

EXHIBIT B

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN JOSE DIVISION

COPY

4
5 COALITION FOR ICANN) C-05-04826 RMW
TRANSPARENCY, INC.,)
6) SAN JOSE, CALIFORNIA
PLAINTIFF,)
7) JUNE 9, 2006
VS.)
8) PAGES 1-45
9 VERISIGN, INC.,; AND)
INTERNET CORPORATION FOR)
10 ASSIGNED NAMES AND)
NUMBERS,)
-----)

11
12 TRANSCRIPT OF PROCEEDINGS
13 BEFORE THE HONORABLE RONALD M. WHYTE
14 UNITED STATES DISTRICT JUDGE

15 A P P E A R A N C E S :

16 FOR ICANN: JONES, DAY
BY: JEFFREY LEVEE
17 555 SOUTH FLOWER STREET
FIFTIETH FLOOR
18 LOS ANGELES, CALIFORNIA 90071

19 FOR VERISIGN: ARNOLD & PORTER
20 BY: RONALD L. JOHNSTON
777 SOUTH FIGUEROA STREET
21 44TH FLOOR
22 LOS ANGELES, CALIFORNIA 90017

23 APPEARANCES CONTINUED ON NEXT PAGE

24 OFFICIAL COURT REPORTER: LEE-ANNE SHORTRIDGE, CSR, CRR
25 CERTIFICATE NUMBER 9595

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APPEARANCES (CONTINUED)

FOR CFIT: CATHCART, COLLINS & KNEAFSEY
BY: PATRICK A. CATHCART AND
BRET FAUSETT
444 SOUTH FLOWER STREET
42ND FLOOR
LOS ANGELES, CALIFORNIA 90071

1 SAN JOSE, CALIFORNIA

JUNE 9, 2006

2 P R O C E E D I N G S

3 (WHEREUPON, COURT CONVENEED AND THE
4 FOLLOWING PROCEEDINGS WERE HELD:)

5 THE CLERK: NEXT MATTER, C-05-04826,
6 COALITION FOR ICANN TRANSPARENCIES VERSUS VERISIGN,
7 INC., ET AL, ON FOR DEFENDANT VERISIGN AND ICANN'S
8 MOTION TO DISMISS.

9 MR. LEVEE: GOOD MORNING, YOUR HONOR.
10 JEFF LEVEE OF JONES DAY ON BEHALF OF ICANN.

11 MR. JOHNSTON: GOOD MORNING, YOUR HONOR.
12 RON JOHNSTON OF ARNOLD & PORTER ON BEHALF OF
13 VERISIGN.

14 MR. CATHCART: GOOD MORNING, YOUR HONOR.
15 PAT CATHCART ON BEHALF OF THE COALITION, CFIT.

16 MR. FAUSETT: BRET FAUSETT ON BEHALF OF
17 CFIT.

18 THE COURT: ALL RIGHT. PERHAPS IT WOULD
19 BE BEST IF WE START WITH PLAINTIFFS AND HAVE THEM
20 TELL ME WHAT'S WRONG WITH THE TENTATIVE RULING.

21 MR. CATHCART: THANK YOU, YOUR HONOR.
22 I'D LIKE TO TRY.

23 THE TENTATIVE RULING, AS WE LOOK AT IT,
24 REALLY TALKS ABOUT -- THERE'S TWO ASPECTS, WHETHER
25 THERE ARE TWO MARKETS OR JUST THE ONE MARKET, AND

1 DOMAIN NAMES, YOU HAVE DESTROYED COMPETITION IN THE
2 MARKETPLACE.

3 THE COURT: THE BACK ORDER SITUATION
4 SEEMS TO ME THAT WHAT YOU HAVE NOW IS A SITUATION,
5 AS I UNDERSTAND IT, WHERE THERE'S A RACE AND
6 WHOEVER WINS THE RACE GETS THE ABANDONED NAME;
7 RIGHT?

