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12 COALITION FOR ICANN TRANSPARENCY INC.

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN JOSE DIVISION

16 COALITION FOR ICANN TRANSPARENCY  
17 INC., a Delaware corporation,

18 Plaintiff,

19 v.

20 VERISIGN, INC., a Delaware corporation;  
21 INTERNET CORPORATION FOR ASSIGNED  
22 NAMES AND NUMBERS, a California  
23 corporation,

24 Defendants.

Case No.

**DECLARATION OF DR.  
MICHAEL A. GEIST IN SUPPORT  
OF THE COALITION FOR ICANN  
TRANSPARENCY'S *EX PARTE*  
APPLICATION FOR  
TEMPORARY RESTRAINING  
ORDER**

25 I, Dr. Michael A. Geist, hereby declare:

26 1. I am a law professor at the University of Ottawa, Faculty of Law, where I hold the  
27 Canada Research Chair in Internet and E-Commerce Law, a Director of the Canadian Internet  
28 Registration Authority, and a member of the Advisory Council to the .org Public Interest  
Registry. I have studied, lectured, and written extensively about Internet issues, including the  
domain name registration system since 1997. A copy of my curriculum vitae is attached hereto  
as Exhibit A. As a result of my extensive work in this field, I am familiar with the history and  
operation of the domain name registration system and with the registry agreements governing the

1 operation of the .com and .net registries, including the proposed .com agreement. I have personal  
2 knowledge of the facts stated herein and could testify competently to them if called to do so.

3 **A Brief Explanation of the Internet Address System**

4 2. The Internet is a network of interconnected computers, each of which has a unique  
5 numerical address used to communicate with other computers when connected to the Internet.  
6 These addresses are known as Internet Protocol ("IP") addresses and each one consists of a string  
7 of four sets of numbers, separated by periods. 64.233.161.147 is an example of an IP address.

8 3. These numerical IP addresses are difficult for Internet users to remember, so a user  
9 friendly system was developed, overlaying the actual IP address system with an alpha-numeric  
10 domain name system. Under this system, a single alpha-numeric domain name is associated with  
11 specific IP address. For example, IP address 64.233.161.147 is more commonly known as  
12 google.com.

13 4. These alpha-numeric domain names are also separated by periods (or dots). Top-  
14 level domains ("TLDs") are found to the right of the period. They are either generic TLDs, such  
15 as .com, .gov, .net, .mil, and .biz, or country code TLDs, such as .us, .uk, and .ca. Second-level  
16 domains ("SLDs") are those domains immediately to the left of the top-level domains, such as  
17 "uscourts" in "uscourts.gov." The SLDs identify the host computers and individual websites  
18 under each top level domain. Some of the TLDs (such as .gov, .edu., and .mil) are restricted to  
19 certain types of organizations, while other TLDs (such as .org, .net, and .info) were designed to  
20 indicate the type of organization that is likely to use them but may be owned by anyone. The  
21 .com and .biz TLDs are most commonly used by commercial enterprises.

22 5. Because each domain name refers to a single IP address, each alpha-numeric  
23 domain name must be unique. For the system to work, a framework is needed to track which  
24 alpha-numeric domain name is associated with which IP address. That function is performed by a  
25 domain name registry. The registry is responsible for maintaining a database of domain names  
26 and associated IP addresses within a single TLD.

1                   **Historical Control of the Internet Address System**

2           6.       The Internet as we know it today grew out of a system that was set up and operated  
3 by the U.S. military, with all costs borne by the U.S. military. In the early 1990's the U.S.  
4 military contracted with the National Science Foundation ("NSF") to take over administrative  
5 functions for the civilian Internet (including the .com, .net, .org, .edu, and .gov. top level  
6 domains), and NSF solicited bids for the services necessary to fulfill its contractual obligations.  
7 Network Solutions bid for and received the contract for registration services, touting its previous  
8 experience providing similar services to the military Internet (the .mil top level domain). As a  
9 result of this successful bid, Network Solutions became responsible for both registering domain  
10 names (registrar services) and maintaining the registry linking domain names to specific IP  
11 addresses (registry services), in essence, controlling the internet root server system for the .com,  
12 .net, and .org domains.

13           7.       There was initially no charge to register a domain name through Network  
14 Solutions, but NSF permitted Network Solutions to begin charging fees to register.com, .net, and  
15 .org domain names in the mid-1990's. The initial registration fee was \$100 for two years.

16           8.       In 1997 the Clinton Administration chose the Department of Commerce to take  
17 over the role of NSF, and a July 1, 1997 directive issued by President Clinton authorized the  
18 Secretary of Commerce to "support efforts to make the governance of the domain name system  
19 private and competitive and to create a contractually based self-regulatory regime that deals with  
20 potential conflicts between domain name usage and trademark laws on a global basis." The  
21 Department of Commerce proposed and eventually created a private not-for-profit corporation  
22 that would be responsible for overseeing the policy and operation of the domain name and IP  
23 address system: the Internet Corporation for Assigned Names and Numbers ("ICANN").

24           9.       Under a Memorandum of Understanding (the "MOU") between the Department of  
25 Commerce and ICANN, ICANN administers policy for the domain name and IP address system  
26 subject to the principles set forth in the MOU: stability; competition; private, bottom-up  
27 coordination; and representation. The MOU prohibits ICANN from "unjustifiably or arbitrarily"  
28 injuring "particular persons or entities or particular categories of persons or entities" or acting "in

1 a non-arbitrary and reasonable manner with respect to ... any ... activity related to the DNS  
2 project.” Attached hereto as Exhibit B is a true and correct copy of the MOU.

3 10. ICANN’s bylaws also explicitly recognize “core values,” which “should guide the  
4 decisions and actions of ICANN,” including:

5 a. “Where feasible and appropriate, depending on market mechanisms to promote  
6 and sustain a competitive environment.”

7 b. “Introducing and promoting competition in the registration of domain names  
8 where practicable and beneficial in the public interest.”  
9

10 Attached hereto as Exhibit C is a true and correct copy of excerpts from ICANN’s bylaws.

11 11. ICANN’s mandate was set in response, at least in part, to the express interests of a  
12 large number of stakeholders, including Internet users, domain name registrars, technical groups,  
13 and intellectual property law associations. To ensure that ICANN adequately represented the  
14 interests of the various stakeholders in its decision-making process, ICANN was designed as a  
15 self-regulated (i.e., no government interference) entity with a consensus-based approach in which  
16 public policy discussion was open to all. The governance structure was also designed to ensure  
17 that all stakeholders were represented at the board level either through direct appointment from  
18 stakeholder constituencies, or through an on-line election to permit Internet users to elect board  
19 representatives on a regional basis. ICANN, however, did not fulfill its end of the bargain as it  
20 failed to hold on-line elections for several seats, and ultimately altered its governance structure,  
21 eliminating on-line elections in the process.

22 12. At about the same time, NSF and Network Solutions amended their agreement to  
23 require Network Solutions to design a shared registry system that would allow competing  
24 accredited registrars to register .com, .net, and .org domain names. Although Network Solutions  
25 was permitted to become an accredited registrar in the shared registry system, its registry contract  
26 with ICANN was purportedly renewable only if it divested itself of its registrar business.

27 13. By 2001, ICANN had accredited over 180 registrars who were able to compete to  
28 provide domain name registrations to end users. Also in 2001, ICANN and VeriSign (the

1 successor to Network Solutions) entered into three new registry agreements for the .com, .net, and  
2 .org domains. These contracts permitted VeriSign to continue to operate the registries for these  
3 domains without divesting itself of its registrar business, but required some structural separation  
4 of VeriSign's registry and registrar businesses. The .org agreement was set to expire first, with  
5 the intention that VeriSign would relinquish its right to operate the .org registry. The .net  
6 agreement was set to expire on June 30, 2005, with the intention that ICANN would then solicit  
7 competitive proposals to operate the registry. The .com agreement was set to expire in 2007, with  
8 a presumption favoring renewal of VeriSign's right to operate the .com registry, but also allowing  
9 ICANN to solicit competing proposals under certain circumstances, including a material breach  
10 of the .com registry agreement by VeriSign. ICANN has, in fact, alleged that VeriSign has taken  
11 actions inconsistent with material provisions of the .com registry agreement and that these actions  
12 constitute multiple breaches of the agreement.

### 13 The Present

14 14. Prior to the expiration of the .net registry agreement earlier this year, ICANN  
15 solicited and received five competing bids to operate the .net registry. VeriSign submitted the  
16 winning bid, and signed a new .net registry agreement with ICANN. Although public comment  
17 was solicited on a draft agreement, important provisions were altered in the final agreement,  
18 which was signed by ICANN's board without further opportunity for public review or comment.  
19 The provisions that were added or significantly altered included the fee provision, the renewal  
20 provision, the termination provision, and the definition of consensus policies. Attached as  
21 Exhibit D is a computer-generated comparison of the draft agreement that was distributed for  
22 public comment and the final .net registry agreement that was approved by ICANN. After the  
23 completion of the competitive bidding process, the .net registry fees fell from \$6.00 (under the  
24 2001 agreement) to \$4.25 for the first 18 months under the 2005 agreement. However, beginning  
25 in 2007, the price controls set forth in the 2005 .net Agreement will be eliminated, and the only  
26 restriction will be that VeriSign is required to charge the same price to all registrars and to offer a  
27 volume discount only if the same opportunities to participate are offered to all ICANN-accredited  
28 registrars. Six months' prior notice is also required for any price adjustments.

1           15.     Many of the remaining provisions in the 2005 .net registry agreement mirror the  
2 provisions in the proposed 2005 .com registry agreement, discussed below, and differ materially  
3 from the current .com registry agreement. I have highlighted some of the differences between the  
4 current .com registry agreement and the proposed 2005 .com registry agreement in a chart,  
5 attached hereto as Exhibit E.

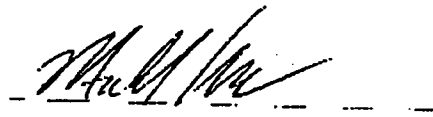
6           16.     After ICANN and VeriSign engaged in extensive disputes and ultimately litigation  
7 over the scope of the definition of "registry services" in the 2001 .com registry agreement, the  
8 two parties entered into a settlement agreement. As part of the settlement, ICANN and VeriSign  
9 proposed extensive changes to the .com registry agreement that go far beyond their dispute over  
10 the definition of "registry services." Instead of merely resolving their dispute, on October 24,  
11 2005, ICANN and VeriSign announced that they had agreed to terms for the new .com registry  
12 agreement to take effect immediately upon its execution, even though the existing .com registry  
13 agreement is not set to expire until 2007. The proposed 2005 .com registry agreement not only  
14 expands the definition of "registry services," but includes unrelated provisions that substantially  
15 increase registration fees and establish a virtually perpetual renewal of the agreement without  
16 allowing competitive bidding, among other provisions as described more fully in Exhibit E.

