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10 INTERNET CORPORATION FOR  
ASSIGNED NAMES AND NUMBERS  
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12 UNITED STATES DISTRICT COURT  
13 CENTRAL DISTRICT OF CALIFORNIA

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15 VERISIGN, INC., a Delaware  
corporation,

16 Plaintiff,

17 v.

18 INTERNET CORPORATION FOR  
19 ASSIGNED NAMES AND NUMBERS, a  
California corporation; DOES 1-50,

20 Defendants.  
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Case No. CV 04-1292 AHM (CTx)

**DEFENDANT INTERNET  
CORPORATION FOR  
ASSIGNED NAMES AND  
NUMBERS' EVIDENTIARY  
OBJECTIONS TO EXHIBITS  
AND DECLARATIONS FILED  
BY PLAINTIFF VERISIGN IN  
OPPOSITION TO ICANN'S  
SPECIAL MOTION TO  
STRIKE VERISIGN'S  
SECOND, THIRD, FOURTH,  
FIFTH, AND SIXTH CLAIMS  
AS STRATEGIC LAWSUITS  
AGAINST PUBLIC  
PARTICIPATION (CAL. CIV.  
PROC. CODE § 425.16)**

Date: May 17, 2004  
Time: 10:00 a.m.  
Courtroom of the  
Honorable A. Howard Matz

1 Defendant Internet Corporation For Assigned Names and Numbers  
2 ("ICANN") hereby submits its evidentiary objections to Plaintiff's Exhibits and  
3 Declarations, filed on April 29, 2004, in support of VeriSign's Opposition to  
4 Defendant ICANN's Special Motion to Strike.

5 VeriSign's exhibits and declarations are objectionable on multiple grounds.  
6 For example, they contain: (i) hearsay, irrelevant and unduly prejudicial statements  
7 largely based on the subjective intent of the declarant, (ii) statements that lack  
8 foundation, and (iii) unauthenticated documents. Many of VeriSign's exhibits are  
9 incomplete, in that VeriSign has selectively referenced and/or quoted only portions  
10 of a document and/or paragraphs, many times creating misleading statements, in  
11 violation of Federal Rule of Evidence 106.<sup>1</sup>

12 However, because most of VeriSign's exhibits and declarations are truly not  
13 relevant to ICANN's Special Motion to Strike, ICANN does not at this time provide  
14 "line-by-line" objections to each of the exhibits and declarations. As explained in  
15 ICANN's reply memorandum in support of its motion, VeriSign's "evidence" is  
16 directed almost entirely to the parties' competing interpretations of the Registry  
17 Agreement and is, therefore, relevant only to the seventh claim for relief, which  
18 ICANN has not challenged in its Special Motion to Strike. VeriSign's evidence  
19 does not establish that ICANN has "breached" the Registry Agreement or has  
20 committed a tort as alleged in the second through sixth causes of action.

21 Indeed, none of VeriSign's evidence undermines the fact that ICANN has  
22 made a prima facie showing that California Code of Civil Procedure section 425.16  
23 applies to VeriSign's second, third, fourth, fifth, and sixth claims for relief. *Fox*

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24 <sup>1</sup> ICANN further objects to the purported "evidence" submitted by VeriSign  
25 on the grounds that only admissible evidence may be considered in ruling on  
26 ICANN's Special Motion to Strike. Cal. Code Civ. Proc. § 425.16(b)(2) ("In  
27 making its determination, the court shall consider the pleadings, and supporting and  
28 opposing affidavits stating the facts upon which the liability or defense is based.");  
*Schoendorf v. U.D. Registry, Inc.*, 97 Cal. App. 4th 227, 236 (2002) (under the anti-  
SLAPP statute "[a]n assessment of the probability of prevailing on the claim looks  
to trial, and the evidence that will be presented at that time. . . . Such evidence must  
be admissible.").