8 SPEAKER2: WELL, IT'S A RAISE IN THE
9 SENSE OF -- IT'S ALSO IN THE SENSE OF LOTTERY.
10 THERE ARE DIFFERENT ALLOCATION METHODOLOGIES FOR
11 THE EXPIRING NAMES THAT CAN -- THEY CAN BE EITHER A
12 LOT RE, IT CAN BE THE FIRST IN GETS IT. IT CAN BE
13 A NUMBER OF METHODS THAT ALLOW THE CONSUMERS, THE
14 NEW REGISTRANTS, WHO MIGHT NOT BE ABLE TO AFFORD
15 THE HIGHEST BID, TO BE ABLE TO ACQUIRE A CHOICE
16 NAME.

17 WHEREAS IF YOU PUT IT OUGHT TO SIMPLY
18 AUCTION UNDER THE VERISIGN METHOD, IT WILL BE THE
19 HIGHEST BIDDER ONLY. SO IT WILL BE A HIGH PRICE
20 REQUIREMENT RATHER THAN DIFFERENT ALLOCATION
21 METHODOLOGIES AND THAT DESTROYS THE MARKET THAT
22 CURRENTLY EXISTS FOR DIFFERENT METHODS FOR
23 ACQUIRING THE EXPIRING NAMES. NOTE NOTE THIS IS
24 MR. /KA*T HEART.

25

1 THE COURT: THIS MAY BE A LITTLE BIT
2 BESIDE THE POINT, BUT YOU CAN SELL A NAME; RIGHT?

3 SPEAKER2: YES.

4 THE COURT: WHY --

5 SPEAKER2: SOME OF THE DETAILS ON THIS
6 I'M GOING TO LET MR. FAUSETT SPEAK TO, BUT I
7 UNDERSTAND THAT.

8 THE COURT: OKAY. WHY WOULD ANYBODY WITH
9 A POTENTIALLY VALUABLE DOMAIN NAME ABANDON IT AS
10 OPPOSED TO ABANDONING THE DOMAIN NAME IF IT WAS
11 WORTHLESS?

12 IN OTHER WORDS, WHY WOULD THE -- WHY
13 WOULD THE ABANDONED NAMES AS A GROUP BE ANY
14 DIFFERENT OR MORE VALUABLE THAN THOSE THAT AREN'T
15 ABANDONED?

16 SPEAKER2: OKAY. FIRST WE'RE NOT TALKING
17 ABOUT RESALE, WHICH IS DIFFERENT, BECAUSE THERE IS
18 A RESALE VALUE TO VALUABLE NAMES.

19 THE COURT: RIGHT, I UNDERSTAND.

20 SPEAKER2: BUT A NAME HOLDER, A NAME MAY
21 OR MAY NOT BE VALUABLE DEPENDING ON THE PARTICULAR
22 BUSINESS THAT OPERATES UNDER THAT NAME.

23 THE COURT: RIGHT.

24 SPEAKER2: THEY TRADEMARK IT, THEY BRAND
25 THEIR BUSINESS WITH IT.

1 THE COURT: RIGHT.

2 SPEAKER2: IT'S NOW AN ADDRESS THAT
3 EVERYONE KNOWS AND THEY MIGHT WANT TO HOLD ON TO
4 THAT EVEN THOUGH IT'S RELATIVELY SIMPLE AT ALL
5 COSTS THROUGH THE PROCESS.

6 THE COURT: RIGHT.

7 SPEAKER2: THEY MIGHT WANT TO DO THAT BY
8 HAVING ACCESS TO THE EXPIRING NAME THROUGH A
9 COMPETITIVE REGISTRAR AT NOT PAYING LARGE COSTS.
10 THEY WILL BE FORCED TO PAY LARGE COSTS IF THE
11 SYSTEM REQUIRES COMPETITIVE -- AN AUCTION THAT
12 DRIVES THE PRICE UP ARTIFICIALLY. THERE MIGHT BE
13 PEOPLE TRYING TO COME IN AND BUY THE NAME SO THAT
14 THEY CAN THEN HAVE THE NAME THAT A BUSINESS WANTS
15 AND USE THEIR, THE MONEY THAT THEY'VE USED, THEY
16 CAN USE MONEY TO BUY THAT DOMAIN AND THEN EXTORT
17 MONEY FROM THE PERSON WHO'S BEEN BRANDING THEIR
18 BUSINESS FOR SIX YEARS UNDER THAT DOMAIN.