17           17.     ICANN set a period of approximately two weeks for public review and comment,  
18 prior to approval by ICANN's Board of Directors. ICANN has received an outpouring of public  
19 comment on the agreement, with most of the comments focusing on (1.) the increase in registry  
20 fees proposed under the new agreement, (2.) the renewal provision of the agreement, which all  
21 but eliminates the possibility that there will ever be competitive bidding for the .com registry in  
22 the future, (3.) the expanded definition of registry services that will permit VeriSign to profit by  
23 leveraging its unique and complete control of the registry, (4.) ICANN's abdication of its duty to  
24 support competition, and (5.) the lack of public involvement prior to the release of the proposed  
25 2005 .com registry agreement. Presumably in light of the outpouring of comments, ICANN has  
26 since extended the public comment period until its next meeting in Vancouver, British Columbia,  
27 scheduled to begin on November 30, 2005. The ICANN Board of Directors is scheduled to meet  
28 during the Vancouver meeting.

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I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 23<sup>rd</sup> day of November, 2005, in Ottawa, Ontario, Canada.



Dr. Michael A. Geist

# EXHIBIT A

**DR. MICHAEL A. GEIST**  
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**(613) 562-5800, x3319**  
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**A. Education**

*J.S.D.*, Columbia University, School of Law, 2002

*LL.M.*, Columbia University, School of Law, 1998

*LL.M.* in Commercial and European Union Law, Wolfson College, University of Cambridge, 1994

*Graduate Legal Research Scholar* (“Kenkyusei”), Kobe University Faculty of Law, 1992-93

*LL.B.*, Osgoode Hall Law School, York University, 1992

*Chinese Law Summer Program*, East China Institute of Politics and Law, Shanghai, PRC, 1990

*Political Science Major*, University of Western Ontario, 1987-89

**B. Employment**

*Canada Research Chair in Internet and E-commerce Law*, University of Ottawa, Faculty of Law, Common Law Section, 2003 - present

*Associate Professor*, University of Ottawa, Faculty of Law, Common Law Section, 2002 – present

*Technology Counsel*, Osler, Hoskin & Harcourt LLP, 2002 - 2004

*Assistant Professor*, University of Ottawa, Faculty of Law, Common Law Section, 1998-2002

*Acting Director*, Ontario Research Network for E-commerce (ORNEC), 2001 - 2002

*Director of E-Commerce Law*, Goodmans LLP, Toronto, 2000 – 2002

*Associate-in-Law*, Columbia University, School of Law, 1996-98

*Assistant Professor*, Dalhousie University, Faculty of Law, 1995-96

*Articling Associate*, Goodman Phillips & Vineberg, Toronto, Ontario 1994-95

**C. Publications**

## **I. Books**

Michael Geist, Internet Law in Canada, 3rd Edition, Captus Press, 2002 (925 pp.)

Michael Geist, Internet Law in Canada, 2<sup>nd</sup> Edition, Captus Press, 2001 (876 pp.)

Michael Geist, Internet Law in Canada, Captus Press, 2000 (747 pp.)

## **II. Book Chapters**

*National Governments and Country Code Top Level Domains: A Global Survey*, in Internet Governance: A Grand Collaboration (D. MacLean, ed.) (New York, UN ICT Task Force) 282 – 90 (2004).

*The Shift Toward “Targeting” For Internet Jurisdiction* in Who Rules the Net? Essays on Internet Governance and Jurisdiction (A. Thierer and C. Wayne Crews Jr. eds.) (Washington, DC: Cato Institute) 91 - 118 (2003).

*On Target? The Shifting Standards for Determining Internet Jurisdiction* in Communications Policy and Information Technology: Promises, Problems, Prospects (L.F. Cranor and S. Greenstein, eds.) (Boston: MIT Press) 65 – 102 (2002).

## **III. Scholarly Articles**

*The Long Arm of the USA Patriot Act: A Threat to Canadian Privacy*, co-authored with Milana Homs, forthcoming UNB Law Journal (2005)

*Untouchable? A Canadian Perspective on the Anti-Spam Battle*, forthcoming 3 University of Ottawa Law and Technology Journal (2005)

*Computer and E-Mail Workplace Surveillance in Canada: The Shift From Reasonable Expectation of Privacy to Reasonable Surveillance*, 82 Canadian Bar Review 151-89 (2003)

*Cyberlaw 2.0*, 44 Boston College Law Review 323 – 58 (2003)

*Fair.com? An Examination of the Allegations of Systemic Unfairness in the ICANN UDRP*, 27 Brooklyn Journal of International Law 903-38 (2002)

*Is There a There There: Towards Greater Certainty for Internet Jurisdiction*, 16 Berkeley Technology Law Journal 1345-1406 (2001)

*When Dot-Coms Die: The E-commerce Challenge to Canada’s Bankruptcy Laws*, 37 Canadian Business Law Journal 34 – 74 (2002)

*Old Copyright Law And New Technologies: Canadian Copyright Reform In The Digital Age*, Transactions of the Royal Society of Canada 69-101 (Toronto: University of Toronto Press) (2001)

*iCraveTV and the New Rules of Internet Broadcasting*, 23 University of Arkansas at Little Rock Law Review 223-42 (2000)

*The Reality of Bytes: Regulating Economic Activity in the Age of the Internet*, 73 Washington Law Review 521- 74 (1998)

*Where Can You Go Today?: The Computerization of Legal Education from Workbooks to the Web*, 11 Harvard Journal of Law and Technology 141- 83 (1997)

*Balanced Budget Legislation: An Assessment of the Recent Canadian Experience*, 29 Ottawa Law Review 1- 38 (1997)

*Towards a General Agreement on the Regulation of Foreign Direct Investment*, 26 Law and Policy in International Business 673 - 717(1995)

*Foreign Direct Investment in Japan: A Guide to the Legal Framework*, 9 Banking and Finance Law Review 305 – 57 (1994)

#### **IV. Ongoing Publications**

*Columnist, Law Bytes*, Toronto Star, 2003 – present

*Columnist, Cyberlaw*, Ottawa Citizen, 2005 - present

*Columnist, Cyberlaw*, Globe and Mail, 1999-2002

*Creator, Developer, and Consulting Editor*, BNA's Internet Law News, 1999–present

*Creator & Author*, Canadian Internet Law Resource Page, September 1998 – present (<http://www.cilrp.org>)

*Creator & Author*, UDRPInfo.com, August 2001 – present (<http://www.udrpinfo.com>)

*Creator & Author*, ccTLD Governance Project, November 2002 – present (<http://www.cctldinfo.com>)

*Creator & Author*, Privacyinfo.ca, November 2002 – present (<http://www.privacyinfo.ca>)

#### **V. Editorial Appointments**

*Editor-in-Chief*, Canadian Privacy Law Review (Butterworths), 2003 - present

*Editor-in-Chief*, Internet and E-commerce Law in Canada (Butterworths), 2000 - present

*Technology Law Editor*, Canadian Business Law Journal, 2001 - present

*Editorial Board Member*, E-Commerce and Law Report (BNA), 2000 - present

*Editorial Board Member*, Journal of Internet Law (Aspen), 2000 - present

*Editorial Board Member*, Internet Law and Business (Computer Law Reporter), 2000 - present

*Editorial Board Member*, Cyberspazio e Diritto - Cyberspace and Law (Italy), 2000 – present

*Contributing Editor*, Canadian Journal of International Business Law and Policy, 1996-98

*Foreign Law Editor*, Columbia Journal of Asian Law, 1996-97

## **VI. Conference Proceedings**

*Copyright & Privacy – Through the Copyright Lens* (Sarah Deutsch et. al.) 4 J. Marshall Rev. Intell. Prop. L. 212 (2005)

*Copyright & Privacy – Through the Technology Lens* (Michael Geist et. al.) 4 J. Marshall Rev. Intell. Prop. L. 242 (2005)

Discussant remarks from *Canada's Intellectual Property Framework: A Comparative Overview, International Conference on Intellectual Property and Innovation in the Knowledge Based Economy* (forthcoming 2004)

*Internet Jurisdiction Law in Canada, Science, Truth & Justice*, Canadian Institute for the Administration of Justice Annual Conference (2001)

*Law on the Web: Tracing the Critical Role of Legal Education*, Japan Online Law International Symposium, (1999)

## **VII. Shorter Articles, Columns, and Opinion Pieces**

*Copyright Reform is not a Spectator Sport*, Canadian Association of University Teachers Bulletin (November 2004)

*A Balanced Approach to Reforming Copyright Law*, University Affairs, 28 – 30 (October 2004)

*The Long Arm of the USA Patriot Act: A Threat to Canadian Privacy?*, 1 Canadian Privacy Law Review 133 – 43 (with Milana Homs) (October 2004)

*Long Arm of U.S. Law Poses Canadian Privacy Risk*, 4 Privacy Advisor, 1 – 4 (August 2004)

*In Web Disputes, U.S. Law Rules the World*, 4 World Internet Law Report 17-18 (March 2003)

*Taxation Without Representation on the Net*, Managing Intellectual Property 4 (September 2002)

*Shift to More Workplace Privacy Protection*, CCH Labour Notes 1217 (August 19, 2002)

*Fairness and the ICANN UDRP*, 3 Internet Law & Business 181-91 (January 2002)

*The Canadian Electoral Process in Cyberspace*, 2 McGill Int'l Rev. 18-9 (Winter 2001)

*E-Trail Traces Raise Legal Issues*, 4 J. of Internet L. (7) 27-8 (Jan. 2001)

*The Future of Internet and E-commerce Law*, The Future of Financial Services 215-7 (KPMG 2000)

*E-Commerce Jurisdiction: The Canadian Approach*, 4 J. of Internet L. (2) 9-11 (Aug. 2000)

*Developing a Law School Web Culture Through Online Law*, JURIST: Law Professors on the Web, (March 1999)

i. Toronto Star Law Bytes Columns

*Copyright's Convergence* (April 4/05)

