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6 INTERNET CORPORATION FOR ASSIGNED
NAMES AND NUMBERS
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES**

10
11 VERISIGN, INC., a Delaware corporation,
12 Plaintiff,
13 v.
14 INTERNET CORPORATION FOR
ASSIGNED NAMES AND NUMBERS, a
15 California corporation; DOES 1-50,
16 Defendants.
17

CASE NO. BC 320763

Assigned for all purposes to
Judge Rolf M. Treu

Complaint Filed: August 27, 2004

**ANSWER OF DEFENDANT ICANN TO
PLAINTIFF'S UNVERIFIED COMPLAINT**

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19 Defendant Internet Corporation for Assigned Names and Numbers ("ICANN") answers
20 the Complaint of plaintiff VeriSign, Inc. as follows:

21 **GENERAL DENIAL**

22 Pursuant to section 431.30 (d) of the California Code of Civil Procedure, ICANN hereby
23 denies generally and specifically each and every allegation and cause of action in plaintiff's
24 unverified Complaint. ICANN further denies that plaintiff is entitled to the relief sought in the
25 Complaint or to any relief whatsoever.

26 **SEPARATE AND AFFIRMATIVE DEFENSES**

27 As separate and distinct affirmative defenses, ICANN asserts and alleges as follows:
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FIRST AFFIRMATIVE DEFENSE:

(Failure to State a Claim Upon Which Relief May Be Granted — As to All Causes of Action)

1. Plaintiff's Complaint is barred, in whole or in part, in that it fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE:

(Unclean Hands — As to All Causes of Action)

2. The claims alleged in the Complaint are barred, in whole or in part, by reason of plaintiff's unclean hands.

THIRD AFFIRMATIVE DEFENSE:

(Waiver — As to All Causes of Action)

3. Plaintiff's Complaint is barred, in whole or in part, by the equitable doctrine of waiver.

FOURTH AFFIRMATIVE DEFENSE:

(Estoppel — As to All Causes of Action)

4. Plaintiff's Complaint is barred, in whole or in part, by the equitable doctrine of estoppel.

FIFTH AFFIRMATIVE DEFENSE:

(Lack of Irreparable Injury — As to the First Cause of Action)

5. As to the first cause of action contained in the Complaint seeking injunctive relief, plaintiff has not suffered an irreparable injury.

SIXTH AFFIRMATIVE DEFENSE:

(Failure to Perform Conditions Under Contract — As to the First Cause of Action)

6. As to the first cause of action contained in the Complaint seeking specific performance, plaintiff has not fully and fairly performed all necessary conditions under the contract.

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SEVENTH AFFIRMATIVE DEFENSE:

(Material Breach — As to the First Cause of Action)

7. As to the first cause of action contained in the Complaint seeking specific performance, plaintiff is in material breach of its obligations under the 2001 .com Registry Agreement.

EIGHTH AFFIRMATIVE DEFENSE:

(Failure to Mitigate)

8. As to each and every cause of action, the recovery of plaintiff, if any, should be barred or diminished by reason of plaintiff's failure to mitigate its alleged damages.

NINTH AFFIRMATIVE DEFENSE:

(Adequate Remedy at Law — As to the First Cause of Action)

9. As to the first cause of action contained in the Complaint seeking specific performance, to the extent that the ICANN has breached the 2001 .com Registry Agreement, plaintiff has an adequate remedy at law.

TENTH AFFIRMATIVE DEFENSE:

(Adequate Alternative Remedy — As to the Second Cause of Action)

10. As to the second cause of action contained in the Complaint seeking declaratory relief, to the extent that plaintiff is entitled to relief, plaintiff has an adequate alternative remedy.

ELEVENTH AFFIRMATIVE DEFENSE:

(Set-Off)

11. To the extent plaintiff has any contractual right to funds from ICANN, plaintiff's recovery must be reduced or eliminated by the damages owed to ICANN by reason of plaintiff's breaches of the 2001 .com Registry Agreement and the law.

TWELFTH AFFIRMATIVE DEFENSE:

(Eventual Defenses Incorporated by Reference)

12. ICANN hereby adopts and incorporates by this reference any and all other affirmative defenses it may eventually assert in this proceeding.

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PRAYER

WHEREFORE, ICANN prays as follows:

1. That plaintiff takes nothing by reason of the Complaint on file herein;
2. For judgment in favor of ICANN and against plaintiff on its causes of action in the Complaint;
3. ICANN's costs of suit incurred herein; and
4. For such other relief as the Court may deem fair and equitable.

Dated: November 12, 2004

JONES DAY

By: Jeffrey A. LeVee
Jeffrey A. LeVee *sup*

Attorneys for Defendant
INTERNET CORPORATION FOR
ASSIGNED NAMES AND NUMBERS

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES:**

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18
4 and not a party to the within action; my business address is 555 West Fifth Street, Suite 4600, Los
Angeles, California 90013.

5 On November 12, 2004, I caused to be served the document described as:

6 **ANSWER OF DEFENDANT ICANN TO PLAINTIFFS' UNVERIFIED COMPLAINT**

7 on the interested parties in this action.

8 **BY (U.S. MAIL).** I placed the original X a true copy thereof enclosed in sealed
9 envelope(s) to the addressee(s) as follows:

10 X **BY PERSONAL SERVICE.** I placed the original X true copies thereof enclosed in
11 sealed envelope(s) and caused such envelope to be hand delivered via messenger to the offices of
the addressee(s) as follows:

12 LAURENCE HUTT, ESQ.
13 ARNOLD & PORTER
14 777 S. Figueroa, 44th Fl.,
Los Angeles, CA 90017

15 I am "readily familiar" with the firm's practice of collection and processing
16 correspondence for mailing. Under that practice it would be deposited with the U.S. postal
17 service on that same day with postage thereon fully prepaid at Los Angeles, California in the
18 ordinary course of business. I am aware that on motion of the party served, service is presumed
invalid if postal cancellation date or postage meter date is more than one day after date of deposit
of mailing in affidavit.

19 (STATE) I declare under penalty of perjury under the laws of the State of California that
20 the foregoing is true and correct.

21 X (FEDERAL) I declare that I am employed in the office of a member of the bar of this
22 Court at whose direction this service was made. I declare under penalty of perjury under the laws
of the United States of America that the foregoing is true and correct.

23 Executed on November 12, 2004, at Los Angeles, California.

24 _____
25 Elba Alonso de Ortega
Type or Print Name

26 _____
27 *Elba Alonso de Ortega*
28 Signature