19 SO IT CREATES -- THAT WOULD CREATE INJURY
20 TO THE PERSON WHO HOLDS THE NAME AND WOULD WANT TO
21 REGISTER IT, IN RESPONSE TO YOUR QUESTION.

22 THE COURT: MAYBE I'M MISSING SOMETHING.
23 AS I UNDERSTAND IT, AND CORRECT ME IF I'M WRONG, I
24 OWN COMMERCIAL.COM. THAT'S MY DOMAIN NAME.

25 AND I DECIDED I DON'T WANT IT ANY MORE.

1 SO I LET IT EXPIRE.

2 THEN THIS BACK ORDER BUSINESS COMES INTO
3 PLAY; RIGHT?

4 SPEAKER2: CORRECT.

5 THE COURT: NOTE NOTE MR. JOHN 71 IS
6 GOING TO BE SPEAKER 3.

7

8 THE COURT: IF I INDICT I DON'T WANT IT
9 ANY MORE, BUT SENSE THAT, WELL, SOMEBODY MIGHT WANT
10 TO BUY IT, I COULD SELL IT BEFORE IT EXPIRE AND HAD
11 THEN LEAVE IT UP TO THE NEW OWNER TO DECIDE WHETHER
12 THEY WANTED TO KEEP IT; RIGHT?

13 SPEAKER2: AND RE REGISTER IT, CORRECT.

14 THE COURT: RIGHT. WHY WOULD -- AND
15 AGAIN, I'M NOT SURE THIS IS RELEVANT TO ANYTHING,
16 IT'S JUST RELEVANT TO MY UNDERSTANDING, PERHAPS,
17 WHY WOULD ANYONE ABANDON A NAME THAT HAD ANY VALUE?

18 SPEAKER2: I DON'T THINK THEY WOULD. I
19 DON'T THINK THEY WOULD WANT TO.

20 THE COURT: OKAY. THEN HOW -- THE NAMES
21 -- YOU'LL HAVE YOUR CHANCE.

22 SPEAKER4: OKAY.

23 THE COURT: YOUR NAMES THAT THE BACK
24 ORDER BUSINESS GETS INVOLVED WITH WOULD GENERALLY
25 BE NAMES THAT DIDN'T HAVE ANY PARTICULAR VALUE,

1 WOULDN'T THEY?

2 SPEAKER2: NO. THEY MIGHT HAVE VALUE,
3 THEY MIGHT NOT HAVE VALUE, AND THERE MIGHT BE
4 COMPETITION TO TAKE A NAME THAT HAS VALUE AND --
5 FOR EXAMPLE, THERE MIGHT BE A FAMILY NAME THAT
6 SOMEONE IN AUSTRALIA IS USING FOR REAL ESTATE
7 BUSINESS, AND THE PERSON WHO HOLDS THAT FAMILY NAME
8 HERE HAS SOME KIND OF ADVERTISING BUSINESS MIGHT
9 WANT THAT NAME.

10 IT WOULD HAVE JUST PERSONAL VALUE TO
11 THOSE TWO INDIVIDUALS, BUT THE PERSON WHO HAS THE
12 BACK ORDER ABILITY IN AUSTRALIA TO REREGISTER AND
13 PRESERVE IT MIGHT WANT NOT WANT TO HAVE TO COMPETE
14 FOR AN AUCTION IN OPEN BIDDING AND ARTIFICIALLY
15 INFLATED PRICE JUST TO PRESERVE THE RIGHT TO USE
16 WHAT THEY'RE USING. IF I'VE MISSED YOUR QUESTION,,
17 PLEASE ALLOW ME TO HAVE MR. FAUSETT, WHO'S BEEN
18 DOING THIS FOR FOUR YEARS OR FIVE YEARS, TO ANSWER
19 THE QUESTION BETTER. IT MAY BE ABOVE MY PAY GRADE.