*Canada Rejects One-Sided Approach to Copyright Reform*(March 28/05)

*New Accountability Needed for Net Service Providers* (March 21/05)

*Keeping An Eye on a Canadian Prize* (March 14/05)

*What Do You Want the Internet To Be?* (March 7/05)

*Let Towns, Cities Provide Cheap, Everywhere Broadband* (February 28/05)

*Music Industry Doesn't Need More Government Protection* (February 21/05)

*Revise Privacy Law to Protect Public, Not Offenders* (February 14/05)

*No Good Reason to Bow to U.S. Pharma's Lobbying* (February 7/05)

*TPMs – A Perfect Storm for Consumers* (January 31/05)

*Why Ottawa Should Stand On Guard in RIM Case* (January 24/05)

*Fairness Calls for Fairer Rules* (January 17/05)

*National Web Library Do-able, Affordable, Visionary* (January 10/05)

*Banner Year for Digital Decisions* (December 20/04)

*CIBC Breach Spotlights Hole in Privacy Law* (December 13/04)

*Time Music Industry Focused on Product* (December 6/04)

*Numbers Don't Crunch Against Downloading* (November 29/04)

*Dot-ca Privacy Plan a Canadian Compromise* (November 22/04)

*Internet-Age Aid For Canadian Culture* (November 15/04)

*Advancing Technology Threatens Cultural Policy* (November 8/04)

*Who Should Own Your Wedding Pictures?* (November 1/04)

*Revise Privacy Law to Expose Offenders, Block Snoops* (October 25/04)

*Privacy Law Perversely Protects Those Who Break It* (October 18/04)

*Court Decision Foreshadows Policy Debate* (October 11/04)

*Why Canada Should Follow UK, Not US, on Copyright Policy* (October 4/04)

*Tackling Innovation Deficit a Balancing Act* (September 27/04)

*No Need for Dickensian Approach to Voice Via Web* (September 20/04)

*Mr. Minister, Please Protect the Public Interest* (September 6/04)

*Music Industry Abruptly Changes Tune on Ringtones* (August 23/04)

*A Blueprint for Better, and Fairer, Copyright Law* (August 9/04)

*U.S. Laws Put Canadian Privacy at Risk* (July 26/04)

*Bridging the Digital Divide* (July 19/04)

*Balancing Rights of Creators, Users* (July 5/04)

*Parties the Same? Not on Tech Issues* (June 21/04)

*Copyright Reform Needs Balanced Approach* (June 14/04)

*Will Copyright Reform Chill Use of the Web?* (May 31/04)

*West Urged To Share Internet Governance* (May 17/04)

*A Recipe For Battling Spam in Canada* (May 3/04)

*Weak Enforcement Undermines Privacy Laws* (April 19/04)

*World Resists One-Size-Fits-All Web Laws* (April 5/04)

*Low Tech Case Has High Tech Impact* (March 22/04)

*Music Licensing Would Be Viable For All* (March 8/04)

*Web Decision Extends Long Arm of Ontario Law* (February 16/04)

*Canada Badly Needs A National Standard* (February 2/04)

*Fighting Privacy Law Questionable* (January 19/04)

*Contentious Laws Will Mould Technology* (January 5/04)

*'D' Is For Disputes That Shape Our Lives* (December 15/03)

*Think Web's Virtually Government Free? Think Again* (December 1/03)

*Name Names, Or Privacy Law Toothless* (November 17/03)

*Will Copyright Treaty Benefit Canadians?* (November 3/03)

*Why We Must Stand on Guard Over Copyrights* (October 20/03)

*Web Privacy vs. Identifying Infringers* (October 6/03)

*Verisign's Tampering Shows High Cost of Apathy* (September 22/03)

*Free, Upgraded Web Data Boon to Lawyers, Public* (September 8/03)

*Web Quandary For Regulators* (August 25/03)

*Fairness Demands Review of Domain Name Dispute Policy* (August 11/03)

*The Tortoise, The Hare, and The Internet* (July 28/03)

*Court Cases Taming 'Wild West Web'* (July 7/03)

*Tax Holiday Expiring, Regulators Aspiring on the Web* (June 30/03)

*Reforming Copyright is a Concern for Everyone* (June 23/03)

*U.S. Extends Its Hegemony over the Internet* (June 9/03)

*Waffling Ontario Coming up Short on Privacy Law* (May 26/03)

*'Big Music' Set to Declare War on its Audience* (May 12/03)

*Have-Not World More Plugged-In Than We Think* (April 21/03)

*High Court Tackles Web Lottery; Online Music To Come* (April 7/03)

*Fairness Says It's Time to Tax Goods Sold Online* (March 24/03)

*Governments Hold Reins in Those National Domains* (March 10/03)

*In Web Disputes, U.S. Law Rules the World* (February 24/03)

*Legalese Proved No Defence in E-Trading Case* (February 10/03)

*Privacy Popular, But Eyes Dropped the Ball* (February 3/03)

*Courts Poised to Decide Internet 'Borders'* (January 13/03)

ii. Globe And Mail Cyberlaw Columns  
*Internet Turf War Playing Out* (November 7/02)

*Net Copyright Reform: Its Deep in Policy Agenda* (October 17/02)

*Federal Proposal Tells Only Part of Cybercrime Story* (October 3/02)

*Net Contract Fights Should Avoid Courts* (September 19/02)

*E-commerce Tax Policy Penalizes Canadian Business* (September 5/02)

*Moves Afoot to Give Consumers E-commerce Legal Certainty* (August 22/02)

*Internet Overseer Takes Wrong Path on Accountability* (August 8/02)

*Domain Name Policy Absurd When it Comes to Trademarks* (July 25/02)

*Internet 'Choke Points' Put the Squeeze on Content* (July 11/02)

*Shift to Workplace Privacy Protection* (June 28/02)

*New Net Laws Reach Beyond Borders* (June 27/02)

*Public's Role in Net Governance Threatened* (June 13/02)

*Time to Hit Delete Key on Weak Spam Policy* (May 30/02)

*Appeal Court Ruling the Latest Word on On-line Music* (May 16/02)

*Web Lottery Case Misses Legal Jackpot* (May 2/02)

*Key Case Restores Copyright Balance* (April 18/02)

*Canadian Privacy Law's Ins and Outs* (April 4/02)

*Music Fans Face Raw Copyright Deal* (March 21/02)

*Domain Dispute Bias Goes From Bad to Worse* (March 7/02)

*Quebec Firm's Language Law Challenge Tests E-jurisdiction* (February 21/02)

*Brands, Free Speech Clash Over Domains* (February 7/02)

*Canada's Online Tax Policy Lags Leaders* (January 24/02)

*Cyberlaw 2002: The Next Generation* (January 3/02)

*The Story of Cyberlaw in 2001* (December 20/01)

*Copyright Debate Turns One-Sided* (December 6/01)

*Canada's Laissez-Faire Stance on Microsoft Stifles Innovation* (November 8/01)

*Anti-terrorism Bill Could Limit E-Speech* (October 25/01)

*Government, Commissioner At Odds Over Privacy* (October 11/01)

*Definitive Dispute Policy Takes Shape* (September 28/01)

*Microsoft Likely to Get More Experience in Court* (September 7/01)

*Cyberlaw Shows Its True Colours* (September 6/01)

*How Bias Besets Domain Cases, (August 23/01)*

*Long Arm of the Law Needs New Guidelines for the Internet, (August 9/01)*

*Russian's Case Shows Severity of Copyright Law, (July 26/01)*

*Canada's On-line Copyright Policy Takes Shape, (July 12/01)*

*Net at Stake Despite Ruling, (June 29/01)*

*E-Borders Loom, For Better or Worse, (June 28/01)*

*It's Time To Speak Out on Internet Legislation, (June 14/01)*

*Privacy Law Needs Open Disclosure, (May 30/01)*

*All Electronic Contracts Are Not Created Equal, (May 25/01)*

*Confusion Reins in Domain Name Cases, (May 14/01)*

*Battles Brew as Online Privacy Policies Diverge, (May 3/01)*

*Laws Spur Growth in E-commerce, (April 19/01)*

*Lots of Legal Challenges When Dot Coms Die, (March 30/01)*

*Get Ready for Reruns over Online TV, (March 15/01)*

*Harmonization of Web Law Sparks Heated Haggling, (March 1/01)*

*B.C. Court Shores Up Protection for Anticorporate Protest Sites, (February 15/01)*

*Like it or Not, Napster and its Kind are Here to Stay, (February 14/01)*

*U.S. Blazes Trail in Clash of Trademarks, Domain Names, (February 1/01)*

*Everybody Wants to Rule the Web, (January 18/01)*

*Privacy Tops Internet Hot Spots for 2001, (January 4/01)*

*Cyberlaw: An A to Z Review, (December 21/00)*

*A Troubling Snapshot of E-Privacy in Canada, (December 7/00)*

*E-content Rules Must Shield Election, not Web Sites, (November 26/00)*

*Privacy Compliance is the New Priority, (November 10/00)*

*Watch Out for the Partitioned Web, (November 2/00)*

*New Dot-ca World Needs an Election, (October 26/00)*

*E-mail Traces Raises Legal Issues, (October 19/00)*

*Dot-ca Dispute Rules Open for Public Debate, (October 5/00)*

*What's In a Name? Domain Reform Holds the Answer*, (September 26/00)

*High-Speed Net Clash Moves Into High Gear*, (September 21/00)

*Trademark Confusion Creeps Into Web Site Content*, (September 7/00)

*WIPO Wipes Out Domain Name Rights*, (August 24/00)

*Copyright Holders May Rule the Day*, (August 10/00)

*Napster North of the 49th Parallel*, (July 27/00)

*When Technology is at Odds with the Law*, (July 13/00)

*Legally, I am Canadian*, (June 29/00)

*Firms Play 'Whack a Mole' Game in Trying to Stop E-competition*, (June 15/00)

*New Laws Aim to Ease Uncertainties of E-commerce*, (June 9/00 - E-Business Special Report)

*The Fine Print Behind FTC's Advertising Rules For the Dot-Com World*, (June 1/00)

*EU Edicts Influence Canadian Cyberlaw*, (May 18/00)

*Domain Name Wars Heat Up*, (May 4/00)

*Proposed Dot-ca Dispute Resolution Method Flawed*, (April 20/00)

*Federal Tribunal Forges Internet Policy*, (April 6/00)

*Stamp of Approval Needed for E-Business*, (March 23/00)

*Courts Take Hands-Off Approach to Passive Web Sites*, (March 9/00)

*Local Laws Begin to Assert Power*, (February 24/00)

*Cookies Crumble Personal Privacy*, (February 10/00)

*A Patently Obvious Threat to E-commerce*, (January 27/00)

*Lawmakers To Mull Milestones in 2000*, (January 13/00)

*H is for Hackers: An A to Z Guide to Cyberlaw in 1999*, (December 28/99)

*Privacy Law No Substitute For Vigilance*, (December 9/99)

*Vital Ruling Misses Boat on Offshore Servers*, (November 18/99)

*What It Means When You Click 'I Agree'*, (October 21/99)

*Buyers Will Be Wary Until Laws Locate E-Commerce*, (Sept. 16/99)

*The Gap Between Won't and Can't*, (August 19/99)

ii. Wallstreetlawyer.Com (Glasser LegalWorks, N.J.)