1 *Searchlight Pictures v. Paladino*, 89 Cal. App. 4th 294, 305 (2001); *DuPont Merck*  
2 *Pharm. Co. v. Superior Court*, 78 Cal. App. 4th 562, 566 (2000). For example,  
3 VeriSign submits as Exhibit 8 the "Green Paper," issued by the Clinton  
4 Administration at Federal Register, Volume 63, No. 34 (February 20, 1998). The  
5 "Green Paper" is irrelevant, not only because it was expressly superseded by the  
6 "White Paper" that the administration subsequently issued addressing the same  
7 subject matter, but also because the "Green Paper" says nothing about whether  
8 ICANN has shown that VeriSign's second, third, fourth, fifth, and sixth causes of  
9 action arise from ICANN's exercise of Constitutionally protected free speech or  
10 petitioning in connection with a public issue. Obviously, a paper issued in 1998  
11 will shed no light on whether the anti-SLAPP statute applies to ICANN's October 3,  
12 2003 letter, which addressed VeriSign's insertion of a wildcard into the .com zone  
13 on September 15, 2003.

14 Another example is the declaration of Benjamin Turner, which is replete with  
15 irrelevant statements that lack foundation. For example, Mr. Turner states:  
16 "According to statistically-significant market research, with which I am familiar,  
17 two-thirds of Internet users surveyed responded favorably to a Site Finder "help"  
18 page when asked about its usefulness." (Turner Decl., ¶ 73). If such "statistically-  
19 significant research exists, that research should be attached as an exhibit and  
20 authenticated. Turner's declaration is full of hearsay, comments that merely reflect  
21 his subjective intent, and statements that lack foundation and personal knowledge.  
22 *See, e.g.*, Turner Decl, ¶ 84 ("On or about September 12, 2003, I was present when  
23 a VeriSign colleague briefed ICANN President Paul Twomey about ICANN's  
24 intended launch of Site Finder. Mr. Twomey stated that it was not an issue and  
25 raised no objections to deployment of a wildcard either on that occasion or  
26 immediately after the launch. He evidently did not consider Site Finder to be a  
27 "registry service" under the 2001 .com Registry Agreement.").

1 The declaration of Benjamin Desjardins also is irrelevant to the Special  
 2 Motion to Strike because it contains only a description of the "Marketing Program"  
 3 VeriSign launched. It has nothing to do with whether or not ICANN has exercised  
 4 its right to protected free speech or petitioning regarding an issue of public  
 5 importance. And the assertions in the Philip L. Sbarbaro declaration speak to the  
 6 interpretation of the phrase "Registry Services" in the Registry Agreement with  
 7 ICANN, an issue that is addressed in VeriSign's seventh cause of action for  
 8 declaratory relief.

9 Because so much of the "evidence" that VeriSign has submitted is irrelevant  
 10 to the determination of the Special Motion to Strike, without waiving its right to  
 11 object at the appropriate time to these declarations and exhibits, ICANN provides  
 12 only a handful of specific objections to "evidence" VeriSign submitted that might  
 13 be viewed as addressing whether ICANN has established that the anti-SLAPP  
 14 statute applies.

Exhibit No.	Description	Evidentiary Objections
4	Cooperative Agreement Between NSF and NSI: <a href="http://www.icann.org/nsi/coopagmt-01jan93.htm">http://www.icann.org/nsi/coopagmt-01jan93.htm</a> (Sbarbaro)	Objections: Incomplete; Irrelevant.  This document is inadmissible for incompleteness because the agreement is not submitted with amendments.  Irrelevant to the question before the Court on ICANN's Special Motion to Strike.  [FRE 106, 401, 402] <sup>2</sup>

28 <sup>2</sup> The Federal Rules of Evidence are referred to throughout as "FRE".