20 THE COURT: ANYTHING ELSE YOU WANTED TO
21 ADDRESS.

22 SPEAKER2: NO, THOSE ARE THE POINTS I
23 WOULD LIKE TO ADDRESS, AND HE WOULD LIKE TO ADDRESS
24 THE MARKET AND ANY QUESTIONS YOU HAVE ON THIS BACK
25 ORDER BUSINESS.

1 THE COURT: ALL RIGHT.

2 SPEAKER2:

3 SPEAKER2: THANK YOU, YOUR HONOR. LET ME
4 JUST ADDRESS YOUR QUESTION FIRST, WHY WOULD A
5 VALUABLE NAME EXPIRE?

6 THE, THE FACT OF THE MATTER IS WE'VE NOW
7 BEEN REGISTERED DOG COME NAMES FOR ABOUT 20 YEARS
8 AND WORD PERCENT SEVERE WHILE PEOPLE DYE. AND IF
9 YOU REGISTER A DOMAIN NAME, YOU MAY REGISTER IT FOR
10 A PERSONAL REASON, WHEN YOU PASS AWAY, IT EXPIRES.
11 SOMEONE ELSE MAY WANT IT.

12 MOST BUSINESSES IN THIS COUNTRY FAIL, AND
13 A LOT OF THOSE COMPANIES THAT REGISTER A.COM NAME
14 EITHER BECAUSE THEY HAVE A BUSINESS, WHEN THE
15 BUSINESS GOES OUT OF BUSINESS, THEY DON'T RE
16 REGISTER IT. IT MAY HAVE VALUE IT. MAY BE AN AS
17 SET OF THE BUSINESS THAT THEY SHOULD HAVE RUN OFF,
18 BUT THE TRUTH OF THE MATTER IS MOST TIMES THEY
19 DON'T, AND THOSE NAMES WITH VALUE EXPIRE AND DROP
20 INTO THE EXPIRING NAMES MARKET.

21 THE COURT: OKAY.

22 SPEAKER4: I WOULD LIKE TO ADDRESS THREE
23 POINTS --

24 THE COURT: I GUESS, THOUGH, WOULD YOU
25 AGREE THAT THERE ARE A LOT OF WORTHLESS NAMES IN

1 THE EXPIRING MARKET? OR NAMES THAT DIDN'T HAVE ANY
2 PARTICULAR VALUE?

3 SPEAKER4: WELL, LET ME, BEFORE I -- LET
4 ME GET TO THAT ANSWER THE LONG WAY.

5 THE COURT: OKAY.

6 SPEAKER2: JIVE A COUPLE OF CHARTS THAT I
7 WAS GOING TO SHARE WITH YOU. I'VE PREVIOUSLY
8 PASSED THEM TO DEFENSE COUNSEL.

9 THE COURT: OKAY.

10 SPEAKER4: MAY I PASS ONE TO YOU?

11 THE COURT: SURE.

12 SPEAKER4: (HANDING).

13 LET ME TALK A LITTLE BIT ABOUT THE
14 DIFFERENCE BETWEEN THE MARKETS, BETWEEN THE MARKETS
15 FOR NEW NAMES AND THE MARKET FOR EXPIRING NAMES.

16 AND NOT TRYING TO, YOU KNOW, JUDGE WHICH
17 IS BETTER, I JUST WANTED TO ADDRESS THE COURT'S
18 CONCERN IN THE MOTION TO DISMISS THAT WE HADN'T
19 PLEADED THAT THEY WERE ACTUALLY SEPARATE MARKETS.

20 I THINK THERE ARE SOME KEY DIFFERENCES.

21 YOU KNOW, AS OF LAST NIGHT WHEN I
22 PREPARED THIS CHART IN RESPONSE TO THE TENTATIVE
23 DECISION, THERE WERE OVER 52 MILLION.COM NAMES THAT
24 HAVE BEEN REGISTERED.

