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15 UNITED STATES DISTRICT COURT
16 CENTRAL DISTRICT OF CALIFORNIA

17 VERISIGN, INC., a Delaware
18 corporation,
19 Plaintiff,
20 v.
21 INTERNET CORPORATION FOR
ASSIGNED NAMES AND
22 NUMBERS, a California corporation;
DOES 1-50,
23 Defendants.

Case No. CV 04-1292 AHM (CTx)
**PLAINTIFF VERISIGN, INC.'S
EVIDENTIARY OBJECTIONS TO
DECLARATION FILED BY
DEFENDANT ICANN IN SUPPORT OF
SPECIAL MOTION TO STRIKE
VERISIGN'S SECOND, THIRD,
FOURTH, FIFTH, AND SIXTH
CLAIMS AS STRATEGIC LAWSUITS
AGAINST PUBLIC PARTICIPATION**

Date: May 17, 2004
Time: 10:00 a.m.
Courtroom: 14 – Spring Street Bldg.
Hon. A. Howard Matz

[Memorandum of Points and Authorities;
Appendix of Exhibits; Declarations; and
[Proposed] Order concurrently filed and
lodged herewith]

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1 Plaintiff VeriSign respectfully submits the following objections to the
2 declaration of John O. Jeffrey (“Jeffrey Declaration”) filed by Defendant Internet
3 Corporation for Assigned Names and Numbers (“ICANN”) in support of its Special
4 Motion to Strike Verisign’s Second, Third, Fourth, Fifth, and Sixth Claims as
5 Strategic Lawsuits Against Public Participation (the “Motion”). VeriSign
6 incorporates by this reference its Opposition to Defendant’s Request for Judicial
7 Notice, filed on April 22, 2004. VeriSign also reserves its right to make additional
8 objections to the evidence referenced herein if offered by the Defendant for any other
9 purpose at a later date.

10 VeriSign objects to the purported evidence submitted by Defendant in support
11 of the Motion on the grounds that only admissible evidence may be considered in
12 ruling on an anti-SLAPP motion. CCP § 425.16(b)(2) (“In making its determination,
13 the court shall consider the pleadings, and supporting and opposing affidavits stating
14 the facts upon which the liability or defense is based.”); *Schoendorf v. U.D. Registry,*
15 *Inc.*, 97 Cal. App. 4th 227, 236, 118 Cal. Rptr. 2d 313 (2002) (under anti-SLAPP
16 statute “the requirement that the court consider the pleadings and affidavits of the
17 parties . . . is similar to the standard applied to evidentiary showings in summary
18 judgment motions . . . and requires that the showing be made by competent
19 admissible evidence within the personal knowledge of the declarant”); *see*
20 *generally Norita v. Northern Mariana Islands*, 331 F.3d 690, 697-698 (9th Cir. 2003)
21 (affidavits submitted in support of summary judgment must be supported by personal
22 knowledge). VeriSign respectfully requests that the Court sustain its evidentiary
23 objections and strike the evidence referenced below, which fails to meet the required
24 standard of admissibility. The Federal Rules of Evidence are referred to throughout
25 as “FRE.”

26 VeriSign objects to paragraphs 2 and 6-12 of the Jeffrey Declaration on the
27 grounds that the Declaration fails to allege facts sufficient to support a finding that
28 the declarant has personal knowledge of the matters stated therein. FRE 602.

1 Specifically, Mr. Jeffrey fails to indicate facts sufficient to support the legal
 2 conclusion that he has personal knowledge of these matters. And importantly,
 3 Mr. Jeffrey fails to state in his Declaration that he became ICANN's General Counsel
 4 on or about September 10, 2003 – less than one month before ICANN sent its
 5 October 3 Suspension Ultimatum to VeriSign. (See Pope Decl. ¶ 7; App. Ex. 55,56.)
 6 Mr. Jeffrey's Declaration purports to state an opinion regarding ICANN's good faith
 7 contemplation of an action against VeriSign. Even if his opinion were admissible,
 8 which it is not, Mr. Jeffrey fails to lay sufficient foundation for that opinion. He does
 9 not declare that he participated in ICANN's decision making process concerning
 10 possible action against VeriSign or provide any other facts that would support his
 11 conclusion.

12 **OBJECTIONS TO JOHN O. JEFFREY DECLARATION**

13 ¶1	Improper Legal Conclusion (FRE 701)
14 ¶2	Lack of Personal Knowledge (FRE 602)
15 ¶6	Lack of Personal Knowledge (FRE 602) Hearsay (FRE 802)
16 ¶9	Lack of Personal Knowledge (FRE 602) Improper Lay Opinion/Legal Conclusion (FRE 701)
17 ¶10	Lack of Personal Knowledge (FRE 602) Improper Lay Opinion/Legal Conclusion (FRE 701)

<p>1 ¶11</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p>	<p>Lack of Personal Knowledge (FRE 602) (“A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter”); <i>see also Norita</i>, 331 F.3d at 697-698 (affidavits submitted in support of summary judgment must be supported by personal knowledge).</p> <p>Improper Lay Opinion/Legal Conclusion (FRE 701)</p> <p>Hearsay (FRE 802)</p>
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<p>7 ¶12</p> <p>8</p>	<p>Lack of Personal Knowledge (FRE 602)</p> <p>Improper Lay Opinion/Legal Conclusion (FRE 701)</p>
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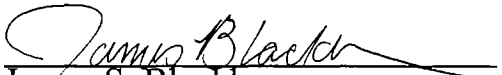
OBJECTIONS TO EXHIBIT 1 TO JEFFREY DECLARATION

<p>12 Exhibit 1, “Distribution by 13 Top-Level Domain Name 14 by Name, Jan. 2004.”</p> <p>15</p>	<p>Irrelevant (FRE 402)</p> <p>Lack of Personal Knowledge (FRE 602)</p> <p>Improper Lay Opinion/Legal Conclusion (FRE 701)</p> <p>Hearsay (FRE 802)</p>
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17 Respectfully submitted,

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19 Dated: April 29, 2004

ARNOLD & PORTER LLP
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 LAURENCE J. HUTT
 SUZANNE V. WILSON
 JAMES S. BLACKBURN

22
23 By: 
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