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Exhibit No.	Description	Evidentiary Objections
5	Amendment 19 to the Cooperative Agreement Between NSF and NSI: <a href="http://www.icann.org/nsi/amendment19.htm">http://www.icann.org/nsi/amendment19.htm</a> (Sbarbaro)	Objections: Incomplete; Irrelevant.  This document is inadmissible for incompleteness because VeriSign does not submit all the relevant amendments to the Cooperative Agreement.  Irrelevant to the question before the Court on ICANN's Special Motion to Strike.  [FRE 106, 401, 402]
6	1999 Registry Agreement Between ICANN and NSI: <a href="http://www.icann.org/nsi/nsi-registry-agreement-04nov99.htm">http://www.icann.org/nsi/nsi-registry-agreement-04nov99.htm</a> (Sbarbaro)	Objection: Irrelevant.  The relevant .com Registry Agreement is the 2001 agreement between ICANN and VeriSign. The 2001 agreement is the agreement VeriSign alleges to have been breached.  Irrelevant to the question before the Court on ICANN's Special Motion to Strike.  [FRE 401, 402]
27	10/16/02 Letter from Philip L. Sbarbaro to Joe Sims Requesting Reconsideration of Resolution 02.100	Objections: Lack of authentication; Irrelevant (Sbarbaro should have authenticated this document in his declaration, not Turner).  Irrelevant to the question before the Court on ICANN's Special Motion to Strike.  [FRE 401, 402, 901]

Exhibit No.	Description	Evidentiary Objections
28	05/20/03 Reconsideration Request 02-6, Recommendation of the Committee	<p>Objection: Irrelevant.</p> <p>Irrelevant to the question before the Court on ICANN's Special Motion to Strike.</p> <p>[FRE 401, 402]</p>
29	09/04/03 Letter from Paul Twomey to Chuck Gomes	<p>Objection: Irrelevant.</p> <p>Irrelevant to the question before the Court on ICANN's Special Motion to Strike.</p> <p>[FRE 401, 402]</p>
30	09/16/03 VeriSign's Response to ICANN	<p>Objection: Irrelevant; Prejudicial.</p> <p>Irrelevant to the question before the Court on ICANN's Special Motion to Strike. Reflects the subjective intent of the author, not admissible evidence.</p> <p>[FRE 401, 402, 403]</p>
39	Sept.-Oct. 2003 E-mails from gnso.icann.org regarding VeriSign and third party provider	<p>Objection: Irrelevant.</p> <p>Irrelevant to the question before the Court on ICANN's Special Motion to Strike.</p> <p>[FRE 401, 402]</p>

**Declaration of Benjamin R. Turner**

Para. No.	Description	Evidentiary Objections
18	Pursuant to the 2001 .com Registry Agreement, ICANN	Objection: The document speaks for itself; improper lay opinion

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**Declaration of Benjamin R. Turner**

Para. No.	Description	Evidentiary Objections
	<p>recognized VeriSign as the "sole operator" of the .com gTLD registry, and VeriSign undertook to operate the .com gTLD registry in accordance with the terms of the 2001 Registry Agreement and to pay certain registry-level fees to ICANN. Since a registry maintains the authoritative database of second level domain names and IP addresses within a TLD, there necessarily can be only one registry for each TLD. VeriSign is that sole registry for the .com gTLD. Based on my job responsibilities, I am in a position to know of VeriSign's performance of its obligations under the 2001 .com Registry Agreement. To the best of my knowledge VeriSign has fully performed and continues to perform all of its obligation under that agreement.</p>	<p>(draws a legal conclusion) re: VeriSign's compliance with agreement obligations.</p> <p>[FRE 701, FRE 704]</p>
84	<p>On or about September 12, 2003, I was present when a VeriSign colleague briefed ICANN President Paul Twomey about ICANN's intended launch of Site Finder. Mr. Twomey stated that it was not an issue and raised no objections to deployment of a wildcard either on that occasion or immediately after the launch. He evidently did not consider Site Finder to be a "registry</p>	<p>Objections: Subjective intent; Hearsay; Lacks personal knowledge.</p> <p>This statement is inadmissible hearsay. It reflects the subjective intent of the declarant, not admissible evidence.</p> <p>Lacks personal knowledge (of what Twomey considered Site Finder to be).</p>

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**Declaration of Benjamin R. Turner**