*Monitoring Online Activity: The Growing Use of E-Monitoring Services*, (December 1999)

*Keeping Pace With Internet Securities Law News*, (November 1999)

*Internet Jurisdiction: Grappling With Which Law Applies*, (October 1999)

*Making Better Use of EDGAR*, (September 1999)

*Off the Grid Trading: Real Goods is for Real*, (August 1999)

*Virtual Roadshows: A Preview of Stock Promotion in the Next Century*, (June 1999)

*Internet Public Offerings: A Guide to the Mania*, (May 1999)

*Buyer Beware: The Growth of Internet Fraud*, (April 1999)

*The Best of Web Watch: A Look Back At Year One*, (Mar. 1999)

*Online Privacy: An Integral Part of Electronic Commerce*, (Feb. 1999)

*Taxing Electronic Commerce: Should the Internet Be Tax-Free?*, (Jan. 1999)

*Digital Signatures: A "Key" to Electronic Commerce*, (Dec. 1998)

*Electronic Commerce: The Global Policy Perspective*, (Nov. 1998)

*The SEC's Online Presence - Much More Than Just Edgar*, (Oct. 1998)

*The Y2K Problem and the Law - Online Legal Resources*, (Sept. 1998)

*Stock Exchanges on the Web - The Developing Economies*, (Aug. 1998)

*Stock Exchanges on the Web - The Asian Economies*, (July 1998)

*Stock Exchanges on the Web - The Developed Nations*, (June 1998)

*Stock Exchanges on the Web - The U.S. Experience*, (May 1998)

*Securities Regulators Online II - The Developing Markets*, (April 1998)

*Securities Regulators Online - The Industrialized Nations*, (Mar. 1998)

iii. Lexis-Nexis Law And Technology Column

*Content Filtering in Libraries: A Federal Court Rules Against Loudoun County Policy*, (Nov. 1998)

*Digital Democracy: Online Voting May Be Around the Corner*, (Nov. 1998)

*Congress Passes Watershed Internet Legislation*, (Nov. 1998)

*The Growing Divide Over Internet Regulation*, (Oct. 1998)

*Eliminating Spam from your Email Diet: Legislative Solutions Gain Popularity*, (Oct. 1998)

*Changing the Face of Legal Scholarship*, (Sept. 1998)

*Mandatory Computer Ownership: Sizing Up The Debate*, (Sept. 1998)

*Web Ed: The Move Into Cyberspace Continues*, (Aug. 1998)

*Privacy: This Summer's Premier Legal Battle*, (May 1998)

*Regulating the Internet: The View From North of the Border*, (May 1998)

*Government Information Online: Tobacco Documents Released*, (April 1998)

*The Year 2000 Problem Hits Home*, (April 1998)

*Internet Jurisdiction: The SEC "Opts Out"*, (April 1998)

*Harvard's Privacy Cybercourse: Offering Legal Education in Cyberspace*, (Mar. 1998)

*Bill's Battles: A Guide to Microsoft's Legal Woes*, (Mar. 1998)

*Taxing Electronic Commerce: Should the Internet Be A Tax-Free Zone*, (Feb. 1998)

*Wrangling Over Law School Rankings*, (Feb. 1998)

*The Courtroom of the Future – Today*, (Jan. 1998)

*Cyberspace Law From A to Z: The Year in Review*, (Jan. 1998)

*Oyez! Oyez! Oyez! The Supreme Court is now in Cyberspace*, (Nov. 1997)

*School Supplies for the 90's*, (Sept. 1997)

*Web Ed: Legal Education Moves Into Cyberspace*, (Sept. 1997)

#### **VIII. Technical Reports, Law Reform, and Commissioned Research Work**

*Global Internet Jurisdiction: The ABA/ICC Survey*, American Bar Association, Business Law Section, Cyberspace Law Committee, Internet Jurisdiction Subcommittee, 2004 (28 pp.)

*Governments and ccTLDs: A Global Survey (Version Two)* Survey conducted in cooperation with the International Telecommunications Union, 2004 (23 pp.)

*Governments and ccTLDs: A Global Survey*, Survey conducted in cooperation with the International Telecommunications Union, 2003 (22 pp.)

*E-Legal Kit – Volume One (E-commerce Law), Volume Two (E-commerce contracting), and Volume Three (Case Studies)*, United Nations International Trade Centre, 2003 (180 pp.)

*Computer And E-Mail Workplace Surveillance In Canada: The Shift From Reasonable Expectation Of Privacy To Reasonable Surveillance*, Canadian Judicial Council, 2002 (54 pp.)

*Is There a There There: Towards Greater Certainty for Internet Jurisdiction*, Uniform Law Conference of Canada and Industry Canada, 2001 (64 pp.)

*In Search of the Virtual Label: Canada's Labeling Legal Framework and the Impact of E-commerce*, Canada Competition Bureau, 2001 (26 pp.)

*The Competitive Threat of Malicious Code: An Environmental Scan*, Canada Competition Bureau, 2001 (18 pp.)

*Survey of Canadian Law Firms E-commerce Best Practices: A 2001 Update*, Industry Canada, 2001 (23 pp.)

*Canadian E-commerce and Privacy Study 2000: A Failure to Communicate*, 2000 (93 pp.)

*Consultation on CIRA Draft ADR Policy: Report and Analysis*, Canadian Internet Registration Authority, 2000 (17 pp.)

*CIRA Consultation on Alternative Dispute Resolution: Report and Analysis*, Canadian Internet Registration Authority, 2000 (22 pp.)

*E-Commerce and Canada's Bankruptcy and Insolvency Act*, Industry Canada, 2000 (38 pp.)

*E-Commerce and Legal Services in Canada: Meeting the Challenge*, Industry Canada, Service Industries & Capital Projects, 2000 (30 pp.)

*Consumer Protection and Licensing Regimes Review: The Implications of Electronic Commerce*, Ontario Ministry of Consumer & Commercial Relations, 1999 (21 pp.)

#### **D. Conference Papers, Public Lectures, and Addresses**

*Here and There: Unpacking the Complexity of Internet Jurisdiction, Spyware: The Latest Cyber-Regulatory Challenge*, Berkeley Center for Law and Technology, Berkeley, CA, April 2005

*Canadian Copyright Law*, Fordham Annual Conference on International Intellectual Property Law & Policy, New York, NY, March 2005

*Canada's Choice: Copyright, Culture and the Internet*, University of Montreal Speaker Series, Montreal, QC, March 2005

*Data Sharing: Risks, Issues and Realities*, IAPP National Summit, Washington, DC, March 2005

*Keynote Address: Canada's Choice: Copyright, Culture and the Internet, Sound Bytes, Sound Rights: Canada at the Crossroads of Copyright Law, University of Toronto, Toronto, ON, February 2005*

*Copyright and the Internet: Is There A Canadian Way?, KDMI Open Access Lecture Series, University of Toronto, Toronto, ON, February 2005*

*The View From Here: How Will Technology, the Internet and Security Concerns Impact Privacy?, Council of Chief Privacy Officers, Ottawa, ON, February 2005*

*Copyright & Privacy: Through the Technology/Copyright Lens, Piracy v. Privacy, John Marshall Law School, Chicago, IL, November 2004*

*Internet Law Update, Ottawa Technology Lawyers Group, Ottawa, ON, November 2004*

*Untouchable? A Canadian Perspective on the Anti-Spam Battle, International Conference on the Legal Aspects of an E-commerce Transaction, The Hague, The Netherlands, October 2004*

*Untouchable? A Canadian Perspective on the Anti-Spam Battle, IT.Can Annual Conference, Calgary, AB, October 2004*

*Keynote Address – Unhappy Gilmore: The Internet's Six Layers of Liability, Society for the Policing of Cyberspace Annual Conference, Vancouver, BC, October 2004*

*Unhappy Gilmore: The Internet's Six Layers of Liability, The Internet and the Law: A Global Conversation, Ottawa, ON, September 2004*

*Trust, Privacy and Security, E-commerce to the E-economy: Strategies for the 21<sup>st</sup> Century, Ottawa, ON, September 2004*

*Internet Jurisdiction, UNESCAP Conference on Regional Harmonization of Electronic Commerce, Bangkok, Thailand, July 2004*

*Keynote Address - Privacy and Expectations, ARUCC Annual Meeting, Ottawa, ON, June 2004*

*Comparative Domain Name Dispute Resolution, ABA IP Section Summer Conference, Toronto, ON, June 2004*

*Canadian Privacy Law, IAPP Privacy Futures Conference, San Francisco, CA, June 2004*

*Internet Jurisdiction, ICC Commercial Law and Practice Spring Meeting, Rome, Italy, May 2004*

*(Re)Thinking Copyright, ALAI Rethinking Copyright Conference, Ottawa, ON, May 2004*

*Privacy and Expectations, Canadian Access and Privacy Association Annual Meeting, Ottawa, ON, May 2004*

*Sparring With Spam, Law Society of Upper Canada, New Developments in Communications Law, Ottawa, ON, April 2004*

*Beyond ICANN: International Governance of the Internet in the 21<sup>st</sup> Century, ABA International Law Section Spring Meeting, New York, NY, April 2004*

*Chair, Internet Jurisdiction: A Global Survey, ABA Business Law Section Spring Meeting, Seattle, WA, April 2004*

*Rapporteur, UN ICT Task Force Internet Governance Workshop, New York, NY, March 2004*