25 WHAT THIS MEANS AS A PRACTICAL MATTER IS

1 THAT EVERY DICTIONARY WORD IN VIRTUALLY EVERY
2 LANGUAGE HAS ALREADY BEEN REGISTERED.

3 IT MEANS THAT EVERY SHORT LETTER
4 COMBINATION THAT YOU CAN THINK OF HAS BEEN
5 REGISTERED.

6 IF YOU'RE GOING TO GET A NEW DOMAIN NAME,
7 IT HAS TO BE UNIQUELY DIFFERENT THAN THE 52 MILLION
8 NAMES THAT HAVE ALREADY BEEN REGISTERED.

9 WHAT THIS MEANS IS THAT YOU'RE GOING TO
10 CREATE SOME DOMAIN NAME LIKE A 1 X N, SOMETHING
11 THAT NO ONE WOULD EVER REGISTER IF YOU WANT A SHORT
12 DOMAIN NAME, OR YOU'RE GOING TO HAVE TO COME UP
13 WITH A HYPHENATED NAME OR YOU'RE GOINT TO HAVE TO
14 COME UP WITH A VERY LARGE SET OF WORDS THAT YOU
15 BLEND TOGETHER.

16 THE GOOD DOMAIN NAMES, THE SHORT, EASY TO
17 REMEMBER ONES, WERE REGISTERED A LONG TIME AGO, AND
18 THOSE ARE THE NAMES REGISTERED BY COMPANIES THAT
19 MAY BE FAILING, MAYBE REGISTERED BY PEOPLE WHO MAY
20 BE DYING OR WHO HAVE DIED AND HAVE CHOSEN NOT TO
21 REREGISTER THE NAMES. THOSE ARE THE NAMES WITH
22 GOOD PNEUMONICS THAT ARE DROPPING INTO THE MARKET.

23 ANOTHER KEY DIFFERENCE BETWEEN THE NEW
24 MARKET AND THE EXPIRING MARKET IS THAT IN THE NEW
25 MARKET, WHEN YOU CREATE SOMETHING FANCIFUL OUT OF

1 YOUR HEAD AND YOU PUT IT INTO THE REGISTRAR AND IT
2 EXISTS NOW FOR THE FIRST TIME BECAUSE YOU
3 REGISTERED IT, IT'S NOT IN ANY SORT OF LINK, NO ONE
4 IS EVER LINKED TO ANY WEB SITE ASSOCIATED WITH THAT
5 DOMAIN NAME, IF YOU'RE IN A BROWSER, NO ONE HAS
6 EVER BOOK MARKED IT BEFORE. DIDN'T KNOW IT
7 EXISTED. SO IT HAS NO TRAFFIC.

8 A NEW DOMAIN NAME IS HARD TO FIND.
9 YOU'VE GOT TO TELL PEOPLE ABOUT IT, ADVERTISE IT,
10 MARKET IT, BRAND IT.

11 AN EXPIRING DOMAIN NAME, ON THE OTHER
12 HAND, SOMETHING LIKE BUSINESS.COM OR SOME VERY
13 COMMON WORD, IT'S ALREADY IN SEARCH ENGINES. IT'S
14 ALREADY BEEN LINKED BY PEOPLE.

15 YOU MAY HAVE A DIFFERENT PURPOSE OR THE
16 SAME PURPOSE WHEN YOU REGISTER THE EXPIRING DOMAIN
17 NAME, BUT THE POINT IS ONE OF THE VALUES OF THE
18 EXPIRING NAMES IS THAT THEY HAVE TRAFFIC.

19 THAT'S WHY PEOPLE CAN PICK UP AN EXPIRING
20 NAME, IMMEDIATELY PUT GOOGLE ADS OR OVERTURE ADS
21 OR WHATEVER PAY-PER-CLICK REVENUE SOURCE THAT THEY
22 WANT TO CREATE, PUT IT UP ON THAT AD, PUT IT UP ON
23 THAT WEB PAGE ASSOCIATED WITH THAT EXPIRING DOMAIN
24 NAME, AND DAY ONE START GENERATING REVENUE.