<b>Para. No.</b>	<b>Description</b>	<b>Evidentiary Objections</b>
	service" under the 2001 .com Registry Agreement.	[FRE 602, FRE 802]
85	VeriSign launched Site Finder in the .com TLD on September 15, 2003. The clear market demand for Site Finder was demonstrated by the extent, to which users immediately utilized the navigation tools of the Site Finder service. During its first week of operation, between September 15, 2003, and September 21, 2003, Internet users visited the Site Finder page more than 62 million times. Users used the "Did you mean" tool 1.5 million times, and they used the search tool more than 13 million times.	Objections: Subjective intent; Lack of foundation; Irrelevant.  This statement reflects the subjective intent of the declarant, not admissible evidence.  Irrelevant to the question before the Court on ICANN's Special Motion to Strike.  [FRE 401, 402, 602]
86	On September 19, 2003, based on purported and unsubstantiated expressions of concern from the Internet community, ICANN asked VeriSign to "voluntarily suspend" Site Finder. ICANN also requested advice from its Security and Stability Advisory Committee and from the IAB with respect to Site Finder. ICANN then posted this request as an <i>Advisory Concerning VeriSign's Deployment of DNS Wildcard Service</i> to its website at <a href="http://www.icann.org/announcements/">www.icann.org/announcements/</a>	Objections: Hearsay; Lack of foundation/lacks personal knowledge; Improper lay opinion; The document speaks for itself.  Turner's interpretation is inadmissible hearsay.  This statement lacks proper foundation/personal knowledge (re: unsubstantiated expressions of concern) and reflects an improper lay opinion by Turner.  [FRE 602, 701, 802]



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**Declaration of Benjamin R. Turner**

Para. No.	Description	Evidentiary Objections
	advisory-19sep03.htm.	
87	Because ICANN's request was completely unsubstantiated, VeriSign declined to suspend the service, explaining that "it would be premature to decide on any course of action until we first have had an opportunity to collect and review the available data." A copy of a letter from Russell Lewis to Paul Twomey, the President of ICANN, dated September 21, 2003, is available at <a href="http://www.icann.org/correspondence/lewis-to-twomey-21sep03.htm">www.icann.org/correspondence/lewis-to-twomey-21sep03.htm</a> and submitted as Exhibit 34.	<p>Objections: Hearsay; Lack of foundation/lacks personal knowledge; Improper lay opinion; The document speaks for itself.</p> <p>Turner's interpretation is inadmissible hearsay.</p> <p>This statement lacks proper foundation/personal knowledge (re: ICANN's request was completely unsubstantiated)</p> <p>[FRE 602, 701, 802]</p>
88	Also on September 19, 2003, just four days after VeriSign had launched Site Finder, the Chairman of ICANN's Security and Stability Advisory Committee ("SECSAC"), Steve Crocker, circulated to committee members a draft report entitled <i>Recommendations Regarding VeriSign's Introduction of Wild Card Response to Unregistered Domains within .com and .net</i> , a copy of which is submitted concurrently as Exhibit 35. This draft report already includes the committee's supposed opinions and recommendations, but no facts, evidence, or analysis. Indeed, a bracketed comment	<p>Objections: Hearsay; Document speaks for itself; Lack of personal knowledge; Improper lay opinion.</p> <p>Turner's interpretation is inadmissible hearsay.</p> <p>Lack of personal knowledge (re: SECSAC reached its conclusion first) and an improper lay opinion (as to "what the comment made clear").</p> <p>[FRE 602, 701, 802]</p>

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<b>Declaration of Benjamin R. Turner</b>		
<b>Para. No.</b>	<b>Description</b>	<b>Evidentiary Objections</b>
	contained in the draft report reads, "This is where we need to include the factual information to support the opinions and recommendations that follow. PAUL VIXIE and SUZANNE AMONG OTHERS, please dump stuff into this section." The comment makes perfectly clear that SECSAC reached its "conclusion" first and was going to look for evidence to support it later.	
89	SECSAC issued its report from the above-referenced draft on September 22, 2003, and Posted it at <a href="http://www.icann.org/correspondence/secsac-to-board-22sep03.htm">http://www.icann.org/correspondence/secsac-to-board-22sep03.htm</a> . A copy of this report is submitted concurrently as Exhibit 36. This report side-steps the issue of "facts" altogether. Apparently because SECSAC was unable to provide any supporting factual information, the report consists of opinions and scaled back, recommendations from the draft. The report does not include any facts concerning the effects of Site Finder or any analysis supporting the report's opinions and recommendations, and it even acknowledges that SECSAC would meet the following month to gather facts.	Objections: Improper lay opinion; Improper legal conclusions.  Improper lay opinion (that the report side-steps the issue of "facts"); Improper legal conclusions ("These actions were not open and transparent, but rather staged and arbitrary.").  [FRE 701]