*Unhappy Gilmore: The Internet's Six Layers of Liability, University of Manitoba, Faculty of Law, Winnipeg, MB, March 2004*

*Panelist, From Wireless to iPod, Canadian Music Week 2004, Toronto, ON, March 2004*

*Governments and ccTLDs: A Survey of National Governments and Internet Governance, ITU Internet Governance Workshop, Geneva, Switzerland, March 2004*

*PIPEDA: Canada's New Privacy Law, 4<sup>th</sup> Annual IAPP Privacy and Security Summit, Washington, DC, February 2004*

*Major Privacy Law Challenges for 2004 and Beyond, Living With the New Private Sector Privacy Law: What You Need To Know, Ottawa, ON, February 2004*

*Selling and Marketing Online – Emerging Legal Issues, Toronto Computer Lawyers Group, Toronto, ON, February 2004*

*Keynote Address – Privacy and Expectations, University of New Brunswick, Faculty of Law, Law Week, Fredericton, NB, February 2004*

*Moderator, ID Theft: Canada's Legal Framework, ORNEC's ID Theft Workshop, Ottawa, ON, February 2004*

*Unhappy Gilmore: The Internet's Six Layers of Liability, Torys Technology Law Speaker Series, Ottawa, ON, February 2004*

*Chair, Law and Regulatory Panel, OECD Spam Summit, Brussels, Belgium, February 2004*

*Panelist, Canadian Copyright – Legislative Reform, Canadian Association of Broadcasters Annual Meeting, Quebec City, QC, November 2003*

*Keynote Address – Privacy and Expectations, 4<sup>th</sup> Annual Privacy and Security Workshop, Toronto, ON, November 2003*

*Who is Watching You? The What, Why & How of Tracking Employees, IAPP Privacy Academy, Chicago, IL, October 2003*

*Current Issues and Key Initiatives: The Privacy Perspective, Privacy, Security, & Trust Workshop, Montreal, QC, October 2003*

*Organizer, University of Ottawa Comparative IP and Cyberlaw Symposium, Toronto, ON, October 2003*

*Keynote Address – Privacy and Expectations, Access and Privacy Workshop 2003, Toronto, ON, October 2003*

*Internet Law Update, Ottawa Technology Lawyers Group, Ottawa, ON, October 2003*

*Speech, Choice & Cyberspace, American Library Association Annual Meeting, Toronto, ON, June 2003*

*Panelist, Expert Spam Workshop, Internet Law and Policy Forum, Ottawa, ON, June 2003*

*E-Borders, Internet and IT Technologies, United States Department of Commerce Commercial Law Development Program, Washington, DC, June 2003*

*Cyberlaw 2.0, Internet Marketing Conference, Montreal, QC, May 2003*

*Moderator, Canadian IT Law Association Spring Training II, Toronto, ON, May 2003*

*Cyberlaw 2.0, Yale Law School, New Haven, CT, April 2003*

*Cyberlaw 2.0, National Law School of India, Bangalore, India, March 2003*

*Legal Issues in E-commerce Law, Bangalore, India, March 2003*

*Legal Issues in E-commerce Law, Mumbai, India, March 2003*

*ccTLDs and Transnational Policymaking, Cardozo Law School, New York, NY, March 2003*

*Keynote Address - ccTLD Governance Project, International Telecommunications Union Workshop on Member States and ccTLDs, Geneva, Switzerland, March 2003*

*Cyberlaw 2.0, Canadian Bar Association – BC Chapter, Computer Law Section, Vancouver, BC, February 2003*

*Watching Your Employees: Emerging Personal Boundaries in the Workplace, 3<sup>rd</sup> Annual Data Privacy and Security Summit, Washington, DC, February 2003*

*Computer And E-Mail Workplace Surveillance In Canada: The Shift From Reasonable Expectation Of Privacy To Reasonable Surveillance, Osgoode Hall Law School, Toronto, February 2003*

*Moderator, The World of Cybertaxes, University of Toronto, Faculty of Law, Toronto, ON, January 2003*

*Cyberlaw 2.0, University of Toronto, Faculty of Law, Toronto, ON, January 2003*

*Cyberlaw 2.0, Torys Technology Law Tuesday Speaker Series, University of Ottawa, Common Law Section, Ottawa, ON, January 2003*

*Recent Developments of the Domain Name Dispute Resolution System in Canada, OCRI/CATA Intellectual Property Management –The Strategic Landscape, Ottawa, ON, January 2003*

*Internet and E-commerce Law Update, Ottawa Technology Lawyers Group, Ottawa, ON, November 2002*

*Panelist, Recent U.S. Legal Developments Roundtable, 4<sup>th</sup> Georgetown University Advanced E-commerce Law Institute, Washington, DC, November 2002*

*Digital Copyright: A Look Ahead, Nikkei Digital Core Speaker Series, Tokyo, Japan, November 2002*

*Recent Developments of the Domain Name Dispute Resolution System in Canada, Recent Developments of Domain Name Dispute Resolution in Canada and Korea, Seoul, Korea, November 2002*

*Computer And E-Mail Workplace Surveillance In Canada: The Shift From Reasonable Expectation Of Privacy To Reasonable Surveillance, Yukon Bar and Bench Day, Whitehorse, Yukon, October 2002*

*Panelist, Primer on Privacy Compliance for the Private Sector, Privacy Trends: Complying with New Demands, Ottawa, ON, October 2002*

*Cyberlaw 2.0, Boston College Symposium on Intellectual Property, E-Commerce and the Internet, Boston, MA, October 2002*

*Creating a Trusted Environment: Legal Challenges, Partnering for E-business, Toronto, ON, October 2002*

*Computer And E-Mail Workplace Surveillance In Canada: The Shift From Reasonable Expectation Of Privacy To Reasonable Surveillance, Canadian Institute for the Administration of Justice Dialogues About Justice: The Public, Legislators, Courts and the Media, Hull, Quebec, October 2002*

*Internet Law Update, 6<sup>th</sup> Annual IT.Can Association Conference, Ottawa, ON, October 2002*

*Computer Surveillance of the Judiciary, 4<sup>th</sup> International Conference on Law via the Internet, Montreal, PQ, October 2002*

*Canada.com: In Search of a Canadian Internet Law Policy, Saskatchewan Law Review Lecture, University of Saskatchewan College of Law, Saskatoon, SK, September 2002*

*Watching Employees: Legal Considerations, Practical Guidelines and Netiquette, ILPF Security v. Privacy Conference, Seattle, WA, September 2002*

*Hot Internet IP Issues Around the World, ABA Summer IPL Conference, Philadelphia, PA, June 2002*

*Extra-Territoriality and the Internet, INET 2002 Conference, Washington, DC, June 2002*

*Cyberlaw 2.0, OBA E-commerce Section Year-End Dinner, Toronto, June 2002*

*Cyberlaw 2.0, OCRI's 45<sup>th</sup> Circuit, Ottawa, June 2002*

*Keynote Address: Jurisdiction, Advocates' Society Lawyers and the Internet, Ottawa, May 2002*

*E-commerce in a World Without Borders, CALT 2002 Annual Conference, Toronto, May 2002*

*E-commerce Legislation Update, IT.Can Law Association Spring Training Conference, Vancouver, May 2002*

*Internet Law Panel, LSUC Communications Law Conference, Ottawa, April 2002*

*Computer And E-Mail Workplace Surveillance In Canada: The Shift From Reasonable Expectation Of Privacy To Reasonable Surveillance, Canadian Judicial Council, Ottawa, March 2002*

*Discussant, Impact of IT for E-Banking, The Information Technology Revolution: Policy Implications for Financial Services, Schulich School of Business, Toronto, March 2002*

*Fair.com? An Examination of the Allegations of Systemic Unfairness in the ICANN UDRP, International Telecoms Laws Post De-Regulatory Landscape, Brooklyn Law School, Brooklyn, NY, March 2002*

*Internet Content Liability, Internet Law and Policy Forum International Workshop on Content-related Issues: Policy/Legal Frameworks and Solutions, Tokyo, Japan, February 2002*

*The Cyberlaw Rules: How the Internet is Transforming Law, Canadian Centre for Management Development's Armchair Series, Ottawa, February 2002*

*Technological Change and Legal Response in E-commerce, Information Technology and Legal Regulation: Promise and Pitfalls, Institute for the Study of Information Technology and Society, Carnegie Mellon University, Pittsburgh, PA, February 2002*

*Copyright and Censorship, Censorship and Privacy: Civil Liberties in a Digital Age, University of Toronto, Toronto, January 2002*

*Chair, Intellectual Property Summit Protecting, Enforcing And Exploiting Your IP Rights In The Global Marketplace, Toronto, January 2002*

*Keynote Address - Domain Names: A New Frontier for Disputes, Advocates' Society Litigation Meets the Internet, Toronto, January 2002*

*Intermediary Liability in the Online Environment: Public Issues, Internet Law and Policy Forum Workshop, Brussels, Belgium, December 2001*

*Copyright and Trade Issues, Centre For Trade Policy and Law Trade and Culture Conference, Ottawa, November 2001*

*Internet Jurisdiction Following Yahoo.com, BNA Public Policy Forum, Washington, DC, November 2001*

*Internet Jurisdiction, Georgetown University Advanced E-commerce Institute, Washington, DC, November 2001*

*Internet Law Update, County of Carleton Law Association Litigation Update, Montebello, Quebec, November 2001*

*Canadian Copyright Reform, Canadian Association of Broadcasters Annual Meeting, Ottawa, October 2001*

*Internet Jurisdiction, Telecommunications Policy Research Conference (TPRC) 2001, Alexandria, Virginia, October 2001*

*Internet Jurisdiction, European E-commerce Legal Information Platform (ECLIP) E-contract Conference, Brussels, Belgium, October 2001*

*Keynote Address – Internet Jurisdiction, Internet Law Insight Conference, Toronto, September 2001*

*Internet Jurisdiction, Uniform Law Conference of Canada Annual Meeting, Toronto, August 2001*

*What, Me Worry? Privacy, Liability and Other Online Legal Issues in the Information Age, Canadian Bar Association Annual Meeting, Saskatoon, August 2001*

*Policies for the New Economy: Legal Framework, Government of Canada Policy Research Branch, Montreal, June 2001*

*Is There a There There? Towards Greater Certainty for Internet Jurisdiction, Internet Society INET 2001, Stockholm, Sweden, June 2001*

