

Reference: *Brandon Gray Internet Services Inc. v. Canadian Internet Registration Authority*,
2011 Comp Trib 24
File No.: CT-2011-001
Registry Document No.: 28

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34, as amended;

AND IN THE MATTER OF an Application by Brandon Gray Internet Services Inc., for relief
pursuant to sections 75, 103.1 and 104 of the *Competition Act*, R.S.C. 1985, c. C-34, as amended.

B E T W E E N:

Brandon Gray Internet Services Inc.
(applicant)

and

**Canadian Internet Registration Authority also known as Autorité canadienne pour les
enregistrements Internet also known as CIRA also known as ACEI**
(respondent)

Decided on the basis of the written record
Presiding Judicial Member: Simpson J. (Chairperson)
Date of Order: December 23, 2011
Order signed by: Madam Justice Sandra J. Simpson

ORDER REGARDING COSTS

[1] **UPON** the respondent's request for costs of \$33,789.72 (including disbursements of \$394.83) for its successful opposition to the applicant's application for leave to bring a private action under section 75 of the *Competition Act*, R.S.C. 1985, c. C-34 (the "Act");

[2] **AND UPON** reviewing the submissions of both parties about the size of an appropriate award of costs;

[3] **AND UPON** noting that the application for leave was dismissed (*Brandon Gray Internet Services Inc. v. Canada Internet Registration Authority*, 2011 Comp. Trib.1) because the applicant provided no evidence to show that the alleged refusal to deal is likely to have an adverse effect on competition as required by paragraph 75(1)(e) of the Act;

[4] **AND UPON** concluding that, in these circumstances, the small costs awards which the applicants suggest (i.e. \$1000.00 and \$2203.50 plus disbursements) are not appropriate;

[5] **AND UPON** concluding, on the other hand, that the respondent's request for \$33,789.72 is also inappropriate (i) because a usual costs award based on Column III of the Federal Court Tariff and fifteen units would be only \$2598.33 (including disbursements) and (ii) because there was nothing particularly complex about the application for leave.

NOW THEREFORE THE TRIBUNAL ORDERS THAT:

[6] The Applicant is to pay the Respondent \$6,000.00 for costs plus \$394.83 for disbursements (both inclusive of taxes).

DATED at Ottawa, this 23rd day of December, 2011.

SIGNED on behalf of the Tribunal by the Chairperson.

(s) Sandra J. Simpson

COUNSEL:

For the applicant:

Brandon Gray Internet Services Inc.

Enzo Di Iorio

David Brand

For the respondent:

Registration Authority also known as Autorité canadienne pour les enregistrements
Internet also known as CIRA also known as ACEI

J. Bruce Carr-Harris

Nadia Effendi