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**Declaration of Benjamin R. Turner**

Para. No.	Description	Evidentiary Objections
	<p>Despite subsequent, repeated promises by SECSAC that another report would be issued in November 2003, after almost seven months, SECSAC has yet to issue that further report with facts to support its conclusions. These actions were not open and transparent, but rather staged and arbitrary.</p>	
90	<p>By October 3, 2003, as detailed more fully in the Declaration of Scott Hollenbeck, ICANN had not substantiated that Site Finder negatively impacted the operation of the Internet. Nevertheless, that same day, October 3, 2003, ICANN again insisted that VeriSign suspend Site Finder. It asserted in purely conclusory terms that Site Finder had had "a substantial adverse effect on the core operation of the DNS [and] on the stability of the Internet . . . . ICANN stated that unless VeriSign suspended Site Finder, "ICANN will be forced to take the steps necessary to enforce VeriSign's contractual obligations." A copy of the letter from Paul Twomey to Russell Lewis is available at <a href="http://www.icann.org/correspondence/twomey-to-lewis-03oct03.htm">www.icann.org/correspondence/twomey-to-lewis-03oct03.htm</a> and is submitted as Exhibit 37. At about the same time, ICANN posted an <i>Advisory Concerning</i></p>	<p>Objections: Improper lay opinion; Improper legal conclusions; Lack of foundation; The document speaks for itself.</p> <p>Improper lay opinion and lack of foundation (that ICANN had not substantiated that Site Finder negatively impacted the operation of the Internet); Improper legal Conclusions (ICANN's "processes" were hardly open and transparent).</p> <p>[FRE 602, 701]</p>

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**Declaration of Benjamin R. Turner**

Para. No.	Description	Evidentiary Objections
	<p><i>Demand to Remove VeriSign's Wildcard to</i>  <a href="http://www.icann.org/announcements/advisory-03oct03.htm">www.icann.org/announcements/advisory-03oct03.htm</a>. A true and-correct copy of that advisory is submitted concurrently as Exhibit 38. VeriSign was not included in any ICANN "processes" leading to the October 3 suspension notice, and any such "processes" were hardly open and transparent.</p>	
91	<p>After receiving ICANN's October 3, 2003 letter, VeriSign concluded that it had no practical choice but to suspend Site Finder. Otherwise, VeriSign faced the risk of ICANN's utilization of self-help remedies, including a declaration of breach of the .com Registry Agreement and termination of the .com registry agreement. Since VeriSign's operation of the .com registry represents approximately 20% of VeriSign's total revenue, the termination of the .com registry agreement would have ruinous financial effects for the company, and VeriSign therefore could not take the risk of continuing to operate Site Finder.</p>	<p>Objections: Lack of foundation; Prejudicial.</p> <p>This document lacks proper foundation (for the belief that ICANN would utilize self-help remedies). The language also states a legal conclusion.</p> <p>Prejudicial language ("ruinous financial effects") is inadmissible.</p> <p>[FRE 403, 602]</p>
92	<p>VeriSign did orally request of ICANN a few day extension of</p>	<p>Objections: Irrelevant.</p>

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**Declaration of Benjamin R. Turner**

<b>Para. No.</b>	<b>Description</b>	<b>Evidentiary Objections</b>
	its stated deadline for the suspension of Site Finder, so that Site Finder could be decommissioned in an orderly fashion. However, ICANN flatly rejected that request.	Irrelevant to the question before the Court on ICANN's Special Motion to Strike.  [FRE 401, 402]