*The Internet and Jurisdiction, EPIC Policy Briefing: Emerging Cyberspace Issues, Washington, D.C., June 2001*

*Panelist, The Impact of a Global Internet on Copyright, Canadian Institute of International Affairs Meeting, Toronto, May 2001*

*Discussant, Canada's Intellectual Property Framework: A Comparative Overview, International Conference on Intellectual Property and Innovation in the Knowledge Based Economy, Toronto, May 2001*

*Is There a There There? Towards Greater Certainty for Internet Jurisdiction, Toronto Computer Lawyers Group, Toronto, May 2001*

*Internet Jurisdiction Update, National Judicial Institute Intellectual Property Seminar, Ottawa, May 2001*

*Is There a There There? Towards Greater Certainty of Internet Jurisdiction, IT.Can Law Association Spring Training Conference, Toronto, April 2001*

*The Cyberlaw Rules: How the Internet is Transforming Law, Ryerson CWC/CTV Women's Career Accelerator, Toronto, April 2001*

*Keynote Speaker – Is There a There There? Towards Greater Certainty for Internet Jurisdiction, University of Washington School of Law - Beyond the Information Superhighway: Searching for the Next Policy Metaphor, Seattle, Washington, April 2001*

*Is There a There There? Towards Greater Certainty for Internet Jurisdiction, Consumer Measures Committee/Uniform Law Conference of Canada Workshop on Consumer Protection and Jurisdiction in Electronic Commerce, Toronto, April 2001*

*Conference Chair and Organizer, Canadian Copyright Law in the Digital Age Forum, Ottawa, March 2001*

*International E-commerce Law Update, Joint Open Forum on Standardization Enablement in Electronic Commerce, Ottawa, March 2001*

*Legal Education.com, National Judicial Institute's Technology-Based Distance Learning and the Judiciary Conference, Ottawa, February 2001*

*Legal Issues Panelist, OECD Conference Building Trust in the Online Environment: Business to Consumer Dispute Resolution, The Hague, Netherlands, December 2000*

*CEO Panel Moderator, Marketing Online Conference, Toronto, December 2000*

*Conference Chair, 2000 Domain Name Governance, Law & Policy Forum, Ottawa, November 2000*

*Copyright in the Balance: Old Laws and New Technologies*, Royal Society of Canada Annual Symposium, Ottawa, November 2000

*Copyright Law Moderator*, BNA Internet and E-commerce Law Public Policy Forum, Washington, DC, November 2000

*E-commerce Regulatory Update*, 4th Annual Canadian IT Law Conference, Halifax, October 2000

*Internet Jurisdiction Law in Canada*, Science, Truth & Justice, Canadian Institute for the Administration of Justice Annual Conference, Victoria, October 2000

*Domain Name Dispute Resolution in Canada*, Intellectual Property Institute of Canada AGM, Vancouver, September 2000

*ICANN's Domain Name Dispute Resolution Process*, Internet Law and Policy Forum Jurisdiction II: Global Networks, Local Rules, San Francisco, California, September 2000

*E-commerce and Web for Canadian Lawyers*, Canadian Bar Association Annual Meeting, Halifax, August 2000

*Sale of Services and Internet Jurisdiction*, Internet Jurisdiction Law Plenary, American Bar Association Annual Meeting, London, England, July 2000

*E-Business: The Future*, Comdex Canada, Toronto, July 2000

*The Cyberlaw Rules*, Kiwanis Club of Ottawa, Ottawa, July 2000

*E-commerce Law Moderator*, Third International Workshop on the Technological Challenges of E-commerce, Waterloo, June 2000

*What It Means When You Click I Agree*, Net 2000 Conference, Ottawa, June 2000

*Legaleducation.com*, 10<sup>th</sup> Annual CALI Conference, Chicago, Illinois, June 2000

*Canadian E-commerce Law and Policy: Facing the Future Challenge Today*, Canada-Chile Free Trade Agreement Three Years Later: Lessons and Challenges for the 21st Century, Ottawa, May 2000

*iCraveTV and the New Rules of Internet Broadcasting*, Media Law and Ethics Enter the 21<sup>st</sup> Century, Little Rock, Arkansas, April 2000

*Internet Jurisdiction Update*, University of Montreal Technology Law Forum, Montreal, April 2000

*The Media and Privacy: Friend, Foe or Folly*, Computers, Freedom & Privacy Conference 2000, Toronto, April 2000

*What It Means When You Click I Agree*, E-Commerce Canada 6th Annual Symposium, Ottawa, February 2000

*Online Dispute Resolution and Internet Jurisdiction*, National Capital Association of Communications Lawyers, Ottawa, January 2000

*What It Means When You Click I Agree*, Legal Challenges of the Internet, University of Toronto, January 2000

*Consumer Protection and Licensing Regimes Review: The Implications of Electronic Commerce*, Ontario Ministry of Consumer and Commercial Relations E-Commerce Roundtable, Toronto, December 1999

*Keeping Pace With Internet Jurisdiction Issues*, Compliance Guide to Online Financial Transactions, Strategy Institute, Toronto, October 1999

*The Internet and International Law*, ILSA 5th Annual Conference, Ottawa, September 1999

*Sale of Services and Internet Jurisdiction: A Telemedicine Case Study*, Internet Law and Policy Forum (ILPF) International Conference, Montreal, July 1999

*Reality Testing: Legal Solutions to Hate on the Net*, Second International Symposium on Hate on the Internet, Toronto, March 1999

*Law on the Web: Tracing the Critical Role of Legal Education*, Japan Online Law International Symposium, Nagoya & Kyoto, Japan, March 1999

*Finding Information in a Sea of Knowledge*, 1999 Law Tech Plus, Ottawa, February 1999

*Hate Speech on the Internet*, 1999 CJLSA National Conference, Ottawa, January 1999

*Using Web Lectures in the Classroom*, 1998 CALI Conference - Preparing for the Road Ahead, Chicago, Illinois, June 1998 and 1998 SEAALS Conference, Marco Island, Florida, July 1998

*Weaving the Web into Legal Education*, 1997 CALI Conference - The Democratization of Computer-Assisted Legal Instruction, Chicago, Illinois, June 1997

*Balanced Budget Legislation: An Assessment of the Recent Canadian Experience*, 26th Annual Workshop on Commercial and Consumer Law, Toronto, October 1996

*The Dey Report: The Wave of the Future*, The New Reality: Liability of Officers and Directors In the 90's, Continuing Legal Education Society of Nova Scotia Conference, Halifax, November 1995

## **E. Research Grants, Scholarships Prizes, and Awards**

Rector's Award for Service to the University through Media and Community Relations, 2003

Public Leadership Award, Canarie's IWAY Awards, 2003

Canada's Top 40 Under 40, 2002

Canada Research Chair in Internet and E-commerce Law (\$500,000), 2003

Canada Research Chair Laboratory in Technology Law, Canada Foundation for Innovation (\$250,000), 2003

Canada Research Chair Laboratory in Technology Law, Ontario Innovation Trust (\$250,000), 2003

Ontario Premier's Research Excellence Award (\$150,000), 2003

Amazon.com Cy Pres Fund Award, *Creation of University of Ottawa Technology Law Clinic* (\$240,000), 2002

Canadian Association of Law Teachers 2002 Scholarly Paper Award, 2002

Social Sciences and Humanities Research Council of Canada, Initiative on the New Economy - *Jurisdiction Law and the Internet: An Examination of the Effects on E-commerce* (\$192,550), 2002

Ontario Research and Development Challenge Fund – *Creation of Ontario Research Network for E-commerce (principal investigator)* (\$13.5 million), 2001

Foundation for Legal Education Research Grant – *Everyone Wants to Rule the Cyberworld: Internet Jurisdiction after the Yahoo! France Case* (\$4,000), 2001

Uniform Law Conference of Canada Research Grant – *Is There a There There? Towards Greater Certainty for Internet Jurisdiction* (\$5,000), 2001

Centre for Innovation Law and Policy Faculty Research Grant - *Canadian privacy policies* (\$10,000), 2000

Centre for Innovation Law and Policy Faculty Research Grant - *Web seal programs* (\$10,000), 2000

Centre for Innovation Law and Policy Curriculum Development Award - *E-Commerce Law Workshop* (\$17,000), 2000

University of Ottawa Law School Faculty Research Stipend (\$3,000), 2000

University of Ottawa Research Travel Grant, American Bar Association Internet Jurisdiction Work (\$900), 2000

American Bar Association Research Grant, *Internet Jurisdiction Project* (\$6000), 1999-2000

Fulbright Scholarship, (U.S. \$15,000), 1996-97

SSHRC Doctoral Fellowship, (\$14,400), 1996 – 98

Wien Fellowship, Columbia Law School, 1997-98

Associate Fellowship, Columbia Law School, 1996 – 98

Wolfson College Jennings Prize, 1994

Monbusho Scholarship, Government of Japan (\$30,000), 1992 – 93

Ivan Cleveland Rand Scholarship in Constitutional Law, 1989 - 90

Cassels, Brock & Blackwell Prize in Constitutional Law, 1989 - 90

Bassel, Sullivan & Leake Prize in Civil Procedure, 1989 - 90

Samuel Rubinoff Prize in Legal Research and Writing, 1989 – 90

## **F. University Academic Activities**

### **I. Subjects Taught**

Regulation of Internet Commerce

Regulation of Internet Communication

Electronic Commerce Law Workshop

Technology Law Internship

Contracts

Business Associations

Legal Research and Writing

### **II. Graduate Supervisions**

William H. Abbott, LL.M. Candidate, E-commerce and Consumer Protection, 2000 – 01

