

1 Jeffrey A. LeVee (State Bar No. 125863)  
 jlevee@JonesDay.com  
 2 Eric P. Enson (State Bar No. 204447)  
 eponson@JonesDay.com  
 3 JONES DAY  
 555 South Flower Street  
 4 Fiftieth Floor  
 Los Angeles, CA 90071.2300  
 5 Telephone: +1.213.489.3939  
 Facsimile: +1.213.243.2539  
 6

7 Attorneys for Defendant  
 INTERNET CORPORATION FOR  
 ASSIGNED NAMES AND NUMBERS  
 8

9 UNITED STATES DISTRICT COURT  
 10 CENTRAL DISTRICT OF CALIFORNIA  
 11 WESTERN DIVISION

12  
 13 **IMAGE ONLINE DESIGN, INC.,**

14 **Plaintiff,**

15 **v.**

16 **INTERNET CORPORATION FOR**  
**ASSIGNED NAMES AND**  
 17 **NUMBERS,**

18 **Defendant.**

**Case No. CV 12-08968-DDP (JCx)**

Assigned for all purposes to the  
 Honorable Dean D. Pregerson

**DEFENDANT ICANN'S NOTICE  
 OF MOTION AND MOTION TO  
 DISMISS COMPLAINT**

[Memorandum of Points and  
 Authorities; Request for Judicial  
 Notice; and [Proposed] Order Filed,  
 Served and Lodged Concurrently  
 Herewith]

Hearing Date: Jan. 28, 2013

Hearing Time: 10:00 a.m.

Hearing Location: 312 N. Spring St.

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that, pursuant to Federal Rules of Civil Procedure  
3 12(b)(6) and 12(b)(1), Defendant Internet Corporation for Assigned Names and  
4 Numbers (“ICANN”) will and hereby does move the Court to dismiss Plaintiff’s  
5 Complaint. This motion shall be heard on January 28, 2013, at 10:00 a.m., or as  
6 soon thereafter as it may be heard in the courtroom of the Honorable Dean D.  
7 Pregerson, United States District Judge, United States District Court, 312 N. Spring  
8 Street, Los Angeles, California 90012.

9 This motion is made pursuant to Federal Rules of Civil Procedure 12(b)(6)  
10 on the grounds that Plaintiff’s entire Complaint, and each of its claims, is barred by  
11 a release of ICANN executed by Plaintiff on October 1, 2000. This motion is  
12 further made on the grounds that Plaintiff has failed to allege facts plausibly  
13 suggesting that ICANN has breached a contract with Plaintiff, or the implied  
14 covenant of good faith arising from that contract, that ICANN has infringed any  
15 trademark rights enjoyed by Plaintiff, or that ICANN has tortiously interfered with  
16 Plaintiff’s contracts or prospective economic advantage. This motion is also made  
17 pursuant to Federal Rule of Civil Procedure 12(b)(1) on the grounds that Plaintiff’s  
18 trademark claims are not ripe for adjudication and are insufficient to meet Article  
19 III’s justiciability requirement.

20 This motion is based on this Notice of Motion and Motion, the concurrently-  
21 filed Memorandum of Points and Authorities and Request for Judicial Notice, the  
22 complete files and records in this action, including Plaintiff’s Complaint, oral  
23 argument of counsel, and such other and further matters this Court may consider.

24 ///  
25 ///  
26 ///  
27 ///  
28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

This motion is made following the conference of counsel pursuant to Central District Local Rule 7-3, which took place on December 3, 2012.

Dated: December 7, 2012

JONES DAY

By: /s/ Eric P. Enson  
Eric P. Enson

Attorneys for Defendant  
INTERNET CORPORATION FOR  
ASSIGNED NAMES AND NUMBERS