**Declaration of Mark Mandolia**

<b>Para. No.</b>	<b>Description</b>	<b>Evidentiary Objections</b>
3	On or about October 9, 2003, acting at the direction of James Ulam, Senior Vice President, general Counsel of VeriSign, I transmitted by e-mail and facsimile to John Jeffrey, General Counsel of the Internet Corporation for Assigned Names and Numbers, the letter attached as Exhibit A to this declaration. In addition, on the same date I transmitted Exhibit A by e-mail to the members of the ICANN Board copied on the letter.	Objection: The document speaks for itself.

**Declaration of Thaddeus Mason Pope**

<b>Para. No.</b>	<b>Description</b>	<b>Evidentiary Objections</b>
12	Submitted concurrently as Exhibit 60 to VeriSign's Appendix of Exhibits is a true and correct copy of the	Objections: Incomplete document; Prejudicial.  Incomplete/misleading/

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<b>Declaration of Thaddeus Mason Pope</b>		
<b>Para. No.</b>	<b>Description</b>	<b>Evidentiary Objections</b>
	testimony of Nancy J. Victory, Assistant Secretary of the Department of Commerce, before the United States Senate Subcommittee on Commerce, Science, and Transportation, dated July 31, 2003, available at <a href="http://commerce.senate.gov/hearings/061102victory.pdf">http://commerce.senate.gov/hearings/061102victory.pdf</a> , in which she states that “much is still to be done” and that “ICANN needs to establish stable agreements with the country-code top-level domain operators.”	prejudicial.  [VeriSign does not mention other portions of the chart such as the portion stating, "Discussions underway regarding agreements with several additional ccTLD managers." (p.5 of 21 ¶ 7)]  [FRE 106, 403]
14	Submitted concurrently as Exhibit 61 to VeriSign’s Appendix of Exhibits is a true and correct copy of ICANN’s bylaws in effect at the time the 2001 com Registry Agreement was entered on May 25, 2001, dated July 16, 2000, available at <a href="http://www.icann.org/general/archive-bylaws/bylaws-16jul00.htm#III">http://www.icann.org/general/archive-bylaws/bylaws-16jul00.htm#III</a> , in which ICANN states “The Initial Board shall, following solicitation of input from the Advisory Committee on Independent Review and other interested parties and consideration of all such suggestions, adopt policies and procedures for independent third-party review of Board actions alleged by an affected party to have violated the Corporation’s articles of	Objection: Irrelevant.  Irrelevant to the question before the Court on ICANN's Special Motion to Strike.  [FRE 401, 402]

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**Declaration of Thaddeus Mason Pope**

Para. No.	Description	Evidentiary Objections
	incorporation or bylaws.” (Exhibit 61 art, III § 4(b).)	

**Declaration of Charles A. Gomes**

Para. No.	Description	Evidentiary Objections
15	I have also had experience dealing with ICANN in the context of a promotional program VeriSign offered to com registrars in 2001, to encourage new domain name registrations in the com TLD. The program was scheduled to be in effect for two months. After the start of the program, I received a letter dated November 6, 2001, from Louis Touton, then Vice President and General Counsel of ICANN, in which he complains that the promotional program was improper and unauthorized, that it constituted a “registry service,” and that it was implemented without notice to ICANN, among other points.	<p>Objections: Hearsay; Authentication.</p> <p>The opinion of what was written in the document authored by Louis Touton is inadmissible hearsay. The document should speak for itself.</p> <p>Lack of authentication (without attaching the letter there is no basis to rely on Gomes' recollection of what the letter contained].</p> <p>[FRE 802, 901]</p>
16	On the same day, ICANN’s then President and Chief Executive Officer, M. Stuart Lynn, in an email to VeriSign’s President, Stratton Sclavos, charged that the promotional program called in question VeriSign’s commitment to the .com Registry Agreement, and	<p>Objections: Hearsay; Document speaks for itself.</p> <p>This document is inadmissible hearsay.</p> <p>[FRE 802]</p>