Rosena Vranjic, LL.M. Candidate, Internet and Society, 2000 – 01

Marianne Kroes, LL.M. Candidate, Internet Jurisdiction, 2000 – 01

Goldie Shea-Green, LL.M. Candidate, Copyright and Webcasting, 2000 - 01

William Karam, LL.M. Candidate, E-commerce and Securities Regulation, 2001

Greg Hagen, LL.M. Candidate, Internet Governance, 2001 – 02

Daniel Tsai, LL.M. Candidate, Internet Law, 2001 – 03

John Bruce, LL.M. Candidate, Privacy, 2002 – 03

Sukesh Kamra, LL.M. Candidate, Jurisdiction, 2003

Karen Ng, LL.M. Candidate, Spam, 2003

Charles Li, LL.M. Candidate, E-commerce contracting, 2003

Cristos Velasco, LL.M. Candidate, E-commerce Consumer Protection, 2004

Christopher Shaw, LL.M. Candidate, VoIP Regulation, 2004

### **III. Undergraduate Supervisions**

Martin Finestone, LL.B. Candidate, Mobile Commerce, 2003

Julia Herzog, LL.B. Candidate, Internet Retransmission, 2002

Tannis Waugh, LL.B. Candidate, Anti-terrorism Legislation and Hate Speech, 2002

Michael Carlson, LL.B. Candidate, E-commerce and the WTO, 2001

Dina Taub, LL.B. Candidate, Internet Taxation, 2000

Stephen Kovacic, LL.B. Candidate, Encryption Policy, 1999

Stacey Shein, LL.B. Candidate, E-commerce legislation, 1999

#### **IV. University Administrative Duties**

*Member*, Scientific Advisory Board, Ontario Research Network for E-commerce, 2002 – present

*Chair*, Legal Cluster, Ontario Research Network for E-commerce, 2002 - present

*Member*, Hiring Committee, 2002 - present

*Member*, Law School Technology Steering Committee, 2000 - present

*Member, Program Development*, LL.M. Program in Law & Technology, 2000-01

*Guest Speaker on Law and Technology*, Faculty of Engineering, 1999 - 2001

*Member, Program Development*, Graduate Certificate in E-commerce, 1999 – present

*Member, Program Development*, M.Eng in Internet Technologies, 1999 – 2001

*Member*, University E-Society Working Group, 2000 - present

*Chair*, Orientation Committee, 2000

*Member*, Admissions Committee, 1998 – 2000

*Member*, Library Committee, 1998 - 2000

*Member*, JSD Tory Writing Prize Committee, 1999

#### **G. Professional and Community Service**

##### **I. Peer Review Activity**

National Science Foundation (U.S.)

Social Sciences and Humanities Research Council of Canada

National Research Council of Canada

Major Canadian and Australian Law Reviews

## **II. Government Testimony, Delegations and Task Forces**

*Task Force Member*, National Ministerial Task Force on Spam, 2004

*E-commerce Advisor*, Canadian Delegation, Hague Conference Draft Convention on Jurisdiction and the Enforcement of Judgments, 2001

*Delegation Member*, Canadian Delegation, UNCITRAL Working Group on Electronic Commerce, 2001

*House of Commons Industry Committee Hearings on Bill C-54* (Electronic Commerce Privacy Legislation), March 4, 1999

## **III. International Legal Committees**

Canadian Representative, Dot-Org Advisory Council, 2003 – present

Co-chair, Internet Jurisdiction Project, American Bar Association and International Chamber of Commerce, 2002 - present

Adviser, American Law Institute Project on International Intellectual Property, 2002 - present

Legal Expert Network, Carnegie Mellon Institute for the Study of Information Technology and Society, 2001 - present

Internet Corporation for Assigned Names and Numbers (ICANN), North American Membership Implementation Task Force Member, 2000

Dutch Special Commission on Fundamental Rights in the Digital era, International Review Board, 1999-2000

American Bar Association Internet Jurisdiction Project, Sale of Services Working Group Chair, 1998–2000

## **IV. Corporate and Academic Boards**

Quova, 2005 - present

Canadian IT Law Association, 2001 - present

Canadian Internet Registration Authority (CIRA), 2001 – present

Watchfire, 2001 – present

Verifia, 2001 - 2003

NetActive Inc., 2000 – 2001

CanadaMD.com, 2000 - 2001

Youtopia.com, 1999-2002

Center for Computer Assisted Legal Instruction (CALI) Editorial Board, 1997-present

#### **V. Conferences Organized**

The Internet and the Law: A Global Conversation, October 2004 (250 attendees)

Comparative IP and Cyberlaw Symposium, October 2003 (200 attendees)

Public Forum on the Draft Ontario Privacy Legislation, March 2002, (65 attendees)

Copyright Law in the Digital Age Public Forum, March 2001, (300 attendees)

2000 Domain Name Governance, Law, and Policy Forum, November 2000 (200 attendees)

#### **VI. Academic And Conference Legal Committees**

*Chair*, Programming Committee, Ottawa Technology Lawyers Group, 2002- present

*Member*, OCRI 45<sup>th</sup> Circuit Advisory Board, 2000 - 2004

*Advisory Member*, Japan Law Online Working Group, Nagoya, Japan 1999-2002

*Co-Editor*, JURIST Canada: The Law Professors' Portal, 1999-2001

*Advisory Committee Member*, Law Tech Plus Conference, 1998-99

*International Program Committee Member*, IASTED International Conference on Law & Technology 1999 & 2000

# EXHIBIT B

MEMORANDUM OF UNDERSTANDING BETWEEN  
THE U.S. DEPARTMENT OF COMMERCE  
AND  
INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

I. PARTIES

This document constitutes an agreement between the U.S. Department of Commerce (DOC or USG) and the Internet Corporation for Assigned Names and Numbers (ICANN), a not-for-profit corporation.

II. PURPOSE

A. Background

On July 1, 1997, as part of the Administration's Framework for Global Electronic Commerce, the President directed the Secretary of Commerce to privatize the management of the domain name system (DNS) in a manner that increases competition and facilitates international participation in its management.

On June 5, 1998, the DOC published its Statement of Policy, *Management of Internet Names and Addresses*, 63 Fed. Reg. 31741(1998) (Statement of Policy). The Statement of Policy addressed the privatization of the technical management of the DNS in a manner that allows for the development of robust competition in the management of Internet names and addresses. In the Statement of Policy, the DOC stated its intent to enter an agreement with a not-for-profit entity to establish a process to transition current U.S. Government management of the DNS to such an entity based on the principles of stability, competition, bottom-up coordination, and representation.

B. Purpose

Before making a transition to private sector DNS management, the DOC requires assurances that the private sector has the capability and resources to assume the important responsibilities related to the technical management of the DNS. To secure these assurances, the Parties will collaborate on this DNS Project (DNS Project). In the DNS Project, the Parties will jointly design, develop, and test the mechanisms, methods, and procedures that should be in place and the steps necessary to transition management responsibility for DNS functions now performed by, or on behalf of, the U.S. Government to a private-sector not-for-profit entity. Once testing is successfully completed, it is contemplated that management of the DNS will be transitioned to the mechanisms, methods, and procedures designed and developed in the DNS Project.

In the DNS Project, the parties will jointly design, develop, and test the mechanisms, methods, and procedures to carry out the following DNS management functions:

- a. Establishment of policy for and direction of the allocation of IP number blocks;
- b. Oversight of the operation of the authoritative root server system;
- c. Oversight of the policy for determining the circumstances under which new top level domains would be added to the root system;
- d. Coordination of the assignment of other Internet technical parameters as needed to maintain universal connectivity on the Internet; and
- e. Other activities necessary to coordinate the specified DNS management functions, as agreed by the Parties.

The Parties will jointly design, develop, and test the mechanisms, methods, and procedures that will achieve

the transition without disrupting the functional operation of the Internet. The Parties will also prepare a joint DNS Project Report that documents the conclusions of the design, development, and testing.

DOC has determined that this project can be done most effectively with the participation of ICANN. ICANN has a stated purpose to perform the described coordinating functions for Internet names and addresses and is the organization that best demonstrated that it can accommodate the broad and diverse interest groups that make up the Internet community.

### C. The Principles

The Parties will abide by the following principles:

#### 1. Stability

This Agreement promotes the stability of the Internet and allows the Parties to plan for a deliberate move from the existing structure to a private-sector structure without disruption to the functioning of the DNS. The Agreement calls for the design, development, and testing of a new management system that will not harm current functional operations.

#### 2. Competition

This Agreement promotes the management of the DNS in a manner that will permit market mechanisms to support competition and consumer choice in the technical management of the DNS. This competition will lower costs, promote innovation, and enhance user choice and satisfaction.

#### 3. Private, Bottom-Up Coordination

This Agreement is intended to result in the design, development, and testing of a private coordinating process that is flexible and able to move rapidly enough to meet the changing needs of the Internet and of Internet users. This Agreement is intended to foster the development of a private sector management system that, as far as possible, reflects a system of bottom-up management.

#### 4. Representation.

This Agreement promotes the technical management of the DNS in a manner that reflects the global and functional diversity of Internet users and their needs. This Agreement is intended to promote the design, development, and testing of mechanisms to solicit public input, both domestic and international, into a private-sector decision making process. These mechanisms will promote the flexibility needed to adapt to changes in the composition of the Internet user community and their needs.

### III. AUTHORITIES

A. DOC has authority to participate in the DNS Project with ICANN under the following authorities:

(1) 15 U.S.C. § 1525, the DOC's Joint Project Authority, which provides that the DOC may enter into joint projects with nonprofit, research, or public organizations on matters of mutual interest, the cost of which is equitably apportioned;

(2) 15 U.S.C. § 1512, the DOC's authority to foster, promote, and develop foreign and domestic commerce;

(3) 47 U.S.C. § 902, which specifically authorizes the National Telecommunications and Information Administration (NTIA) to coordinate the telecommunications activities of the Executive Branch and assist in the formulation of policies and standards for those activities including, but not limited to, considerations of

interoperability, privacy, security, spectrum use, and emergency readiness;

(4) Presidential Memorandum on Electronic Commerce, 33 Weekly Comp. Presidential Documents 1006 (July 1, 1997), which directs the Secretary of Commerce to transition DNS management to the private sector; and

(5) Statement of Policy, *Management of Internet Names and Addresses*, (63 Fed. Reg. 31741(1998) (Attachment A), which describes the manner in which the Department of Commerce will transition DNS management to the private sector.

B. ICANN has the authority to participate in the DNS Project, as evidenced in its Articles of Incorporation (Attachment B) and Bylaws (Attachment C). Specifically, ICANN has stated that its business purpose is to:

- (i) coordinate the assignment of Internet technical parameters as needed to maintain universal connectivity on the Internet;
- (ii) perform and oversee functions related to the coordination of the Internet Protocol (IP) address space;
- (iii) perform and oversee functions related to the coordination of the Internet domain name system, including the development of policies for determining the circumstances under which new top-level domains are added to the DNS root system;
- (iv) oversee operation of the authoritative Internet DNS root server system; and
- (v) engage in any other related lawful activity in furtherance of Items (i) through (iv).

