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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 True Names Ltd., *et al.*,

10 Plaintiffs,

11 v.

12 GoDaddy Incorporated, *et al.*,

13 Defendants.
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No. CV-22-01494-PHX-JJT

ORDER

15 At issue is the Motion for Temporary Restraining Order and Order to Show Cause
16 for Preliminary Injunction (Doc. 2, Mot.), filed by Plaintiff True Names, Ltd. d/b/a
17 Ethereum Name Service (“True Names”) and Virgil Griffith (collectively “Plaintiffs”), on
18 September 5, 2022 (the “Motion”). The Court has reviewed the Motion and its exhibits
19 (Docs. 2-4), the Complaint and its exhibits (Doc. 1), and Plaintiffs’ Notice of Supplemental
20 Authority (Doc. 17).

21 In the Complaint (Doc. 1), Plaintiffs allege they entered into a 2018 Domain Name
22 Registration Agreement with Defendants GoDaddy, Inc. and GoDaddy.com LLC
23 (collectively, “GoDaddy”), for the domain name **eth[.]link** (the “Domain”) and have held
24 the Domain since then. In July and August 2022, GoDaddy allegedly declined to renew
25 Plaintiffs’ registration in the Domain, as the Agreement requires, and indeed may have sold
26 the Domain to Defendants Dynadot LLC and/or Manifold Finance, Inc. in early September
27 2022. Plaintiffs now raise claims of breach of contract and breach of the covenant of good
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1 faith and fair dealing against GoDaddy, as well as claims of intentional interference with
2 prospective economic advantage and unfair competition against all Defendants.

3 In their Motion, Plaintiffs request that the Court enter a Temporary Restraining
4 Order (TRO) without notice to Defendants to prevent Defendants from (1) causing the
5 expiration of the **eth[.]link** domain name, of which Plaintiffs are the registrants, (2)
6 frustrating Plaintiffs' effort to renew the Domain registration, and (3) selling or transferring
7 ownership interest in the Domain. Plaintiffs additionally ask the Court for "an order to
8 show cause why a preliminary injunction should not issue, pursuant to Fed. R. Civ. P. 65."
9 (Mot. at 2.) In their Notice of Supplemental Authority, Plaintiffs also point to case law
10 supporting an injunction requiring whichever Defendant purports to now hold ownership
11 in the Domain to transfer it back to Plaintiffs. (Doc. 17.)

12 In a prior Order (Doc. 11), the Court denied Plaintiffs' request to proceed without
13 notice to Defendants and ordered Plaintiffs to serve Defendants, which Plaintiffs timely
14 accomplished. (Docs. 12-15.) The Court required that Defendants respond to Plaintiffs'
15 Motion by September 8, 2022, and Defendants failed to file any response. As the Court
16 warned in its prior Order, the Court deems Defendants' failure to respond as consent to the
17 granting of Plaintiffs' Motion. (Doc. 11.) The Court held a hearing on the Motion on
18 September 9, 2022, and Defendants also failed to appear at the hearing. (Doc. 18.)

19 To obtain preliminary injunctive relief, Plaintiffs must show that "(1) [they are]
20 likely to succeed on the merits, (2) [they are] likely to suffer irreparable harm in the absence
21 of preliminary relief, (3) the balance of equities tips in [their] favor, and (4) an injunction
22 is in the public interest." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (citing
23 *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 9 (2008)). The Ninth Circuit Court of
24 Appeals, employing a sliding scale analysis, has also stated "serious questions going to
25 the merits' and a hardship balance that tips sharply toward the [movant] can support
26 issuance of an injunction, assuming the other two elements of the *Winter* test are also met."
27 *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1078 (9th Cir. 2013) *cert. denied*,
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1 134 S. Ct. 2877 (2014) (quoting *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127,
2 1132 (9th Cir. 2011)).

3 As discussed at the hearing, because the Court ordered notice to Defendants,
4 Plaintiffs' request is no longer for a Rule 65(b) TRO without notice, and the Court thus
5 considers Plaintiffs' request to be one for a preliminary injunction. For the reasons set forth
6 in detail at the hearing, the Court finds that Plaintiffs have met their burden to demonstrate
7 entitlement to preliminary injunctive relief under the *Winter* factors and *Drakes Bay Oyster*
8 *Co.*, 747 F.3d at 1078. The Court will thus enter a Preliminary Injunction under Federal
9 Rule of Civil Procedure 65.

10 Federal Rule of Civil Procedure 65(c) permits a court to enter preliminary injunctive
11 relief "only if the movant gives security in an amount that the court considers proper to pay
12 the costs and damages sustained by any party found to have been wrongfully restrained."
13 A court may only "dispense with the filing of a bond when it concludes there is no realistic
14 likelihood of harm to the defendant from enjoining [its] conduct." *Jorgensen v. Cassidy*,
15 320 F.3d 906, 919 (9th Cir. 2003). The court must make a finding as to the surety bond
16 amount it considers proper. *Johnson v. Couturier*, 572 F.3d 1067, 1086 (9th Cir. 2009).

17 In this instance, the parties provided no briefing on the amount of surety bond that
18 would be proper; indeed, Defendants provided no briefing whatsoever. The Court declines
19 to set the preliminary injunction surety bond amount at zero, because Defendants may incur
20 damages upon an ultimate determination that they were entitled to allow Plaintiffs'
21 registration in the Domain to expire and/or sell or transfer ownership in the Domain. *See*
22 *Jorgensen*, 320 F.3d at 919. The Court in its discretion will set the surety bond amount at
23 \$10,000.

24 **IT IS HEREBY ORDERED** granting in part and denying in part the Motion for
25 Temporary Restraining Order and Order to Show Cause for Preliminary Injunction
26 (Doc. 2). The Court will grant Plaintiffs the requested preliminary injunctive relief but will
27 not enter the requested Order to Show Cause.
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