25 WITH A NEW NAME, ON DAY ONE, UNLESS YOU

1 GO TO GREAT LENGTHS TO ADVERTISE IT AND GREAT
2 EXPENSE TO ADVERTISE IT, NO ONE IS EVEN GOING TO
3 SEE IT.

4 BUT SOME OF THESE DOMAIN NAMES ARE SO
5 TURN KEY THAT YOU CAN PUT UP A WEB SITE AND ALL OF
6 A SUDDEN START MAKING MONEY FROM YOUR GOOGLE ADDS.

7 WE ALSO SEE THE DIFFERENCES BETWEEN THE
8 TWO MARKETS IN THE WAY THAT THEY'RE PRICED. NEW
9 DOMAIN NAMES ARE A FIXED PRICE, REGISTRARS HAVE AN
10 OFF THE SHELF PRICE THAT THEY QUOTE TO ANY CUSTOMER
11 THAT COMES IN AND THAT'S WHAT YOU GET.

12 FOR EXPIRING DOMAIN NAMES, THERE ARE
13 DOZENS OF REGISTRARS THAT ARE PARTICIPATING IN THIS
14 MARKET. THEY OFFER A WIDE VARIETY OF PRICING
15 MODELS THAT ALMOST ALL OF THEM TRY TO TAKE ACCOUNT
16 OF THE VALUE OF THE DOMAIN NAME. SO YOU HAVE A
17 VERY DIFFERENT PRICING MODEL.

18 NOW, I THINK WHEN YOU SEE THAT THE
19 MARKETS ARE FUNDAMENTALLY DIFFERENT AND YOU CAN
20 DEFINE THE EXPIRING DOMAIN NAMES MARKET AS SEPARATE
21 FROM THE GENERAL COM MARKET, I THINK YOUR QUESTION
22 WAS, ARE ALL EXPIRING DOMAIN NAMES VALUABLE OR ARE
23 SOME WORTHLESS. NOTE NOTE COMP IS C O M.

24 I MEAN, MY ASSUMPTION IS THAT SOME
25 EXPIRING DOMAIN NAMES ARE NOT REGISTERED BY ANYONE

1 AND THOSE ARE GOING TO BE THE WORTHLESS ONES.

2 THE ONES THAT ARE REGISTERED BY SOMEONE,
3 AND THAT'S THE MARKET, IT'S THE MARKET IS FOR THE
4 ONES THAT ARE ACTUALLY, THAT YOU'LL WANT TO
5 REGISTER. THAT'S WHAT WE'RE WORRIED ABOUT. AND
6 THOSE ALL HAVE VALUE OR THEY WOULDN'T BE RE
7 REGISTERED.

8 THE COURT: WHY SHOULDED SYSTEM -- I
9 MEAN, YOUR SYSTEM -- I SHOULDN'T SAY YOUR SYSTEM.

10 THE EXISTING SYSTEM SELLS THE EXPIRING
11 DOMAIN NAMES AT A PRICE DEPENDING ON WHAT THE BACK
12 ORDER COMPANIES DETERMINE IS AN APPROPRIATE PRICE;
13 CORRECT?

14 SPEAKER4: CORRECT. SOME OF THEM HAVE
15 FLAT FEES, SOME OF THEM HAVE AUCTION.

16 THE COURT: AND THEN IF YOU'RE SOMEBODY
17 WHO WANTS ONE OF THOSE NAMES, YOU MAY GET IT OR I
18 MAY NOT DEPENDING ON WHETHER YOU CAN LUCKY IN THE
19 LOTTERY OR WHETHER YOU HAPPEN TO BE THE FIRST
20 PERSON THAT SENDS IN AN ADD REQUEST.