#### IV. MUTUAL INTEREST OF THE PARTIES

Both DOC and ICANN have a mutual interest in a transition that ensures that future technical management of the DNS adheres to the principles of stability, competition, coordination, and representation as published in the Statement of Policy. ICANN has declared its commitment to these principles in its Bylaws. This Agreement is essential for the DOC to ensure continuity and stability in the performance of technical management of the DNS now performed by, or on behalf of, the U.S. Government. Together, the Parties will collaborate on the DNS Project to achieve the transition without disruption.

#### V. RESPONSIBILITIES OF THE PARTIES

##### A. General.

1. The Parties agree to jointly participate in the DNS Project for the design, development, and testing of the mechanisms, methods and procedures that should be in place for the private sector to manage the functions delineated in the Statement of Policy in a transparent, non-arbitrary, and reasonable manner.
2. The Parties agree that the mechanisms, methods, and procedures developed under the DNS Project will ensure that private-sector technical management of the DNS shall not apply standards, policies, procedures or practices inequitably or single out any particular party for disparate treatment unless justified by substantial and reasonable cause and will ensure sufficient appeal procedures for adversely affected members of the Internet community.
3. Before the termination of this Agreement, the Parties will collaborate on a DNS Project Report that will document ICANN's test of the policies and procedures designed and developed pursuant to this Agreement.
4. The Parties agree to execute the following responsibilities in accordance with the Principles and Purpose of this Agreement as set forth in section II.

B. DOC. The DOC agrees to perform the following activities and provide the following resources in support of the DNS Project:

1. Provide expertise and advice on existing DNS management functions.
2. Provide expertise and advice on methods and administrative procedures for conducting open, public proceedings concerning policies and procedures that address the technical management of the DNS.
3. Identify with ICANN the necessary software, databases, know-how, other equipment, and intellectual property necessary to design, develop, and test methods and procedures of the DNS Project.
4. Participate, as necessary, in the design, development, and testing of the methods and procedures of the DNS Project to ensure continuity including coordination between ICANN and Network Solutions, Inc.
5. Collaborate on a study on the design, development, and testing of a process for making the management of the root server system more robust and secure. This aspect of the DNS Project will address:
  - a. Operational requirements of root name servers, including host hardware capacities, operating system and name server software versions, network connectivity, and physical environment.
  - b. Examination of the security aspects of the root name server system and review of the number, location, and distribution of root name servers considering the total system performance, robustness, and reliability.
  - c. Development of operational procedures for the root server system, including formalization of contractual relationships under which root servers throughout the world are operated.
6. Consult with the international community on aspects of the DNS Project.
7. Provide general oversight of activities conducted pursuant to this Agreement.
8. Maintain oversight of the technical management of DNS functions currently performed either directly, or subject to agreements with the U.S. Government, until such time as further agreement(s) are arranged as necessary, for the private sector to undertake management of specific DNS technical management functions.

C. ICANN. ICANN agrees to perform the following activities and provide the following resources in support of the DNS Project and further agrees to undertake the following activities pursuant to its procedures as set forth in Attachment B (Articles of Incorporation) and Attachment C (By-Laws), as they may be revised from time to time in conformity with the DNS Project:

1. Provide expertise and advice on private sector functions related to technical management of the DNS such as the policy and direction of the allocation of IP number blocks and coordination of the assignment of other Internet technical parameters as needed to maintain universal connectivity on the Internet.
2. Collaborate on the design, development and testing of procedures by which members of the Internet community adversely affected by decisions that are in conflict with the bylaws of the organization can seek external review of such decisions by a neutral third party.

3. Collaborate on the design, development, and testing of a plan for introduction of competition in domain name registration services, including:

- a. Development of procedures to designate third parties to participate in tests conducted pursuant to this Agreement.
- b. Development of an accreditation procedure for registrars and procedures that subject registrars to consistent requirements designed to promote a stable and robustly competitive DNS, as set forth in the Statement of Policy.
- c. Identification of the software, databases, know-how, intellectual property, and other equipment necessary to implement the plan for competition;

4. Collaborate on written technical procedures for operation of the primary root server including procedures that permit modifications, additions or deletions to the root zone file.

5. Collaborate on a study and process for making the management of the root server system more robust and secure. This aspect of the Project will address:

- a. Operational requirements of root name servers, including host hardware capacities, operating system and name server software versions, network connectivity, and physical environment.
- b. Examination of the security aspects of the root name server system and review of the number, location, and distribution of root name servers considering the total system performance; robustness, and reliability.
- c. Development of operational procedures for the root system, including formalization of contractual relationships under which root servers throughout the world are operated.

6. Collaborate on the design, development and testing of a process for affected parties to participate in the formulation of policies and procedures that address the technical management of the Internet. This process will include methods for soliciting, evaluating and responding to comments in the adoption of policies and procedures.

7. Collaborate on the development of additional policies and procedures designed to provide information to the public.

8. Collaborate on the design, development, and testing of appropriate membership mechanisms that foster accountability to and representation of the global and functional diversity of the Internet and its users, within the structure of private- sector DNS management organization.

9. Collaborate on the design, development and testing of a plan for creating a process that will consider the possible expansion of the number of gTLDs. The designed process should consider and take into account the following:

- a. The potential impact of new gTLDs on the Internet root server system and Internet stability.
- b. The creation and implementation of minimum criteria for new and existing gTLD registries.
- c. Potential consumer benefits/costs associated with establishing a competitive environment for

gTLD registries.

d. Recommendations regarding trademark/domain name policies set forth in the Statement of Policy; recommendations made by the World Intellectual Property Organization (WIPO) concerning: (i) the development of a uniform approach to resolving trademark/domain name disputes involving cyberspiracy; (ii) a process for protecting famous trademarks in the generic top level domains; (iii) the effects of adding new gTLDs and related dispute resolution procedures on trademark and intellectual property holders; and recommendations made by other independent organizations concerning trademark/domain name issues.

10. Collaborate on other activities as appropriate to fulfill the purpose of this Agreement, as agreed by the Parties.

#### D. Prohibitions.

1. ICANN shall not act as a domain name Registry or Registrar or IP Address Registry in competition with entities affected by the plan developed under this Agreement. Nothing, however, in this Agreement is intended to prevent ICANN or the USG from taking reasonable steps that are necessary to protect the operational stability of the Internet in the event of the financial failure of a Registry or Registrar or other emergency.

2. Neither Party, either in the DNS Project or in any act related to the DNS Project, shall act unjustifiably or arbitrarily to injure particular persons or entities or particular categories of persons or entities.

3. Both Parties shall act in a non-arbitrary and reasonable manner with respect to design, development, and testing of the DNS Project and any other activity related to the DNS Project.

#### VI. EQUITABLE APPORTIONMENT OF COSTS

The costs of this activity are equitably apportioned, and each party shall bear the costs of its own activities under this Agreement. This Agreement contemplates no transfer of funds between the Parties. Each Party's estimated costs for the first six months of this Agreement are attached hereto. The Parties shall review these estimated costs in light of actual expenditures at the completion of the first six month period and will ensure costs will be equitably apportioned.

#### VII. PERIOD OF AGREEMENT AND MODIFICATION/TERMINATION

This Agreement will become effective when signed by all parties. The Agreement will terminate on September 30, 2000, but may be amended at any time by mutual agreement of the parties. Either party may terminate this Agreement by providing one hundred twenty (120) days written notice to the other party. In the event this Agreement is terminated, each party shall be solely responsible for the payment of any expenses it has incurred. This Agreement is subject to the availability of funds.

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Joe Sims  
Counsel to ICANN  
Jones, Day, Reavis & Pogue  
1450 G Street N.W.  
Washington, D.C. 20005-2088

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J. Beckwith Burr  
Associate Administrator, NTIA  
U.S. Department of Commerce  
Washington, D.C. 20230

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## PARTIES ESTIMATED SIX MONTH COSTS

### A. ICANN

Costs to be borne by ICANN over the first six months of this Agreement include: development of Accreditation Guidelines for Registries; review of Technical Specifications for Shared Registries; formation and operation of Government, Root Server, Membership and Independent Review Advisor Committees; advice on formation of and review of applications for recognition by Supporting Organizations; promulgation of conflicts of interest policies; review and adoption of At-Large membership and elections processes and independent review procedures, etc; quarterly regular Board meetings and associated costs (including open forums, travel, staff support and communications infrastructure); travel, administrative support and infrastructure for additional open forums to be determined; internal executive, technical and administrative costs; legal and other professional services; and related other costs. The estimated six month budget (subject to change and refinement over time) is \$750,000 - 1 million.

### B. DOC

Costs to be borne by DOC over the first six months of this Agreement include: maintenance of DNS technical management functions currently performed by, or subject to agreements with, the U.S. Government, expertise and advice on existing DNS management functions; expertise and advice on administrative procedures; examination and review of the security aspects of the Root Server System (including travel and technical expertise); consultations with the international community on aspects of the DNS Project (including travel and communications costs); general oversight of activities conducted pursuant to the Agreement; staff support equal to half-time dedication of 4-5 full time employees, travel, administrative support, communications and related other costs. The estimate six month budget (subject to change and refinement over time) is \$250,000 - \$350,000.

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Comments concerning the layout, construction and functionality of this site should be sent to [webmaster@icann.org](mailto:webmaster@icann.org).

Page Updated 31-December-99.

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# EXHIBIT C



## BYLAWS FOR INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

A California Nonprofit Public-Benefit Corporation

As amended effective 08 April 2005

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### ARTICLE I: MISSION AND CORE VALUES

#### Section 1. MISSION

The mission of The Internet Corporation for Assigned Names and Numbers ("ICANN") is to coordinate, at the overall level, the global Internet's systems of unique identifiers, and in particular to ensure the stable and secure operation of the Internet's unique identifier systems. In particular, ICANN:

1. Coordinates the allocation and assignment of the three sets of unique identifiers for the Internet, which are
  - a. Domain names (forming a system referred to as "DNS");
  - b. Internet protocol ("IP") addresses and autonomous system ("AS") numbers; and
  - c. Protocol port and parameter numbers.
2. Coordinates the operation and evolution of the DNS root name server system.
3. Coordinates policy development reasonably and appropriately related to these technical functions.

#### Section 2. CORE VALUES

In performing its mission, the following core values should guide the decisions and actions of ICANN:

1. Preserving and enhancing the operational stability, reliability, security, and global interoperability of the Internet.