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<b>Declaration of Charles A. Gomes</b>		
<b>Para. No.</b>	<b>Description</b>	<b>Evidentiary Objections</b>
	threatened to hold VeriSign in breach, and possibly either to terminate or decline to renew the .com Registry Agreement, unless VeriSign made a “rapid and significant change in [its] operations.” I received and read a copy of Mr. Lynn’s email the day after he sent it. A true and correct copy of that email is submitted concurrently as Exhibit 1.	
17	On November 19, 2001, I caused a written response to be transmitted to Mr. Touton. A true and correct copy of that letter is submitted concurrently as Exhibit 2. The letter accurately reflects and states the facts regarding the promotional program and the position of VeriSign on the points Mr. Touton had raised. In the letter, I take strong exception to his assertion that the program was or could be a “registry service” under the 2001 .com Registry Agreement and explain that the promised incentive to participating registrars was payment for their aggressively advertising and promoting .com TLD registrations.	Objections: Hearsay; Document should speak for itself.  This document is inadmissible hearsay.  [FRE 802]
18	I subsequently received another letter from Mr. Touton regarding the program, this one dated	Objection: The document speaks for itself.



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**Declaration of Charles A. Gomes**

<b>Para. No.</b>	<b>Description</b>	<b>Evidentiary Objections</b>
	December 3, 2001. A true and correct copy of that letter is submitted concurrently as Exhibit 3. In the letter, Mr. Touton expressly states that ICANN intended “to issue a formal notice of breach” with respect to the program. In response to that threat, VeriSign had to modify the program substantially in midcourse and at substantial cost to VeriSign, as I understand is being described in more detail in another declaration.	

**Declaration of Scott A. Hollenbeck**

<b>Para. No.</b>	<b>Description</b>	<b>Evidentiary Objections</b>
40	Prior to [t]he publication of the SECSAC report on September 19, 2003, just four days after Site Finder had been launched, the committee’s chairman, Steve Crocker, circulated a draft report that already included the committee’s opinions and recommendations but that requested facts to support those opinions and recommendations.	Objections: Improper lay opinion; Lack of authentication; Hearsay.  Improper lay opinion about the contents of the draft report. The characterization of the draft report is inadmissible hearsay. The document should speak for itself.  Lack of authentication (without attaching the letter there is no basis to rely on Hollenbeck's recollection of what the draft report contained).

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**Declaration of Scott A. Hollenbeck**

<b>Para. No.</b>	<b>Description</b>	<b>Evidentiary Objections</b>
		[FRE 701, 802, 901]
41	SECSAC did not present data to support its claims and conclusions in September 2003, and, as indicated by the absence of a report five months later, has apparently not been able to find such evidence.	Objections: Hearsay; Lack of personal knowledge; Lack of authentication; Improper lay opinion; Improper legal conclusions.  This statement is inadmissible as hearsay.  Lack of personal knowledge regarding the contents of the draft report contents.  Improper lay opinion, speculating as to the lack of evidence.  [FRE 602, 802, 901]
42	Prior to the issuance of the SECSAC report, SECSAC had declined VeriSign's offer to provide relevant data regarding Site Finder report, and the report was published without the benefit of VeriSign's input. SECSAC and ICANN also cancelled scheduled meetings with VeriSign to discuss Site Finder.	Objections: Improper lay opinion; Prejudicial.  Improper lay opinion that SECSAC and ICANN itself did not consider the information previously presented to it by VeriSign and the statement is, therefore, prejudicial and inadmissible.  [FRE 403, 701]

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43	The SECSAC's September 22, 2003 report was not produced in a fair, open and transparent manner.	Objection(s): Lack of foundation; Improper lay opinion; Draws an improper legal conclusion.  [FRE 602, 701]
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Dated: May 10, 2004

JONES DAY

By: \_\_\_\_\_  
Jeffrey A. LeVee

Attorneys for Defendant  
INTERNET CORPORATION FOR  
ASSIGNED NAMES AND NUMBERS