A. What Parties Am I Releasing?**

Under the settlement, Class Members are releasing all of the above claims against all the defendants named in the lawsuit. The released parties include, but are not limited to, Internet Corporation for Assigned Names and Numbers ("ICANN"), NeuLevel, Inc., and every Registrar or Reseller, including each of the respective affiliates, past or present directors, officers, managers, employees, general or limited partners, members, principals, agents, independent distributors, underwriters, insurers, co-insurers, reinsurers, shareholders, attorneys, advisors, accountants, auditors, banks, investment banks, financial advisors, associates, personnel, legal or other representative, parents, subsidiaries, divisions, joint ventures, assigns, spouses, heirs, related or affiliated entities, and any entity in which any of the defendants have a controlling interest.

**V. FAIRNESS HEARING AND ATTORNEYS FEES AND COSTS**

The Court will hold a hearing to consider approval of the proposed settlement on March 17, 2003, beginning at 11:00 a.m. in Department 309 of the Superior Court of California for the County of Los Angeles, 600 South Commonwealth Avenue, Los Angeles California before the Honorable Anthony Mohr. The hearing may be postponed to a later date without further notice.

At the hearing, Class Counsel may petition the Court for an award of attorneys' fees and costs in a total amount not to exceed to \$1,175,000.00. Defendants have agreed not to oppose Class Counsels' request for fees and costs award of not more than \$1,175,000.00 and Class Counsel has agreed not to seek payment of more than \$1,175,000.00 as and for their total attorneys' fees and costs.

#### **VI. CLASS COUNSEL**

The Court has appointed the following Counsel:

##### **LEAD CLASS COUNSEL**

Walter J. Lack  
Paul A. Traina  
Engstrom, Lipscomb & Lack  
10100 Santa Monica Blvd., 16th Floor  
Los Angeles, CA 90067-4107

Other Class Counsel include:

- (1) Stuart M. Richter  
Katten Muchin Zavis Rosenman  
2029 Century Park East, Suite 2600  
Los Angeles, CA 90067-3012;
- (2) Edward L. Masry  
David E. Weeks  
Nicholas A. Siciliano  
Masry & Vititoe  
5707 Corsa Avenue, 2nd Floor  
Westlake Village, CA 91362
- (3) Derek A. Newman  
Newman & Newman  
1001 Fourth Avenue, Suite 2560

**VII. CLASS MEMBER RIGHTS**

**You may exclude yourself from this Settlement.** If you do not wish to participate in this Settlement, your written request to be excluded must be mailed to **LEAD CLASS COUNSEL**, Walter J. Lack, Paul A. Traina, Engstrom, Lipscomb & Lack, 10100 Santa Monica Blvd., 16th Floor, Los Angeles, CA 90067 and postmarked no later than February 28, 2003. Your request for exclusion must state your name, address, telephone number, the domain names(s) you applied for and the number of applications you submitted for each domain name, and the name of this Lawsuit (*Smiley, et al., v. Internet Corporation for Assigned Names and Numbers ("ICANN"), et al., Case NO. BC 254659, and ePrize, LLC v. NeuLevel, Inc., et al., Case NO. BC 257632*). If you timely file a request for exclusion, you will not share in any Settlement funds and you will be bound by the terms of the settlement governing opt-outs.

If you do not request exclusion from the Settlement, you can object to any aspect of the proposed settlement by filing and serving a written objection. You must sign your objection personally or by legal counsel. If you intend to appear in person or through your own attorney at your own expense at the hearing described above, you must include with your objection a notice of your intention to appear at the hearing. Your objection must state your full name, current address, telephone number, the domain name(s) you applied for, the number of applications you submitted for each name, and the reasons you object to the proposed settlement. The objection and any notice of intent to appear must be filed with the Court and mailed to the Clerk of the Court, Lead Class Counsel and Counsel for NeuLevel, Inc. no later than February 28, 2003, at the following addresses:

**Attention:** *Smiley, et al. v. ICANN, et al., Case No. BC 254659, and ePrize, LLC v. NeuLevel, Inc., et al., Case No. BC 257632.*

Clerk of the Court  
Superior Court of California  
for the County of Los Angeles  
600 South Commonwealth Avenue  
Los Angeles, CA 90067

**LEAD CLASS COUNSEL**

Walter J. Lack  
Paul A. Traina  
Engstrom, Lipscomb & Lack  
10100 Santa Monica Blvd., 16th Floor  
Los Angeles, CA 90067

David C. Allen  
Akin Gump Strauss Hauer & Feld LLP  
2029 Century Park East, Suite 2400  
Los Angeles, CA 90067

Any Class Member who does not file and serve objections in the time and manner described above will not be permitted to raise objections later.

**VIII. ADDITIONAL INFORMATION**

This Notice is not intended as a complete statement of the litigation. This Notice is not an expression of the Court as to the merits of any of the claims or defenses asserted by the parties. **For additional information, write to the Lead Class Counsel at the address listed above. PLEASE DO NOT CONTACT THE CLERK OF THE LOS ANGELES SUPERIOR COURT FOR INFORMATION. . . END OF NOTICE. . .**

Clerk of the Court  
Superior Court of California  
for the County of Los Angeles  
600 South Commonwealth Avenue  
Los Angeles, CA 90067