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Tiffany Connors
connorst@lanepowell.com

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Donuts, Inc. v. Rightside Group, Ltd.

We represented Rightside Group, Inc. in arbitration, in one of the first cases in the country testing the scope and definitions of registry service agreements. Rightside hosts and supports new top-level Internet domains like “.democrat,” “.attorney,” and “.reviews.” Rightside’s registrar affiliate, eNom, has been a leader in the domain name business for over 15 years, delivering domain name registration services to resellers, registries and registrars that enable consumers to build their online presence. Rightside also builds innovative tools for others in the domain name services business. Donuts Inc. is also an Internet domain name registry founded in 2011 by industry pioneers, and backed by institutional capital. Rightside provides back end registry services for Donuts’ registry. As part of the back-end registry services, Rightside provides Registration Data Directory Services (RDDS) for Donuts. RDDS allow a user to look up the registrant of a particular domain name using an Internet database feature called “Whois.” If a user looks at the Whois information for “microsoft.com,” for example, the RDDS information provided through Whois tells the user that the domain is (unsurprisingly) registered to the Microsoft Corporation. In this way, the RDDS system works like a telephone directory for domain names identifying who is the registrant for a domain name on the Internet. The confidential arbitration involves the nuts and bolts of registry services — how domains are hosted and maintained, how their owners are identified online, and how revenues are generated from this new Internet real estate. The parties will be digging in to the architecture of the domain name system and interpreting the rules and customs of the Internet Corporation for Assigned Names and Numbers (ICANN), the ruling body of the Internet domain system. Specifically, Rightside seeks to define what constitutes an “available” RDDS as opposed to a non-functional RDDS. At the center of the parties’ dispute is whether, and to what extent, the RDDS system was “unavailable,” for what period of time it was allegedly “unavailable,” and what the applicable penalty is for any proven unavailability. This is cutting-edge litigation in the domain name space with definitions to guide future relationships.