21 SPEAKER4: THAT'S CORRECT.

22 THE COURT: WHAT'S ANTICOMPETITIVE ABOUT
23 A SYSTEM THAT INSTEAD OF HAVING IT HANDLED THAT WAY
24 SAYS, WHEN A NAME EXPIRES, WE'RE GOING TO NOTIFY
25 THE PUBLIC THAT THE NAME HAS EXPIRED AND ANYBODY

1 WHO WANTS TO BID ON IT AND SELL IT TO THE HIGHEST
2 BIDDER? WHAT'S -- WHY IS THAT AN ANTITRUST
3 VIOLATION?

4 SPEAKER4: TWO ISSUES. THE FIRST ONE IS
5 I DON'T KNOW THAT ON A MOTION TO DISMISS, WHEN THE
6 COURT WAS LOOKING AT WHETHER WE HAD DEFINED A
7 SEPARATE MARKET, WE NEED TO TALK ABOUT THAT ISSUE.

8 BECAUSE I THINK ONE THING IS, I THINK AS
9 THIS SHORT SHOWS, THERE IS A SEPARATE MARKET.

10 NOW, AS TO WHAT, WHAT IS THE PREFERRED
11 MODEL FOR SELLING NAMES ONCE YOU KNOW THAT THERE'S
12 A SEPARATE MARKET FOR THAT, YOU KNOW, ONE WAY RIGHT
13 NOW, THERE ARE SOME REGISTRARS THAT OFFER A FLAT
14 FEE MODEL FOR THE CHANCE TO GET A DOMAIN NAME.

15 SO YOU PAY \$50 IF YOU'RE THE FIRST ONE AT
16 REGISTRAR X, THEY WILL PUT YOU IN THE CUE AND
17 THEY'LL SEND AN ADD REQUEST ON YOUR BEHALF.

18 UNDER THE VERISIGN MODEL THAT'S GOING TO
19 BE COME IN, IT'S GOING TO BE AN AUCTION MODEL. SO
20 THE HIGH PRICE MAY BE WELL ABOVE WHAT SOME
21 CONSUMERS CAN AFFORD. RIGHT NOW, UNDER THE STATUS
22 QUO, AND WE'RE TALKING ABOUT, YOU KNOW, THE
23 DIFFERENT MARKETS HERE, UNDER THE STATUS QUO, IF I
24 CAN'T AFFORD WHAT WOULD BE THE HIGHEST AUCTION
25 MODEL, WITH THE HIGHEST PRICE, I CAN STILL PAY MY

1 \$50, 40 DOLLARS, WHATEVER THE FLAT RATE IS FROM
2 SOME REGISTRARS AND HAVE A GOOD CHANCE, OR A
3 CHANCE, OF GETTING THE DOMAIN NAME.

4 THE COURT: ALL RIGHT.

5 SPEAKER4: SO WE'RE COMPLETELY
6 ELIMINATING THOSE REGISTERS WHO ARE OFFERING FLAT
7 FEE MODELS FROM THE MARKET. WE'RE COMPLETELY
8 TAKING AWAY THE OPPORTUNITY FOR CONSUMERS WHO WOULD
9 LIKE TO PURCHASE ONE OF THESE DOMAIN NAMES AT A
10 FLAT FEE AT AN AFFORDABLE RATE, WE'RE TAKING THAT
11 OPPORTUNITY AWAY FROM THEM AND NOW WE'RE TELLING
12 THEM THEY HAVE TO BE THE HIGH BIDDER.

13 BUT I THINK THAT ONCE -- THAT ALL WE'RE
14 TRYING TO DO IS GET PAST THIS PLEADING SO THAT, YOU
15 KNOW, WE CAN ADDRESS THESE ISSUES AT TRIAL OR ON
16 SUMMARY JUDGMENT OR WHATEVER.

17 I THINK FOR PRESENT PURPOSES, HAVING PLED
18 THE DIFFERENT MARKETS, WHETHER THIS IS A -- HOW
19 ANTICOMPETITIVE THIS IS AND HOW MUCH CONSUMERS ARE
20 AFFECTED IS SOMETHING THAT WE'RE GOING TO TALK
21 ABOUT DURING DISCOVERY, BUT WE WOULD LIKE THAT
22 OPPORTUNITY.

23 THE COURT: OKAY. THANK YOU.

24 SPEAKER4: OKAY. I'D LIKE TO JUST
25 ADDRESS ONE MORE POINT ABOUT.COM AND THE RENEWAL